

CHAPTER TWO

LITERATURE REVIEW

A. The Guidelines of State Policy (GBHN)

The Guidelines of State Policy (GBHN) are the planning and implementation strategies of the people's wishes and are integrated to reach the welfare of society.¹ According to Asshiddiqie,² GBHN is a set of five-year planning as the reference and guideline for the President to carry out national development within 5 year. Based on the MPR decision, GBHN was a policy; it is the precision of steps and targets to realize an ideal of the state and the people. The GBHN was also as tool to achieve the desired future of the country. It serves as code of ethics of how national development should implement the planning accordingly.

Since GBHN had been removed and replaced by Law No. 25 of 2004, the national development planning system is substituted by the Long-Term Development Plan (RPJP). The RPJP has the time frame of 20 years but it is divided into short-term and medium-term planning.

B. The Development of Law

According to Kusumaatmaja,³ There are several aspects of the Theory of Development Law. First, it is a legal theory that exists in Indonesia because it was created by the Indonesian people by considering

¹ MPR Decree (TAP MPR) No. IV/MPR /1999, p. 1083.

² Jimly Asshiddiqie is former of Constitution Judges and Professor of Constitutional Law Expert

³ Mochtar Kusumaatmaja is a Doctor of Law Sciences of Padjadjaran University, Bandung, author of Book Legal Science and an Indonesian academician and diplomat. He served as Justice Minister from 1974 to 1978 and Minister of Foreign Affairs from 1978 to 1988.

the dimensions and culture of Indonesian society. Therefore, by measuring the dimensions of theory of development law, it will grow and develop in accordance with the conditions of Indonesia.

Second, the development law theory uses reference framework on the way of life of the people and the Indonesian nation is based on the principle of Pancasila which has nature of kinship toward the norms, principles, institutions and rules contained in the theory of law development. It consists of some dimensions, i.e., structure, culture, and substance as stated by Lawrence W. Friedman.⁴ Third, law development theory gives the basic function of law as a "tool of society renewal"⁵ and law as a system is indispensable from the nation.⁶

Kusumaatmadja adds a pragmatic purpose (for development) as well as input from *Roscoe Pound* and *Eugen Ehrlich* where the correlation between *Laswell* and *Mc Dougal's* statement suggests that the cooperation between legal study and carrier of law is ideally capable of generating legal theory a theory that has pragmatic dimension or practical usefulness. He brilliantly changed the meaning of the law as a tool into the law as instrument to develop society. The basic idea underlying the

⁴ Lawrence W. Friedman, *American Law: An invaluable guide to the many faces of the law, and how it affects our daily lives*, W.W. Norton & Company, New York, 1984, page 1-8. and at *Legal Culture and Social Development*, Stanford Law Review, New York, p. 1002-1010 and in *Law in America: a Short History*, Modern Library Chronicles Book, New York, 2002, p. 4-7.

⁵ Basically, the function of the law as "means of renewal of society" (law as a tool of social engineering) relative still in accordance with the development of law national now, but it needs to be equipped with beureucratic engineering that put forward the concept of role models or leadership, so that the function of law as a means of renewal can create harmonization between bureaucratic and community elements in a container called "beureucratic and social engineering" (BSE).

⁶ Lilis Rasjidi, 2003, *Hukum Sebagai Suatu Sistem*, Bandung, CV. Mandar Maju, p. 5.

concept is that regularity in the development and renewal efforts is desirable, even absolutely necessary, and the law in the meaning of norm is expected to direct human activities towards their desired goals.

C. The Legal Basis of the Government Planning

As a developing country, Indonesia is currently working for economic development. Economic development also includes development in the fields of politics, economy, social, culture, defence and security because national development is defined as a series of sustainable development efforts, covering all aspects of community life and state.

National development is conducted with the aim to create a just and prosperous society on material and spiritual based on Pancasila and the 1945 Constitution. The National development also has a foundation for implementing the development plans. Among the foundations for the implementation are:

1. Pancasila as the foundation of ideology of state,
2. The 1945 Constitution as the constitutional foundation,
3. GBHN, MPR Decision No. IV/MPR/1999 which was amended by Law No. 25 of 2004 on National Development Planning System.

Law No. 25 of 2004 on the national development planning system (SPPN) is used as a knot of development planning procedures to produce long-term, medium-term, and annual development plans implemented by the government and community both at central and regional scopes.

The National Development Planning System aims to:

1. Support coordination among development actors,
2. Ensure the creation of integration, synchronization and synergy both between regions, between spaces, between time, between government functions and between Centres and Regions,
3. Ensure linkage and consistency between planning, budgeting, implementation, and supervision,
4. Optimize community participation,
5. Ensure the achievement of the use of resources efficiently, effectively, fairly, and sustainably.

D. Sustainable Development

According to Abdoellah,⁷ sustainable development has been promoted by the Indonesian government since 1987. Until now, the issue has been left as rhetoric and lips service. The main stream of sustainable development cannot escape from some problems such as the political commitment of the government which has not fully understood the pattern of sustainable development.

Political commitment is still partial because of decentralization so that each region runs independently. Some region leaders have not been able to implement sustainable development in accordance with the RPJMN. It can be seen from the number of environmental destruction

⁷ Oekan S. Abdoellah is Professor of the Faculty of Social and Political Sciences (FISIP) University of Padjajaran.

activities whose sole purpose is to increase the regional economic income.

It is admitted that Indonesia's economy is still relying on the Natural Resources sector but the exploitation of natural resources is currently considered too extractive as if this sector is a natural wealth that will not be exhausted. Though Indonesia depends so much on the natural resources, the ecological functions should be taken into account. Meanwhile, according to Kuntoro,⁸ Indonesia's unpreparedness regarding Sustainable Development is not yet prioritized the environmental sector in the pillars of development. It is proved among three pillars of development, environmental sector received the worst attention.

The sustainable development requires strong commitment from various parties as it is not only a national commitment, but also an international issue.

According to Alisjahbana⁹, the main goal of sustainable development should be translated into real targets. The collaboration between central government, province, district, and city is very important. The government political commitment must be implemented accordingly and the Indonesia's development success indicators should no longer depend on the economic sector. Implementation of sustainable development is the best way to achieve equitable welfare. At this time,

⁸ Former Head of President Work Unit of Development Supervision and Control of Indonesia

⁹ Former Minister of Planning and National Development / Head of Bappenas 2009-2014.

the implementation of sustainable development must be implemented accordingly in order to achieve good national development.