

Amendment to the 1945 Constitution of the Republic of Indonesia as a Solution for the Arrangement of Duties and Authorities of People's Consultative Assembly in Stipulating State Policy Guidelines

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The amendment to the 1945 Constitution of the Republic of Indonesia has made many changes to the constitutional system in Indonesia, specifically related to the position, duties, and functions of the People's Consultative Assembly of the Republic of Indonesia (MPR RI). One of the fundamental things in the amendment was the loss of the authority of the MPR RI in drafting the State Policy Guidelines (GBHN). After the removal of the GBHN, the patterns of national development were carried out through the mechanism of long-term development (RPJP), medium-term development (RPJM), and short-term development (RKP), based on the provisions of the 1945 Constitution of the Republic of Indonesia Number 25 of 2004 concerning the National Development Planning System. In its implementation, there are various problems, one of them is that there is no pattern of sustainable and appropriate development between the centre and the regions, so there is an idea to revive the GBHN. The patterns of sustainable development planning through the GBHN can be implemented by giving authority to the MPR RI to prepare it, so the duties and authorities of the MPR RI must be structured. In this regard, the amendment to the constitution is a solution for structuring the duties and authorities of the MPR RI in terms of drafting the GBHN.

Key words: *Amendment, Constitution, Republic of Indonesia.*

Introduction

The amendment to the 1945 Constitution of the Republic of Indonesia was first carried out at the General Session of MPR RIN in 1999, which resulted in the First Amendment. It was then continued with the Second Amendment at the MPR Annual Session in 2000, the Third Amendment at the MPR Annual Session in 2001, and the Fourth Amendment at the MPR Annual Session in 2002. One of the amendment agreements was carried out by means of an “addendum.” The meaning of the term “addendum” is that the amendments to the 1945 Constitution were carried out by maintaining the original manuscript of the 1945 Constitution as issued in State Gazette Number 75 of 1959 of the results of Presidential Decree on July 5, 1959 and the manuscript of amendments to the 1945 Constitution was placed to the original manuscript (Firdaus, S.U., Laxamanahady, M.S.D.S., Widyasasmito, R.K., 2019).

One of the results of the amendment in the 1999-2000 period was the reform of the Indonesian parliamentary structure, which placed the People’s Consultative Assembly (MPR) as an institution that no longer fully held people’s sovereignty. The idea of removing the MPR’s position as the state’s highest institution has shifted the state from the MPR system to the people’s sovereignty system, which was regulated according to the 1945 Constitution of the Republic of Indonesia. It is the 1945 Constitution of the Republic of Indonesia that becomes the main reference in carrying out the people’s sovereignty, since it regulates which parts of the people’s sovereignty must be handed over to the body or institution whose existence, authority, duties and functions are regulated in the The 1945 Constitution of the Republic of Indonesia 1945 and which parts must be directly carried out by the people themselves (Habiburokhman, Supanto, Firdaus, S.U., 2019).

The amendment has implications for the MPR. There are some MPR duties and authorities that have changed and this has had a significant impact on the MPR and the life of nationality in Indonesia regarding the removal of the MPR’s authority to stipulate the State Policy Guidelines (GBHN). The GBHN is the state guidelines as the statement of people’s will, which is essentially a general pattern of national development stipulated by the MPR. The general pattern of national development is a series of comprehensive, directed, and integrated development programs that continuously take place. In practice, the GBHN will then become a guideline for the government to perform the national development programs (Sukarno, K.S., Wiwoho, J., Pujiono, Firdaus, S.U.,2020).

However, since the President is no longer accountable to the MPR, the vision and mission of the elected President is then outlined in the development planning document in lieu of the GBHN, which consists of long-term development planning (RPJP), medium-term development planning (RPJM), and short-term development planning (RKP) based on the provisions of the 1945 Constitution of the Republic of Indonesia 25 of 2004 concerning the

National Development Planning System (SPPN). The RPJP is stipulated by law, the RPJM is stipulated by Presidential Regulation, and the RKP also known as the Government Work Plan, is stipulated by Presidential Regulation as well. Also, the vision and mission of the regional heads and deputy heads are then set forth as part of the regional mid-term development planning document (RPJMD), referring to the national development planning document (National RPJM) and development planning document at the provincial level (Provincial Regional RPJM) (Sukarno, K.S., Wiwoho, J., Pujiono, Firdaus, S.U.,2020).

The Indonesian government no longer referred to the GBHN for the first time, which had been removed in the formulation of a national development plan since 2004. This year is also the direct election of the President and Vice President of the Republic of Indonesia. Instead, national development planning refers to the 1945 Constitution of the Republic of Indonesia Number 25 of 2004 concerning the National Development Planning System (SPPN). The GBHN and RPJPN as two long-term national development planning models are guidelines for national development in all fields for the lives of the Indonesian people. The presumption that the current development planning does not have guidelines as issued in the GBHN is not right. In the RPJPN, as stated in the GBHN, it coherently shows the direction and stages of development to be achieved in the long term or the next 20 years, which are then detailed in the RPJMN for five years and RKP for a one-year period (Basuki, U., Sulistiyono, A., Isharyanto, 2019).

As a unitary state, Indonesia has natural, human resources, and territorial diversity. Pluralism in Indonesia is one of its assets and wealth factors. The vast territory of the country forms an archipelago and there are regions in each of the islands, and each region is made up of the tribal, religious, racial, cultural and language diversity that characterises each region. Such wealth must be maintained, preserved, and protected so that it can continue, as it has developed over time. To realise such diversities, a pattern of relations between the central and regional government is formed. The great Indonesian geographical condition is the basis of implementing the pattern of decentralisation to realise regional development for the realisation of national development (Jaelani A.K, Handayani I.G.A.K.R, Karjoko L, 2019).

The diversity in Indonesia leads to the diversity in its patterns of development. This can be caused by various aspects, such as the political background of regional heads that are not the same as the political background of the President and so on. Whereas in the previous design related to the pattern of national development, the pattern of regional development should have also been paying attention to the pattern of central development so that there would be continuity in development, but this was not possible to be implemented in practice. In its development, there was a thought related to the existing national development system in Indonesia; whether it was right to be implemented in Indonesia or the national development planning that was used to be implemented through the GBHN was the right model for

national regulation. This is because there have been many opinions that without giving GBHN to the President and Vice President, it is seen as if the democratic system only gives a blank form to both. The state and the government administration are considered to run an “autopilot” system that can work alone. The regulation concerning the GBHN can be re-emerged as a form of structuring the duties and authority of the MPR implemented through amendment to the constitution. Based on the above description, this article will discuss the amendment to the constitution as a solution for structuring the duties and authority of MPR RI in determining the GBHN, which will be elaborated first on the MPR’s current authorities and efforts to revive the GBHN through amendment in the MPR’s authorities (Jaelani A.K, Handayani I.G.A.K.R, Karjoko L, 2020).

Results and Discussion

Authorities of MPR RI (After the Amendment to the 1945 Constitution of the Republic of Indonesia)

Majelis Permusyawaratan Rakyat, hereinafter referred to as MPR, is the People’s Consultative Assembly as referred to in the 1945 Constitution of the Republic of Indonesia. Prior to the amendment to the 1945 Constitution of the Republic of Indonesia, the MPR was the incarnation of all Indonesian people and was the highest state institution, the holder, and full implementer of the people’s sovereignty. This is referred to in Article 1 section (2) of the 1945 Constitution of the Republic of Indonesia which states that, “Sovereignty is in the hands of the people and is implemented according to the People’s Consultative Assembly (MPR).” Following the amendment, Article 1 section (2) of the 1945 Constitution of the Republic of Indonesia states, “Sovereignty is in the hands of the people and is implemented according to this Constitution.” After the amendment to the 1945 Constitution, sovereignty is held directly by the people and implemented according to the constitution. The construction of this people’s sovereignty has made the MPR to no longer be the highest state institution, but an equal state institution as other state institutions in general. Based on the statutory regulations governing the MPR, the MPR is a people’s consultative assembly that functions as a state institution. The term “state organisation” or “state institution” can be distinguished from the word private organisation or private institution, community institution, or what is commonly called an NGOs (Non-Government Organisations). State institutions can be in the realm of legislative, executive, judiciary, or mixed (Indrastuti L, Jaelani A.K., Nurhidayatullah, Iswantoro, 2019).

Before the amendment to the 1945 Constitution, Article 2 section (1) states that, “The MPR shall consist of members of the DPR and the representatives from regions and groups according to the rules regulated by law.” After the amendment to the 1945 Constitution, Article 2 section (1) states “The MPR shall consist of members of the DPR and the members of the DPD who have been elected through general elections, and shall be regulated further

by law.” It implies that the MPR structure, which initially consisted of members of the DPR, regional representatives and group representatives, has been amended to the MPR consisting of members of the DPR and DPD. Before the amendment, the duties and authority of the MPR based on the provisions of Article 1 section (2), Article 2 section (1), Article 3, Article 6, Article 37, and the Statement of the 1945 Constitution of the Republic of Indonesia were: 1) to stipulate the 1945 Constitution of the Republic of Indonesia and outline the direction of the state, and amending the 1945 Constitution of the Republic of Indonesia; 2) may stipulate GBHN; 3) to elect and appoint the President and Vice President; 4) to make decisions that cannot be overturned by other state institutions, including the stipulation of GBHN; 5) to provide explanations for the decisions of the Assembly; 6) to complete the election and subsequently appoint the President and Vice President; 7) to request accountability from the President regarding the implementation of the GBHN and assess the accountability; 8) to revoke power and dismiss the President in his/her term of office if he/she seriously violates the Constitution and/or the GBHN; 9) to stipulate the Rules of Procedure for the Assembly; 10) to stipulate the Chairperson of the Assembly elected from and by Members; and 11) to take and/or make decisions on Members who break the Members’ promise (Gumbira, S.W, Jaelani, A.K., Tejomurti, K, Saefudi, Y., 2019).

Following the amendment, the duties and authority of the MPR RI are based on the provisions of the 1945 Constitution of the Republic of Indonesia Article 1 section (2); Article 2 section (1); Article 3 section (1), section (2), and section (3); Article 7B section (6); Article 8; and Article 37, and the 1945 Constitution of the Republic of Indonesia Number 17 of 2014 concerning the People’s Consultative Assembly, which states that the duties and authorities of the People’s Consultative Council, the Regional Representative Council, and the Regional People’s Representative Council are as follows: 1) to amend and stipulate the 1945 Constitution of the Republic of Indonesia; 2) to inaugurate the President and Vice President; 3) to make decisions upon the People’s Representative Council proposal based on the decision of the Constitutional Court to dismiss the President and/or Vice President; 4) to inaugurate the Vice President to be President if the President dies, resigns, or is dismissed, or is unable to do his obligations within his/her term of office; 5) to elect and inaugurate the Vice-President from two candidates nominated by the President if there is a vacancy in the position of Vice-Resident no later than sixty days; 6) to choose and to inaugurate the President and Vice President if both stop simultaneously during their term of office, from two couples of President and Vice President candidates proposed by Political Parties, or a combination of Political Parties whose candidates win the first and second top votes in previous general elections previously until the end of their term of office no later than thirty days; 7) to establish Rules of Procedure and Code of Ethics; 8) to elect and appoint the Chairperson of the Assembly; and 9) to form Assembly fittings (Lego Karjoko, Djoko Wahyu Winarno, Zaidah Nur Rosidah, I Gusti Ayu Ketut Rachmi Handayani, 2020).

Based on the duties and authority of the MPR RI, it concludes that there are three duties and authorities of the MPR RI before the amendment, such as 1) to stipulate or amend the Constitution (Article 3 and Article 37 of the 1945 Constitution of the Republic of Indonesia); 2) to stipulate GBHN (Article 3 of the 1945 Constitution of the Republic of Indonesia); and 3) to dismiss the president and vice president (Article 3 of the 1945 Constitution of the Republic of Indonesia); 4) to elect the president and vice president (Article 8 section (2) of the 1945 Constitution of the Republic of Indonesia); and 5) to elect the president and vice president (Article 8 section (3) of the 1945 Constitution of the Republic of Indonesia). By seeing it normatively, the duties and authorities of the MPR RI after the amendment to the 1945 Constitution are higher, but in terms of quantity it shows that the role of the MPR RI is more prior to the amendment to the 1945 Constitution. The authorities obviously implemented after the amendment are that of on the second authority, that is to inaugurate the president and vice president (Article 3 of the 1945 Constitution of the Republic of Indonesia), which is ceremonially implemented. Therefore, it can be revealed that after the amendment to the 1945 Constitution, the MPR RI has lost many duties and authorities in quality compared to that of before the amendment (Sudarwanto, A.S., Handayani, I.G.A.K.R, 2019).

Attempts to Revive the GBHN through Amending the Authorities of MPR RI

In a political debate show in Jakarta at the end of March 2014, the 3rd President of Indonesia, B.J. Habibie, recalled the importance of reviving the GBHN. A similar view was also delivered by B.J. Habibie at the end of January 2014, at a meeting of Golkar Political Party cadres. “We are aware, without the existence of the GBHN, the development in Indonesia will not run well for a long time. So, I want to say, all Golkar Political Party cadres promised me that we would make a correspondence to the 1945 Constitution,” he said in remarks at the meeting. The intention to bring the GBHN back in the current era is not only voiced by B. J. Habibie, but also by intellectuals. In the meeting of the Indonesian Chancellor Forum (FRI), the X Campus Convention, and the meeting of Indonesian Association for the Development of Social Sciences (HIPIIS) at Universitas Sebelas Maret Surakarta at the end of January 2014, one important recommendation from the meeting was to revive the GBHN and encourage the MPR RI to initiate a constitutional amendment to re-list the MPR’s authority to stipulate the GBHN” (Suwari Akhmaddhian, Hartiwiningsih & I Gusti Ayu Ketut Rachmi Handayani, 2017).

The regulation regarding the GBHN, according to Mahmuzar, is that the president runs a development program based on the GBHN issued through the MPR Decree, since the MPR is a model or miniature of the Indonesian people in carrying out the process of people’s sovereignty. The president must carry out the course of the state according to the GBHN stipulated by MPR. Under the MPR stipulation, the president is the organiser or executor of the highest state government in running the state government. Legal instruments in reference

to the state administration are outlined in the form of GBHN in the formulation of the MPR Decree. The pattern of long-term development regulated through the MPR Decree is basically a general norm. However, the regulatory policy is issued through stipulations which are essentially the same as the decision. The stipulation is only legal actions that have the effect of creating, amending, and canceling a legal relationship. A determinative legal product that uses the term “Decree” cannot imply regulatory normative material (Ahmadi, M.H., Handayani, I.G.A.K.R., Karjoko, L.,2019).

The regulation, regarding long-term development direction, should be determined through a legal form on its own, since it is a plan that describes the vision, mission, goals, targets, development programs for a certain period of time and is still applicable to the stipulation. Long-term development direction is a form of implementing the regulation of what has been set in the policy of the basic pattern of development in the GBHN document stipulated in the MPR Decree. In terms of the stipulation of law relating to the implementation of a particular public official’s duty, the violation does not cause the cancellation of an act carried out under the relevant law as long as it does not cause real injustice and therefore, such stipulation is a directory. The violation against it does not have the effect of cancellation, then it can be given with sanctions for negligence (Soediro, Handayani, I.G.A.K.R., Karjoko, L.,2020).

This is not much different from the material from the provisions stipulated in the GBHN through the MPR Decree, because the matters regulated in the GBHN contain the same rules and main points of development as the direction of national development in the current reformation era. Therefore, it can be concluded that judicial sanction against guarantees of national development both before and after the amendment is not regulated. Even though the national SPPN and RPJP have been arranged in such a way, there are some problems that need an alternative solution in terms of this national development. A national development is an effort to improve the quality of the Indonesian people and society that is carried out in a sustainable way, based on national capabilities, by utilising advances in science and technology and taking into account the challenges of global development. In its implementation, it refers to the nation’s personality and universal noble values to reach the life of a sovereign, independent, just, prosperous, and advanced country with strong morals and ethics (Leonard, T., Pakpahan, E.F., Heriyatia, Karjoko, L., Handayani, I.G.A.K.R.,2020).

The development should not be based on what is thought or expected, but rather on actual social practices and its consequences, something that everyone can recognise. The development is no longer merely seen as a social construction or political will, but rather is a necessity of a ‘natural’ world order which is believed in and desired. This view is a powerful way to deal with various possible criticisms that arise against development. If this is seen again as national development planning in the period before the amendment of the 1945

Constitution of the Republic of Indonesia through the GBHN, there is a pattern of sustainable development. The stages of development during this term of office laid the foundations for a process of sustainable development and succeeded in improving people's welfare, as reflected in various economic and social indicators. The New Order government consolidated the country through various development projects they carried out, such as the construction of reservoirs and irrigation, construction of road infrastructure, structuring of social institutions, and media regulation. All these development programs were carried out to create political stability as a prerequisite for national economic development. The very well-known development doctrine at that time was the development trilogy (Prasetyo, B., Handayani, I.G.A.K.R., Sulistyono, A., Karjoko, L., 2019).

The development processes at that time were output and final result-oriented ones. Meanwhile, the processes and especially the quality of institutions that support and implement were not developed and were even politically suppressed, thus they became vulnerable to abuse and unable to professionally implement their functions. The underdevelopment in political, legal and social systems and institutions made the development outcomes unequal in terms of justice, and impeded the sustainability of the development process. The above description shows that Indonesia needs a pattern of national development that has guidelines on the future national development direction. These guidelines must be harmonised with the Constitution of the Republic of Indonesia as the state constitution. The Unitary State of the Republic of Indonesia (NKRI) already has state objectives made in writing in the Preamble of the 1945 Constitution, which is also a social contract between the people as holders of constitutional sovereignty and the state administrators, so there is a need for operational quality standards in achieving the country's goals (Sari, S.D., Handayani, I.G.A.K.R., Pujiyono, 2019).

Also, it needs some efforts to prepare a national development plan that covers all fields as a guide and mandate of the people to the president, as the executor of the government according to Article 4 section (1) of the 1945 Constitution. Guidelines and mandates of the people must be sought, to reflect not only the diversity in development needs and situations, but also the efforts to anticipate integration and the effects of the state presence in global situations and other international influences. It is crucial to take steps to revive the GBHN, which would be appropriate and indeed is needed by Indonesia. Such steps can, for example, be accommodated through the amendment to the 1945 Constitution of the Republic of Indonesia by representing the pattern of development planning through the GBHN and can participate and bring the loss of authority of the MPR RI back. In Article 3 of the 1945 Constitution prior to the amendment, it states that, "MPR stipulates Constitution and State Policy Guidelines." The implication is that the MPR has the authority to issue the MPR Decree which contains the State Policy Guidelines (Nurhayati, R., Gumbira, S.W., Tejomurti, K., 2019).



Conclusion

The presence of the MPR, through its various duties and authorities stipulated in the 1945 Constitution has in fact undergone many amendments. If this is normatively seen from the quantity, the MPR has had more duties, functions and authorities since the amendment of the 1945 Constitution, but this is contradictory in quality. One of the different duties, functions and authorities is related to the formation of the GBHN. After the amendment to the 1945 Constitution of the Republic of Indonesia, the pattern of development planning that was initially through the GBHN had been replaced by a variety of other programs prepared by the Government. However, it caused various problems, thus the pattern of sustainable development could not be practically achieved. The solution for creating good sustainable development is to revive the GBHN by giving the authority to the MPR. These changes can be carried out by making limited amendments to the 1945 Constitution of the Republic of Indonesia to add the authority of the MPR in terms of drafting the GBHN.

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