

# ANALYSIS OF LEGAL PRODUCT FORM AND CONTENT MATERIAL IN PRINCIPLES OF STATE POLICY

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**Abstract:** *The amendment to Article 3 of the Indonesian Constitution is responsible for the removal of the People's Consultative Assembly (MPR) authority, to determine the State Policy Guidelines. This explains that the national development is presently guided by the following policies, (1) Law Number 25/2004 on the National Development Planning System, (2) Law Number 17/2007 on the National Long-Term Development Plan 2005-2025, and (3) Presidential Regulation on the National Medium-Term Development Plan. These laws are considered unable to guarantee the continuity and harmony of development between the central and local governments. In the absence of State Policy Guidelines (GBHN), the continuity of an important existing long-term regulation by a new government is not guaranteed. In this case, a state policy is needed to ensure the continuity of development, leading to a discourse to revive the PPHN (Principles of State Policy). Therefore, this study aims to analyze the legal product form and content material of the PPHN, by using a normative juridical method through secondary data. The results showed that PPHN was needed to ensure the continuity of Indonesia's development, with the formulation authority provided to the MPR, the most representative state institution. The material of PPHN was also philosophical and strategic, due to emphasizing state goals according to Paragraph IV of the Indonesian Constitution Preamble. This was outlined in MPR legal products as State Regulations, which guided national institutions in preparing work programs during their term of office.*

**Keywords:** *PPHN, legal products, content material*

## I. INTRODUCTION

### A. Background

The discourse on reviving the State Policy Guidelines (GBHN) is often continuously evaluated regarding PPHN (State Policy Principles), whose replacement capability levels for GBHN had been emphasized by various print and online media at the end of 2021. Similarly, webinars and discussions about PPHN were conducted in other public spaces, with many people agreeing and disagreeing with its existence. Based on those in agreement, the development and operations of PPHN in Indonesia were directional and sustainable, respectively. Meanwhile, the disagreeing subjects argued that the revival of the GBHN damaged the country's judicial system, worsened the performance of parliament, as well as revolted against the flow of history, development direction commitment, and public governmental participation.<sup>1</sup> The debate also prioritized the level of necessity to amend the Indonesian Constitution, with some reports arguing that the amendments to the Indonesian Constitution should be conducted when PPHN is possessed. Subsequently, other reviews stated that the policy was sufficiently configured as a law.

The discourse to revive the State Policy Guidelines (GBHN) emphasize the Article 3 amendment of the Indonesian Constitution, which was stated before the authorization of the MPR to determine GBHN. To implement the provisions of Article 3, the MPR formed a decree capable of regulating the GBHN. After the amendment, the Indonesian Constitution transformed the provisions of Article 3, which stopped authorizing the MPR to determine State Policy Guidelines. This was closely supported by the factions' decision to agree to a direct election system for the President and Vice

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<sup>1</sup> <https://pshk.or.id/publikasi/siaran-pers/5-alasan-menolak-upaya-mengembalikan-gbhn-melalui-amendemen-uud-1945/>

President.<sup>2</sup> In the absence of a GBHN, state formulation preparation is also outlined as a law, with the People's Representatives Council (DPR) and the President guided by Law Number 25/2004 on the National Development Planning System. In this case, Law Number 17/2007 on the National Long-Term Development Plan (RPJPN; 2005-2025) was established. This was accompanied by the formulation of a Presidential Regulation on the National Medium-Term Development Plan (RPJMN), which was stipulated at the beginning of each President's office term for five years. Subsequently, the regulation is presently considered executive-heavy with various judicial and legislative institutions that should be part of national development.<sup>3</sup> It also prioritizes the vision and mission of the President, while being executive-centric in binding and regulating the executive field.<sup>4</sup>

Based on these descriptions, the regulations emphasizing the National Development Planning System are considered unable to guarantee developmental continuity and harmony between the central and local governments. In the absence of a GBHN, This indicates that no guideline is observed in achieving national and state goals without a GBHN, according to the Indonesian Constitution Preamble. Moreover, the continuity of an important long-term existing policy by a new government is not guaranteed. This is because an elected President has no constitutional "compulsion" to comply with the RPJPN, with the development perspective reduced to five years. From this context, several concerns focus on the development goals prioritized in Paragraph IV of the Indonesian Constitution Preamble, which consume lengthy periods to achieve than the ideals of the proclamation. This is because the development program tends to be patchy regarding the vision and mission of the elected President.<sup>5</sup> Moreover, the present process of development direction emphasizes a perspective limited to the scope of the President or Regional Head, which causes disparities in various regions.<sup>6</sup> From this assessment, a discourse is found to revive the GBHN under PPHN and is expected to carry out more comprehensive and integrated development processes. Based on the existence of GBHN, development planning is highly focused and easier to understand for developmental guidance.

## B. Problem Formulation

This study prioritizes the importance of PPHN in the Indonesian constitutional system, to sustainably and harmoniously guide the course of development. From this context, the study question is stated as follows, "What are the legal product form and content material of PPHN?"

## C. Research Methods

A normative juridical method was used to examine the rules of law as a system building related to a legal event.<sup>7</sup> Secondary data including primary, subordinate, and tertiary legal materials from books, literature, journal articles, papers, laws, regulations and other sources were also used.

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<sup>2</sup> Harry Setya Nugraha, Urgensi Garis Besar Haluan Negara dalam Sistem Ketatanegaraan Indonesia, *Vej* Volume 5 • Number 1, p. 200 (<http://repository.unej.ac.id/handle/123456789/67813?show=full>)

<sup>3</sup> Bambang Prijambodo dan Prahesti Pandanwangi, Politik Hukum Menghidupkan Kembali Haluan Negara, *Jurnal Majelis, Media Aspirasi Konstitusi* edisi 08/Agustus 2018, Badan Pengkajian Majelis Permusyawaratan Rakyat Republik Indonesia, Jakarta, 2018, p. 16  
[https://www.mpr.go.id/pengkajian/JM\\_Edisi\\_08\\_Agustus\\_2018.pdf](https://www.mpr.go.id/pengkajian/JM_Edisi_08_Agustus_2018.pdf)

<sup>4</sup> Ibnu Sam Widodo, Mohamad Rifan, Liavita Rahmawati, Disefisiensi Peniadaan GBHN dan Ketersediaan Ruang Peletakkannya Kembali pada Kerangka Hukum di Indonesia, *Jurnal majelis, Media Aspirasi Konstitusi*, Ed. 12/December 2018, p. 105  
<https://www.mpr.go.id/jurnal/224/Jurnal-Majelis-Ed-12/2018:-Urgensi-Pokok-pokok-Haluan-Negara-Untuk-Sinkronisasi-Pembangunan-Pusat-dan-Daerah>

<sup>5</sup> Bambang Prijambodo dan Ihsan Zulkarnaen Nasution, Format Idal Sistematika Haluan Negara Sebagai Haluan Pembangunan Nasional, *Jurnal Majelis, Media Aspirasi Konstitusi* Ed. 08/August 2018, Badan Pengkajian Majelis Permusyawaratan Rakyat Republik Indonesia, Jakarta, 2018, p. 50  
[https://www.mpr.go.id/pengkajian/JM\\_Edisi\\_08\\_Agustus\\_2018.pdf](https://www.mpr.go.id/pengkajian/JM_Edisi_08_Agustus_2018.pdf)

<sup>6</sup> Moza Dela Fudika & Ellydar Chaidir, Politik Hukum Pemberlakuan Kembali Garis Besar Haluan Negara Sebagai Panduan Pembangunan Nasional Indonesia, *Jurnal Kodifikasi*, Vol. 3 No. 1 (2021), p. 2  
<https://ejournal.uniks.ac.id/index.php/KODIFIKASI/article/view/1146>

<sup>7</sup> Mukti Fajar dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif & Empiris*, I ed., Pustaka Pelajar, Yogyakarta, 2010, p. 36

These data were obtained by literature study through several experimental library materials, with other appropriate legal elements derived by searching, retrieving, and analyzing conventional documents such as reading, viewing, listening, or implementing information technology (internet media). Moreover, the secondary data obtained and processed were qualitatively analyzed and presented descriptively.

## II. DISCUSSION

### A. The MPR's Authority to Establish GBHN

The MPR was the full exercise of popular sovereignty and the highest state institution before the Indonesian Constitution was amended. This was stipulated in Article 1, paragraph (2), which stated that sovereignty was authorized and completely exercised by the people and MPR, respectively. From this context, other state institutions were subordinate to the MPR, including President, DPR, as well as the Supreme Advisory Council and Court. These state institutions often obtained their distribution of power from the MPR, whose guidelines, GBHN, need to be obeyed and implemented toward clear and definite authority. The authority of the MPR to determine the state policy was also provided by Article 3 of the Indonesian Constitution, which stated that the MPR determined the basic law and GBHN.

To establish the GBHN for the first time in 1960, authority was exercised by the MPR.<sup>8</sup> This authority was contained in the regulations initially formed by the Temporary MPR (MPRS), namely (1) MPRS Decree Number I/MPRS/1960 concerning the Indonesia Political Manifesto as GBHN, and (2) MPRS Decree Number II/MPRS/1960 regarding the National Development Pattern Guidelines of the Universal Planning First Phase 1961-1969. In 1963, the MPRS Decree Number IV/MPRS/1963 concerning Guidelines for implementing GBHN and Development Policy was then established. Furthermore, the authority of the MPR to determine the next GBHN during the New Order government was carried out every five years within each membership period. In this context, the previously established regulation during the New Order era was MPR Decree Number II/MPR/1998 on the GBHN. This was then revoked by MPR Decree Number IX/MPR/1998 on the Revocation of MPR Decree Number II/MPR/1998.

The MPR obtained from the 1999 general elections also formed MPR Decree Number IV/MPR/1999 on the GBHN for 1999-2004.<sup>9</sup> This was the last regulation containing GBHN due to the non-authorization of the next MPR era to determine State Policy Guidelines (GBHN), according to the Indonesian Constitution through the 2004 and subsequent general elections. Based on MPR Decree Number IV/MPR/1999, GBHN was the implemented state policy considered and stipulated by MPR as a comprehensive and integrated statement of the people's will for five years, to realize privileged welfare with justice. From this context, GBHN was mainly established to guide the state administration toward realizing a democratic life and social justice, protecting human rights, and upholding the civilized rule of law for the next five years.

The implementation of GBHN was also assigned to the President as head of state government and to other national institutions appropriate to their respective authorities. In this case, a report is often expected annually in the MPR annual session. The MPR also has the right to request and assess the accountability of the President and other state institutions, regarding the implementation of GBHN. When Presidents seriously violate the state policy, the MPR is authorized to dismiss them during their office terms.

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<sup>8</sup>When it was first formed, the MPR was still temporary. The provision in the Presidential Decree of July 5, 1959, stated that the formation of the MPRS should be held in the shortest possible time. The President then issued Presidential Stipulation Number 2 of 1959, dated July 22, 1959, which regulated the MPRS formation as follows: The MPRS consisted of the DPR Gotong Royong members plus representatives from the regions (Regional Swatantra Level I) and groups (Golongan Karya Party).

<sup>9</sup> MPR Decree No. IV/MPR/1999 is one of the products for the 1999-2004 period produced in the MPR session from October 14 to 21, 1999.

After the Indonesian Constitution was amended, changes were observed in the composition of state institutions. These were accompanied by adjustments in the power of each state institution, including the MPR's authority. From this context, the adjustments included the removal of the authority to determine GBHN toward electing the President and Vice President.<sup>10</sup> Moreover, a perspective that Indonesia no longer had a sustainable development plan was observed after the abolition of GBHN in the State Constitution amendment. This proved that the development plans prioritizing the vision and mission of the elected president caused preparation adjustments every time a new government was appointed. For example, the changes observed in the development planning from President Susilo Bambang Yudhoyono to Jokowi terms. According to Aidul Fitriadi, the development planning of Jokowi during his first and second terms changed significantly despite the need for building expected to be continuously conducted.<sup>11</sup> Moreover, the MPR presently has very limited authority to amend and enact the Constitution, as well as inaugurate and dismiss the President or Vice President during their terms of office. This limited authority has caused MPR to become a state institution, which is always debated as an unimportant sanctuary in the Indonesian constitutional system.<sup>12</sup>

The authority of the MPR granted by the Indonesian Constitution is also shackled due to having no routine authority except for the inauguration of the elected President and Vice President, which are always determined by the General Election Commission every five years. However, the authority provided to the MPR was pragmatically very basic in the life of the Indonesian state administration. For example, the authority to amend and stipulate the Constitution is very important in constitutional life. This is because the Indonesian Constitution has the highest position in the hierarchy of laws, indicating that the policies developed by other state institutions should not serve as a conflict. After amending and stipulating the Constitution, the MPR is expected to obey the entire constitutional process. Based on the exercise of popular jurisdiction, the Indonesian Constitution in Article 1(2) stated that sovereignty was vested in the people and implemented according to the constitutional system. This explained that the MPR determined the implementation of popular sovereignty as a state institution with amendment and enactment authority. From these descriptions, the MPR is still needed in the Indonesian constitutional system.

## **B. Legal Product Forms and Content Material of PPHN**

Based on the development direction, no guidelines were observed after the 2004 general elections and state institutions' establishment. This indicated that each institution, including the President, was responsible for determining its plan of activities for the 5-year office term. Regarding the 2004 general election, the building preparation platform used as a guideline by the government is presently stipulated in Law Number 25/2004 on the National Development Planning System and Law Number 17/2007 on the RPJPN for 2005-2025. To implement these laws, the President then established a Presidential Regulation on the RPJMN in each term of office. The RPJMN is also presently contained in Presidential Regulation Number 18/2020 on the RPJMN for 2020-2024. This confirmed no provision on the President's accountability model for implementing the national development plan.

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<sup>10</sup> The MPR elects the President and Vice President when there is a vacancy in the office of the President and Vice President simultaneously. This is regulated in Article 8 of the Indonesian Constitution, which states: "If the President and Vice President simultaneously die, resign, are dismissed, or unable to perform their obligations during their term of office, the acting presidents are the Minister of Foreign Affairs, the Minister of Home Affairs, and the Minister of Defense." No later than thirty days after that, the MPR holds a plenary session to elect a President and Vice President from the two pairs of candidates for President and Vice President proposed by the political party or coalition of political parties whose pairs of candidates received the first and second highest number of votes in the previous general election, until the end of their term of office."

<sup>11</sup> Majelis Permusyawaratan Rakyat Republik Indonesia, *Kajian Akademik: Konstitusionalisasi Haluan Negara pada UUD 1945 Pasca Amandemen*, Badan Pengkajian MPR RI, Jakarta, 2020, p. 53-54

<sup>12</sup> Abdy Yuhana, *Sistem Ketatanegaraan Indonesia Pasca Perubahan UUD 1945, Sistem Perwakilan di Indonesia dan Masa Depan MPR RI*, Fokusmedia, Bandung, 2013, p. 148

The adjustment of the national development plan is also possible when a change of government is observed.

GBHN and RPJPN, as two models of national development planning, are guidelines for state building in all the life fields of the Indonesian people. Although both policies are prepared in a clear juridical form, some fundamental differences are still observed, namely the legally binding power and constitutional value affecting the regulation implementation.<sup>13</sup> From this context, a discourse is presently observed on the need to reorganize the Indonesian constitutional system, specifically the revival of GBHN by the authority of the MPR, as developed in various PPHN discussions. This is because the GBHN revival is capable of guiding the national development direction, leading to clear and definite goals that are sustainable without prioritizing the period of government. In the reform era, the absence of GBHN also reportedly has various impacts, with the present leadership model considered to be unable to meet the requirements of the people. Furthermore, the implementation of development depends on the requirements of the President, regarding the deviations and changes observed from the country's building goals. Based on these descriptions, the proposal to reuse the GBHN aims to provide a development direction capable of achieving state goals, as mandated by the Indonesian Constitution.

The discourse on reviving the GBHN has also obtained the following opinions in the community, (1) The revival level of GBHN/PPHN, (2) The legal product or forum needed for the policy outline, (3) The extent to which the PPHN is capable of binding the President, and (4) The authority required for the compilation of the PPHN. Since several experts and scholars argued that PPHN should be contained in the law, the amendment of the Indonesian Constitution is not needed due to the potential to re-open Pandora's Box. This emphasizes its implementation as an entry point to amend other Articles, such as extending the President's term of office, which has been the subject of much debate. Other publications also argued that PPHN should be stipulated as a legal product in the form of an MPR Decree, emphasizing the necessity to amend the Indonesian Constitution. This condition ensures the easiness for the President to amend or revoke the constitution with a Government Regulation in Lieu of Law.

These diverse community opinions specifically have various reasons, with the adjusted Indonesian constitutional system having implications for many fields of state life. In this case, the MPR is not authorized to form the GBHN, due to the direct election of the President, Vice President, as well as regional heads, and their deputies. This condition explains that the elected parties are directly responsible to the people. When elections are conducted directly by the people, the President and Vice President, as well as regional heads and their deputies often provide different and unrelated visions and missions during campaigns to attract voters. This condition mostly leads to the absence of development integration between the central and local governments. Similarly, the vision and mission are possibly different from the previously stated types when government tenures are changed, leading to a lack of continuity in the development implementation. Therefore, a state policy is needed to maintain the continuity and harmony of the development plans between the present and next government, as well as the central and local authorities. The policy is also important to realize the unity of the system and national development planning, which is sustainable and integrated with the regional building preparation system.

According to Yudi Latif, state policy was sociologically needed for the Indonesian constitutional system, regarding the *Staatgrundgesetz* status. This indicated the reasons GBHN need to be restored as a guideline for national development. Firstly, a guiding principle should contain directive theories on the methods of institutionalizing Pancasila and the Constitution values into some public institutions. These institutions need to be capable of guiding state administrators in formulating and implementing development policies. As a directive principle, the state policy should

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<sup>13</sup> Sulardi, Kewenangan MPR, GBHN dan RPJPN Setelah Perubahan UUD, Jurnal Majelis Media Aspirasi Konstitusi, Ed. 12/December 2018, p. 97 <https://www.mpr.go.id/jurnal/224/Jurnal-Majelis-Ed-12/2018:-Urgensi-Pokok-pokok-Haluan-Negara-Untuk-Sinkronisasi-Pembangunan-Pusat-dan-Daerah>

also be a guideline in legislation development. Secondly, the existence of GBHN is an integrated package of the family state conception desired by Pancasila and the Indonesian Constitution. Thirdly, the newly-updated state policy should not necessarily be the same format and content as the previous version."<sup>14</sup> The Head of the MPR Study Bureau, Yana Indrawan, also stated the urgencies needed to revive the GBHN through a new title, namely the PPHN. These urgencies included, (1) The continuity and synergy of development, without depending on electoral moments, (2) The harmony of central and regional development, and (3) Resolving the existence of valid MPRS and MPR decrees.<sup>15</sup>

The reformulation and reimplementations of state policy are also expected to be compiled by MPR, which has the authority to amend and stipulate the Constitution. This is due to the capability of the policy as a subsequent elaboration of the Indonesian Constitution.<sup>16</sup> Moreover, the MPR is a state institution whose members are more highly represented than other sanctuaries, as observed for people (DPR) and regional (DPD) representatives. Based on Ria Casmi, the MPR was an institution with the highest authority in institutionally representing the representative system authorized to guide the suitability between state administration and goals, regarding Pancasila, Indonesian Constitution, and Bhinneka Tunggal Ika. This situation was institutionally carried out to guide national development expected to be implemented by the government and other state institutions.<sup>17</sup> Since the MPR is responsible for the compilation, the state policy is then outlined in its legal products as decrees or other nomenclature.<sup>18</sup>

Based on a comparative study of law, the existence of PPHN in other countries such as India, Ethiopia, and Ireland, was regulated regarding their constitutions.<sup>19</sup> In India and Ireland, these principles were commonly prioritized as "DPSP or Directive Principles" and "Socio-Economic Rights", respectively. When drafting the Indian Constitution, the framers also borrowed many provisions from other legal systems, such as the "Directive Principles of Social Policy" from the Irish Legislation.<sup>20</sup> This condition had a significant difference with Indonesia and was adopted with the MPR's authority to form legal products as decrees. Other nomenclatures were also able to resolve the legal vacuum by

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<sup>14</sup> Yudi Latif, Rancang Bangun GBHN, quoted from M. Addi Fauzani, Fandi Nur Rohman, dan Dimas Firdausy .H., Pemberlakuan Peraturan Dasar Sebagai Wadah Haluan Negara (Gagasan Redesain Garis-Garis Besar Haluan Negara (GBHN) Prespektif Sistem Peraturan Perundang-Undangan Di Indonesia), Jurnal Penegakan Hukum dan Keadilan, Vol. 2, No. 1, March 2021, p. 55 <https://journal.umy.ac.id/index.php/jphk/article/view/10408>

<sup>15</sup> <https://fh.unair.ac.id/en/diskursus-pokok-pokok-haluan-negara-dalam-amandemen-uud-1945-jalan-panjang-ketentuan-arah-pembangunan-indonesia/>

<sup>16</sup> Moh Kusnardi and Harmaily Ibrahim stated that the Assembly has the power to explain the intentions of the articles in the 1945 Constitution because it is the Assembly that establishes the Constitution. (Moh Kusnardi dan Harmaily Ibrahim, Pengantar hukum Tata Negara Indonesia, Pusat Studi Hukum Tata Negara Fakultas Hukum Universitas Indonesia dan CV Sinar Bakti, Jakarta, 5<sup>th</sup> Ed., 1983, p. 192

<sup>17</sup> Ria Casmi Arrsa, Reformulasi Haluan Negara Model GBHN dalam Perspektif Harmonisasi, Sinkronisasi, dan Sinergitas Perencanaan Pembangunan Nasional-Daerah, Jurnal Majelis, Media Aspirasi Konstitusi, Issue 12/December 2018, p. 160-161 <https://www.mpr.go.id/jurnal/224/Jurnal-Majelis-Ed-12/2018:-Urgensi-Pokok-pokok-Haluan-Negara-Untuk-Sinkronisasi-Pembangunan-Pusat-dan-Daerah>

<sup>18</sup> I propose that the nomenclature is State Regulation because if you use the nomenclature of the decree, it will connote *beschicking*. The use of the term State Policy reflects the term *indischestaatsregeling* during the Dutch East Indies government, which can be translated as state regulation. *indischestaatsregeling* applies in the Dutch East Indies, whose content follows the content material of the *Grondwet* applicable in the Netherlands.

<sup>19</sup> Berihun Adugna Gebeye. *The Potential Of Directive Principle Of State Policy For The Judicial Enforcement Of Socio-Economy Rights: A Comparative Study Of Ethiopia And India*. Central European University. 2015 P. 27

<sup>20</sup> Pandya, Khushi, Comparative Analysis of Directive Principles of Social Policy under the Irish Constitution and Directive Principles of State Policy under Indian Constitution (December 19, 2021). Available at SSRN: <https://ssrn.com/abstract=3989021> or <http://dx.doi.org/10.2139/ssrn.3989021>

adopting them in future amendments to the country's Constitution. This vacuum subsequently emphasized valid MPR/MPRS regulations, as stipulated in Articles 2<sup>21</sup> and 4<sup>22</sup> MPR Decree Number I/MPR/2003 on the Review of the Material and Legal Status of the MPRS and MPR Decrees from 1960 to 2002, dated August 7, 2003. From this context, no state institution was authorized to change, revoke, or test these valid regulations, including the MPR. Therefore, the legal vacuum is closed when the MPR is finally authorized to form constitutional products through decrees or other nomenclatures with the same position. When necessary, the MPR is also capable of amending/revoking and replacing valid regulations with new policies.

In the state policy, the content material subsequently compiled was the philosophical and strategic matters that led to national goals, as mandated in the Indonesian Constitution Preamble in paragraph IV, namely (1) protecting the entire nation, (2) advancing general welfare, (3) educating the nation's life, and (4) participating in world order implementation based on independence, eternal peace, and social justice. This PPHN is capable of guiding state institutions toward the development of work programs. When the accountability of state institutions to the voters does not initially exist, it is then provided with the national policy through the MPR.

As the Indonesian Constitution presently does not authorize the MPR to issue legal products as decrees when the inclusion of the PPHN in regulation is agreed upon, the issuance of authority to the state institution is very crucial to formulate policies or other nomenclatures. Besides amending the laws governing the MPR, authority issuance is also very necessary in reforming the Indonesian Constitution. This amendment should be guided by Article 37, leading to the avoidance of unwanted content material intrusion. Article 37 of the Indonesian Constitution stipulates the following,

- (1) A proposal to amend the articles of the Constitution needs to be presented in a session of the MPR when it is submitted by at least 1/3 of the members.
- (2) Every proposal to amend the constitutional articles should be submitted in writing and is expected to indicate the part proposed for amendments and the reasons.

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<sup>21</sup> Review of the Material and Legal Status of the MPRS and MPR Decrees from 1960 to 2002, dated August 7, 2003:

- a. MPRS Decree Number XXV/MPRS/1966 on the Dissolution of the Indonesian Communist Party, the Declaration of the Indonesian Communist Party as a Prohibited Organization in All Regions of Indonesia and the Prohibition of Any Activity to Spread or Develop Communist Thoughts or Teachings of Marxism-Leninism.
- b. MPR Decree Number XVI/MPR/1988 on Political Economy in the Framework of Economic Democracy.
- c. MPR Decree Number V/MPR/1999 on the Act of Free Choice in East Timor

<sup>22</sup> The MPRS and MPR Decrees that remain in effect until the formation of the Law according to the provisions of Article 4 of MPR Decree Number I/MPR/2003 are:

- a. MPR Decree Number XXIX/MPRS/1966 on the Appointment of Hero Ampera
- b. MPR Decree Number XI/MPR/1998 on implementing a State that is Clean and Free of Corruption, Collusion, and Nepotism.
- c. MPR Decree Number XV/MPR/1998 on the Implementation of Regional Autonomy, the Regulation, Sharing, and Equitable Utilization of National Resources, and the Balance of Central and Regional Finances within the Indonesia Framework
- d. MPR Decree Number III/MPR/2000 on the Source of Law and the Order of Legislation
- e. MPR Decree Number V/MPR/2000 on Strengthening National Unity and Integrity.
- f. MPR Decree Number VI/MPR/2000 on the Separation of the Indonesian National Army and Indonesian National Police.
- g. MPR Decree Number VII/MPR/2000 on the Role of the Indonesian National Army and Indonesian National Police.
- h. MPR Decree Number VI/MPR/2001 on the Ethics of National Life.
- i. MPR Decree Number VII/MPR/2001 on the Vision of a Future Indonesia.
- j. MPR Decree Number VIII/MPR/2001 on Recommendations on Policy Directions for the Eradication and Prevention of Corruption, Collusion and nepotism.
- k. MPR Decree Number IX/MPR/2001 on Agrarian Reform and Natural Resource Management.

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- (3) To amend the articles of the Constitution, the session of the MPR need to be attended by at least 2/3 of the members.
  - (4) Decisions to amend the constitutional articles should be made with the approval of at least 50% plus one member of the entire audience.
  - (5) No changes should be specifically developed regarding Indonesia's state form.

Based on Article 37, the amendments to the Indonesian Constitution were carried out with special procedures and were unable to be conducted as a law readjustment, which is specifically not easy. This indicated that amendments should be submitted in writing by at least 1/3 of MPR members while portraying the part proposed for readjustment with the reasons. From this context, adequate discussions need to be carried out during the MPR session when a specific article or paragraph is proposed for amendments. Therefore, the discussion should not focus on materials different from the proposed subject. Amendments to the Indonesian Constitution also need to be calmly and cautiously performed when the MPR is authorized to formulate PPHN, which is capable of guiding the country's development for a long period. This emphasizes meticulous performance regarding the types of contents to be stated in PPHN. The contents should also be prepared seriously and earnestly, leading to the achievement of state goals. Although the authority to formulate and compile PPHN depends on the MPR, community participation is still very important and mandatory.

In the MPR Decree, the PPHN law enforcement should be futuristically carried out by the Constitutional Court through its judicial review. This suggests that when the practices in India, Ethiopia, or Ireland are combined with the procedures of Indonesia, adequate and appropriate outcomes are expected for adherence to the system of supremacy in constitutions. From this context, judicial review needs to entitle the judiciary to protect the constitution from legislative and executive instructions. In this case, judicial proceedings should be conducted through the Constitutional Court when disobedience to national development is observed based on the MPR's decree on the PPHN in future. This condition subsequently emphasizes constitutional disobedience and should be classified as contempt of court. From these descriptions, the existence of PPHN does not require the President and Vice President to be re-elected by the MPR. This is because the parties are still directly elected by the people, with the oversight function remaining with the DPR. However, the reasons and procedures for impeachment or dismissal of the President or Vice President in their office terms are guided by the provisions of Articles 7A and 7B of the Indonesian Constitution.

### III. CONCLUSION

Based on the results, PPHN was needed because Indonesia was required to have a mutually agreed policy direction, to ensure the continuity and harmony of the country's development. The authority to formulate PPHN was also provided to the MPR as the highly represented state institution whose membership contained DPR and DPD. It was also an institution authorized to amend and enact the Constitution, with PPHN being an elaboration of the Indonesian Legislation. Moreover, the preparation of PPHN should always start with the participation of the community, due to the country being a democratic state. The policy also needs to be outlined in MPR legal products in State Regulations, as a substitute for the nomenclature or decrees. In this case, the content of PPHN was philosophical and strategic, focusing on state goals according to Paragraph IV of the Indonesian Constitution Preamble. This indicated that the policy was capable of guiding state institutions toward work program preparation during their term of office. From this context, the institutions were responsible to the people through the MPR by implementing the state policy (PPHN).

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