




The Future of National Security Law: Urgence and Ideas

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Abstract

Introduction: Sishankamrata is Indonesia's defence and security system that optimizes all nation components to maintain its existence. Sishankamrata emphasizes the collaboration and participation of citizens and related institutions. However, there was a legal vacuum before the National Security Law was enacted

Purposes of the Research: This study seeks to discuss and analyze the urgency of the formation of the National Security Law to make the implementation of Sishankamrata successful.

Methods of the Research: This research is normative legal research with a statutory and conceptual approach. The legal materials in this study include the 1945 Constitution of the Republic of Indonesia and the law governing national defence as the primary legal material. Secondary legal materials include books, articles, and research results. Non-legal materials include all non-legal studies related to national defence.

Results of the Research: The results of the study confirm that the legal vacuum of the National Security Law needs to be overcome with the immediate ratification of the Law by emphasizing the urgency of enacting the Law through political will between the President and the DPR. In the future formulation, the Law must be reviewed formally and materially, especially by involving community participation and substantively guaranteeing the rights of the community in Sishankamrata.

1. INTRODUCTION

Regulation regarding the national defense system in a country is an important matter. Legal arrangements regarding the national defense system attempt to place guarantees of legal certainty as well as guidelines and principles regarding the national defense system. The existence of a legal vacuum related to national security arrangements can become an obstacle in realizing a comprehensive and planned national defense system. In Indonesia the national security and land system is referred to as the defense and security system which emphasizes the role and participation of the community.¹ The participation of all

¹ Kementerian Pertahanan, *Buku Putih Pertahanan Indonesia* (Jakarta: Kementerian Pertahanan, 2014).

Kriswanto, Alda Rifada Rizqi, Muhammad Maftahul Huda, "The Future of National Security Law: Urgence and Ideas"

components of the nation here covers various aspects, including efforts to maintain and optimize national resources in the defence and security of the country.²

This is as stated in Article 30 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (which was later called UUD NRI 1945), which affirms that "Efforts to defend and secure the state are carried out through an *Sishankamrata* by the Indonesian National Army and the Indonesian National Police, as the main force, and the people, as a supporting force". Referring to the juridical-constitutional meaning in Article 30 paragraph (2) UUD NRI 1945, Article 30 paragraph (2) UUD NRI 1945 affirms that the *Sishankamrata* is part of the national defence and security effort that is oriented towards the involvement of all component of the nation in the defence and security of the state. *Sishankamrata* is based on the legal ideals of the Indonesian nation, namely Pancasila and is based on constitutional provisions, especially in Article 30 paragraph (2) UUD NRI 1945.³

Sishankamrata is enforced because of Indonesia's strategic geographical and geopolitical location, namely at a cross position. The world, both in the position of trade routes, and military routes, to the path of the abundance of natural resources that has the potential to cause tension between the surrounding countries.⁴ From the location and position of Indonesia, it can potentially threaten national integrity, especially in the aspect of national security. Threats to national integrity can come from outside and within the country, including its manifestations in the form of military and non-military. In this case, *Sishankamrata* is used as the basis and strategic effort to prepare national defence from various threats that potentially threaten the existence of the Unitary State of the Republic of Indonesia.

Furthermore, the provisions regarding the *Sishankamrata*, apart from being regulated in Article 30 paragraph (2) of UUD NRI 1945, are also regulated in Law no. 3 of 2002 concerning National Defense (hereinafter referred to as UU PN) and specifically in Law no. 23 of 2019 concerning the Management of National Resources for National Defense (hereinafter referred to as UU PSDNUPN). This is particularly as stated in the preamble considering the letter b of Law no. 23 of 2019 UU PSDNUPN, which affirms that "the state defence system is universal in nature which involves all national resources which are prepared early by the Government and carried out in a total, integrated, directed, and sustainable manner to uphold state sovereignty, maintain territorial integrity, and the safety of the whole nation from all forms of threats." Although juridically, there has been UU PN and UU PSDNUPN in the implementation of *Sishankamrata*, the absence of a Law on National Security has its impact on the implementation of *Sishankamrata*.

This study seeks to discuss and analyze the urgency of the formation of the National Security Law to make the implementation of *Sishankamrata* successful. Research on *Sishankamrata* has been carried out by Ladlul Muksinin (2020) on *Sishankamrata in the Indonesian State Defense and Security Systems from the Beginning of Independence to the Reform Period*. This research focuses on aspects of defence integration (military and non-military) in

² Ervita L. Zahara and Arjun Rizky M.N., "Anggaran Pertahanan Indonesia Pemenuhan Minimum Essential Force" (Pusat Kajian Anggaran Badan Keahlian Sekretariat Jenderal DPR RI 2020, 2020).

³ Ilham Abbas Sakti, A. Anugrah and Dachran S. Busthami, "Kedudukan Tentara Nasional Indonesia Dalam Sistem Pertahanan & Keamanan Negara," *Lex Generalis* 2, no. 8 (2021): 2178, <https://doi.org/https://doi.org/10.52103/jlg.v2i8>.

⁴ Endro Tri Susdarwono, "Tata Kelola Pemerintahan Terkait Alternatif Sdm Pertahanan Dalam Rangka Efisiensi Anggaran Pertahanan," *Journal of Government and Politics (JGOP)* 2, no. 2 (2020): 196.

Sishankamrata to further strengthen Indonesia's defence system.⁵ Furthermore, research was conducted by Ernes, Lukman Yudho Prakoso, and Helda Risman (2022) on the *Aktualisasi Sistem Pertahanan Rakyat Semesta (Sishanta) Dan Dinamika Potensi Ancaman*. This study confirms that efforts to defend the state as the implementation of *Sishankamrata* are the rights and obligations of citizens in protecting their country.⁶ Furthermore, research conducted by Ernes, Lukman Yudho Prakoso, and Helda Risman (2022) on *Strategi Perang Semesta Melalui Optimalisasi Nilai Pancasila Ketuhanan Yang Maha Esa*. This study emphasizes that *Sishankamrata*'s efforts must not forget the values of Pancasila, especially the values contained in the first precepts.⁷ Based on the three previous studies regarding *Sishankamrata*, the author's research is an original study because it specifically discusses the legal vacuum related to the National Security Law, which has not been discussed in the three previous studies. This research is also oriented to answer two problem formulations, namely: (i) what is the urgency of the formation of a national security law related to the *Sishankamrata*, and (ii) how is the future formulation of the formation of a national security law related to the security system? and the defence of the people of the universe?

2. METHOD

This research is legal research with a juridical-normative character. The juridical-normative character emphasizes the scientific aspect of law *sui generis* so that the study focuses on law at the internal level,⁸ using a statutory and conceptual approach. The legal materials in this study include primary legal materials consisting of the UUD NRI 1945, UU PN and UU PSDNUPN. Secondary legal materials include various studies related to *Sishankamrata* in the form of books, journal articles, and periodic reports, as well as non-legal legal materials, including the results of non-legal studies related to *Sishankamrata*.

3. RESULTS AND DISCUSSION

3.1 The Urgency of a National Security Law: Optimization of the *Sishankamrata*

Law as one of the social instruments of society certainly has the aim of keeping a society an orderly and just society.⁹ This essentially shows that law is a social subsystem whose goals are based on the values that develop in society. In its function to realize social order in society, of course, which must manifest law in a legal product in the form of legislation.¹⁰ Legislation occupies an important position, especially when the state becomes a social institution commonly formed as an implementation of the concept of a nation-state or a nation-state. The role of laws and regulations in a country is important because laws

⁵ Ladhul Muksinin, "Sishankamrata in the Indonesian State Defense and Security System from the Beginning of Independence to the Reform Period," *Walisongo Law Review (Walrev)* 2, no. 2 (2020): 115, <https://doi.org/10.21580/walrev.2020.2.2.6587>.

⁶ Yudi Rusfiana, "Aktualisasi Sistem Pertahanan Rakyat Semesta," *Jurnal Moderat* 7, no. 3 (2021): 483–92.

⁷ Helda Risman Ernes, Lukman Yudho Prakoso, "Strategi Perang Semesta Melalui Optimalisasi Nilai Pancasila Ketuhanan Yang Maha Esa," *Pengabdian Mandiri* 1, no. 3 (2022): 375.

⁸ Irwansyah, *Penelitian Hukum: Pilihan Metode Dan Praktik Penulisan Artikel*, 3rd ed. (Yogyakarta: Mira Buana Media, 2020).

⁹ Fradhana Putra Disantara, "Perspektif Keadilan Bermartabat Dalam Paradoks Etika Dan Hukum," *JURNAL LITIGASI (e-Journal)* 22, no. 2 (2021): 205–29, <https://doi.org/http://dx.doi.org/10.23969/litigasi.v22i2.4211>.

¹⁰ A'An Efendi and Fradhana Putra Disantara, "Post Conditionally Unconstitutional of Job Creation Law: Quo Vadis Legal Certainty?," *Yuridika* 37, no. 2 (2022): 329–66, <https://doi.org/https://doi.org/10.20473/ydk.v37i2.33364>.

and regulations are an instrument to regulate and consolidate its people. This relates to the establishment of a state as a product of a social agreement based on a social contract document which is then commonly called a constitution.¹¹ The constitution of a country must regulate the defence of the country. This is because national defence is identical to the existence of a country. The regulation of national defence in the constitution of a country emphasizes that national defence has its interests for a country.¹²

This is understandable because national defence also involves the role of citizens, so who must consider citizens' rights and obligations to have the urgency to be regulated in the constitution. National defence has urgency and relates to keeping the state's condition awake and secure; who submitted the idea of the Draft Law on National Security (hereinafter referred to as RUU Kamnas) since 2011 to the Legislative Body in the House of Representatives. In essence, the RUU Kamnas seeks to regulate the determination of the national security situation specifically and the legal consequences. This is to emphasize the status of military emergency, civil emergency, and other emergency statuses. This includes efforts to optimize intelligence in situations that threaten the Indonesian state.¹³ One of the interesting and progressive things in the RUU Kamnas is the legal status and efforts to formulate policies when national security is disrupted due to pandemics, epidemics, or certain natural disasters. Empirically, the non-natural disaster in the form of COVID-19 that has hit the whole world and occurred in Indonesia since 2020 also impacts Indonesia from various sectors.¹⁴ This is the urgency for the RUU Kamnas to be passed.

In addition, the RUU Kamnas is also oriented towards establishing a new institution like the National Security Council. The National Security Council is one of the institutions that examine, analyze, and set policies related to national security. This is important considering that Sishankamrata involves all components of the nation, so an in-depth study of national security is also required. In addition, the importance of the RUU Kamnas is oriented towards asymmetrical and non-traditional threats. Asymmetric and non-traditional threats are more widespread threats than military threats. This is, of course, different from the substance of the UU PN and the UU PSDNUPN, whose orientation is only related to military threats. This, of course, has not yet been ratified by the RUU Kamnas, which has the potential to create a legal vacuum related to non-military state defence arrangements. The orientation of the RUU Kamnas also regulates the threat to state security related to human trafficking. If it refers to the orientation of the establishment of the National Security Bill, then the RUU Kamnas is oriented to become an umbrella law or *raamwet*. Maria Farida Indrati explained that the umbrella law has characteristics in the form of a law that has *lex specialis* characteristics with other laws.¹⁵

¹¹ I Gede Agus Kurniawan, Lourenco de Deus Mau Lulo, and Fradhana Putra Disantara, "IUS Constituendum of Expert Advisor in Commodity Futures Trading: A Legal Certainty," *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 1 (2023): 31–45, <https://doi.org/https://doi.org/10.29303/ius.v11i1.1170>.

¹² Abdul Rahman et al., "Strengthening National Defence: Coordinating Waters and Air Territory Security under the Indonesian National Police," *Journal of Maritime Studies and National Integration* 5, no. 1 (2021): 49.

¹³ Makbull Rizki, "Perkembangan Sistem Pertahanan/Keamanan Siber Indonesia Dalam Menghadapi Tantangan Perkembangan Teknologi Dan Informasi," *Politeia: Jurnal Ilmu Politik* 14, no. 1 (2022): 54–62, <https://doi.org/10.32734/politeia.v14i1.6351>.

¹⁴ N. S. P. Suni, "Kesiapsiagaan Indonesia Menghadapi Potensi Penyebaran Corona," *Pusat Penelitian Badan Keahlian DPR RI XII*, no. 3 (2020): 13–18.

¹⁵ Maria Farida Indrati, *Ilmu Perundang-Undangan: Jenis, Fungsi, Dan Materi Muatan*, Revisi (Sleman: Kanisius, 2020).

That's confirms if the RUU Kamnas is a law that serves as a reference for other laws. Other laws based on the RUU Kamnas include the Intelligence Law (Law No. 17 Year 2011) and the Anti-Terrorism Law (Law No. 5 Year 2018), which are expected to be drafted and discussed concurrently in sync with the Law No. 17 Year 2011 and the revision of the Law No. 5 Year 2018. In addition, the substance of the three laws should not separate the concepts of defence and security or the army and the police as they currently exist. This is to anticipate the overlap between defence and security. This also confirms that national security emphasizes the synchronization between laws and institutions. The ratification of the RUU Kamnas is important because it relates to the dynamic conditions of the nation and the Unitary State of the Republic of Indonesia (*Negara Kesatuan Republik Indonesia*), which are required to maintain the safety, peace and welfare of citizens, society and the nation, protect the sovereignty and territorial integrity of the country, as well as the sustainability of national development from all sides threat. Domestic security has reached a wider type and form of threats ranging from poverty, epidemics, extraordinary events of public health problems, epidemics, international concerns and pandemics, natural disasters, social unrest, inter-group conflicts, crime, armed insurgency to the movement of armed separatist.¹⁶

The Efforts to realize national security can no longer stand-alone, meaning that defining the concept of national security cannot only be limited to traditional meanings oriented to state defence and security tools.¹⁷ However, national security must be seen as an integral part of various aspects of the life of the nation and state, namely ideology, politics, economy, society, culture, defence and state security. For this reason, an effort is needed to resolve the problems in the implementation of national security, both in terms of institutional problems and statutory regulations that can create integration or synergy of all national resources in the implementation of national security.¹⁸ The existence of the RUU Kamnas is part of a very logical legal policy in the context of creating legal policies and legislation which as a whole is an effort to realize national ideals and goals in the context of the national interest. These policies and legislation are in the form of a grand design in the form of a solution design to deal with multidimensional or comprehensive security threats in a systematic, comprehensive, fast, precise, complete, integrated, coordinated and democratic manner and avoid the impression of being slow, late, incomplete, sectoral and lack of coordination.¹⁹ Systemically, the RUU Kamnas will be a legislative policy choice to make national security a physical system and an abstract system, which includes the integration of related institutions, consolidation of regulatory or cultural substances that include equalizing views, attitudes, behaviour and perceptions and even the essence of the security function for a nation as mandated by the preamble of UUD NRI 1945.

One of the institutions that will be established in the RUU Kamnas is the National Security Council (*Dewan Keamanan Nasional* or DKN) which has permanent members several ministers and several other sectoral ministers as non-permanent members.²⁰ The DKN

¹⁶ Ishak Otto Syamsuddin, *Pancasila, Hak Asasi Manusia Dan Ketahanan Nasional* (Jakarta: Perpustakaan Nasional Republik Indonesia, 2016).

¹⁷ I Gede Agus Kurniawan, "Putusan Mahkamah Konstitusi Terhadap Undang-Undang Cipta Kerja Dalam Perspektif Filsafat Utilitarianisme," *JURNAL USM LAW REVIEW* 5, no. 1 (2022): 282-98, <https://doi.org/http://dx.doi.org/10.26623/julr.v5i1.4941>.

¹⁸ Muhammad Chairul Huda, "Meneguhkan Pancasila Sebagai Ideologi Bernegara: Implementasi Nilai-nilai Keseimbangan Dalam Upaya Pembangunan Hukum Di Indonesia," *Resolusi: Jurnal Sosial Politik* 1, no. 1 (2018): 78-99, <https://doi.org/https://doi.org/10.2489/resolusi.v1i1.160>.

¹⁹ Beni Sukadis, "Reformasi Di Kementerian Pertahanan RI," *Keamanan Nasional* 2, no. 2 (2016): 192, <https://doi.org/https://doi.org/10.31599/jkn.v2i2>.

²⁰ PHBI, "Menyikapi Rencana Pembentukan Dewan Keamanan Nasional" (PHBI, 2020).

organization consists of the DKN Forum and the DKN Secretariat. DKN as a forum consists of Ministers and heads of related institutions led by the President, while the Secretariat is led by a trusted person who oversees experts from all disciplines who provide input related to issues that will be discussed and decided by the DKN Forum. In more detail, DKN must also consist of experts from each Ministry and experts outside the government who participate in designing the national strategy design in responding to national security threats. DKN's authority is only to recommend at the strategic level, not the technical level. The existence of the RUU Kamnas will not reduce the authority of the existing security institutions. The existence of the RUU Kamnas will not reduce the authority of the existing security institutions. The existence of the Law on National Security must be seen in the context that conditions have shifted from authoritarian to democratic, so who can eliminate the thought or perception that the existence of DKN is an effort to revive such *Kopkamtib* or *Bakorstranas*.

To speed up the process of forming the National Security Council, this can be done through the legal product of a Presidential Regulation (Perpres) while waiting for the issuance of the National Security Law, the content of which also regulates the National Security Council. The legal product whose content is national security is intended to fill the void in the legislation, namely the legislation on state defence and state security. Things that need to be highlighted for publication to reduce resistance to the existence of DKN are the benefits of DKN in dealing with conditions of vacancy in government functions, for example, a threat to national security or natural disasters that lead to emergency conditions. Based on the description above, who can conclude that the urgency of the formation of a national security law related to the universal people's security and defence system is required with three main arguments, namely: (i) it is necessary to anticipate the development of national security threats, especially non-military threats, (ii) as a means to create synchronized national security policies between state institutions, and (iii) oriented towards the formation of the National Security Council (DKN) with the legal product of Presidential Regulation.

3.2 The Future of National Security Law: The Ideas Relation with *Sishankamrata*

The existence of the RUU Kamnas elaborates the UUD NRI 1945, which politically and legally has a legal vacuum related to national security issues. This legal vacuum certainly has the potential not to optimize *Sishankamrata*.²¹ The orientation of the RUU Kamnas seeks to comprehensively synergize the various policies in the *Sishankamrata* into a single unit. This requires consolidation, harmonization and synchronization both vertically and horizontally.²² That is because threats no longer lead to mere military threats but have entered the aspects of ideology, politics, economy, socio-culture, technology, public safety and legislation; who must understand the understanding of internal security extensively because it has reached the types and forms of threats that have been and are currently occurring, such as terrorism and radicalism; separatists and armed insurgency; natural disasters and disease outbreaks; territorial violations, piracy and theft of natural resources;

²¹ Helda Risman Joni Widjayanto, Deni Dadang, Priyanto, Lukman Yudho Prakoso and Muhammad Ikmal Setiadi, "Komponen Cadangan Dalam Sistem Pertahanan Kemanan Rakyat Semesta Di Abad 21," *Media Bina Ilmiah* 16, no. 1 (2021): 6117.

²² Disantara, "Perspektif Keadilan Bermartabat Dalam Paradoks Etika Dan Hukum."

cyber and espionage; drug trafficking; as well as other threats that may interfere with national interests.²³

Thus, efforts to realize national security can no longer stand alone, meaning that defining the concept of national security cannot only be limited to a transitional understanding oriented to state defense and security tools. However, national security must be seen as an integral part of various aspects of the life of the nation and state, namely ideology, politics, economy, society, culture, defense and security. In this case, national security has developed to include national defense, state security, public security, and human security.

The government is obliged to guarantee the implementation of the national security function, which is carried out under conditions declared by the government to be in a state of civil order; civil emergency, martial law, and a state of war. In managing the national security system, the President establishes national security policies and strategies, which become the reference for planning the implementation and supervision of the national security system.²⁴

Based on the national security policies and strategies, the relevant Ministers, the TNI Commander, the National Police Chief, the Head of Institutions, and the Provincial, Regency/City Regional Heads determine the policies and strategies for the implementation of national security following their respective duties, functions and authorities in stages. The implementation of national security is managed through a national security system chaired by the President with membership consisting of permanent and non-permanent members. A coordination forum at the regional level is needed in the form of a Regional/Provincial National Security Coordination Forum and a Regency/City National Security Coordination Forum.

Elements of implementing national security consist of main elements and supporting elements that are implemented in an integrated, integrated and synergized manner. The determination of the main elements and supporting elements is adjusted to the development of escalation, types and forms of threats.²⁵ The implementation of national security efforts is a series of activities: Early prevention, early warning; Early action; Countermeasures; and Recovery. Command and control, as well as the level of authority in the implementation of national security, are carried out in stages and hierarchically from the national, strategic, operational and tactical levels. Supervision of the management of the national security system is carried out in layers with democratic supervision principles, which include inherent supervision, executive supervision, legislative supervision, public supervision, and regulating the use of special powers and channeling human complaints of citizen.

Funding for the management and/or implementation of the national security system is sourced from the APBN, but it is possible to take other sources as long as it does not conflict with the provisions of the legislation.²⁶ The presence of an agency or agency is

²³ Amarulla OCTAVIAN et al., "Sishankamrata Development Strategy In Maintaining The Sustainability Of Indonesia's Strategic Interests," *Journal of Defense Resources Management* 12, no. 1 (2021): 118.

²⁴ Siswo Hadi Sumantri Tego Suroso, Fadhiil Ali Hakim, Wilopo, "Kebijakan Pertahanan Negara Dalam Mendukung Pembangunan Untuk Kesejahteraan Masyarakat," *Nusantara* 8, no. 1 (2021): 64.

²⁵ Naifa Rizani, "Prabowo Subianto and Indonesia's Geostrategic Defence Outlook: Between US-China and ASEAN," *THC Insight* 9, no. 1 (2020): 3.

²⁶ Annidya Indirasari, "Kerjasama Pertahanan Indonesia-Amerika Serikat Pada Era Presiden Joko Widodo," *Pena Wimaya* 2, no. 1 (2021): 2.

required to assess and develop strategic options. The work orientation of the National Security Council is projected to include: first, strengthening intelligence for assessments; second, analyzing threats and challenges; third, determining: the appropriate strength components to deal with threats; fourth, building the capacity of national forces to deal with threats; and fifth, determine changes in authority according to the level of threat according to need. Thus, the roles and duties of the National Security Council are²⁷: (a) Conduct an assessment of threats that tend to be explosive, escalation, and have a major impact on national security; (b) Deliver the choice of steps to be taken; (c) Suggest operational instruments for carrying out tasks; (d) Carry out an evaluation of the results achieved.

The existence of UU PN, which explains the National Defense System, can be a reference in developing a national security system for Indonesia's safety from all forms of real threats and all potential threats that exist. The concept of handling it is often contrary to existing laws. That is why it is very urgent to immediately reorganize all actors' roles, functions and duties in handling national security issues. Because of the situation's urgency, the Law on National Security (RUU Kamnas) is needed considering that threats to national security tend to increase in multi-aspects. For the integrated handling of national security, the presence of the National Security Council (DKN) is required, which generally has the task of formulating the provisions of national security policies and strategies as long-term concepts concerning individual, community and state security. DKN is also tasked with designing the concept of how the President acts in dealing with emergencies or security problems that arise, both on a national and global scale. So, the existence of DKN can prevent the arbitrariness of the apparatus in the field and avoid government policies and actions contrary to the legislation. The assumption of the RUU Kamnas tends to provide opportunities for abuse of power by the Executive. From the articles contained in the RUU Kamnas, there is very little chance of abuse of power by the Executive because decision-making from the national to the lower levels is a joint effort of the council or forum that is comprehensive, synergistic and with the division of roles according to their respective authority.

The dilemma of the RUU Kamnas developed in the community is necessary for the Unitary State of the Republic of Indonesia, a democratic country. So these differences must be addressed with a clear mind and clean heart and based on fundamental principles such as the 4 (four) Nationality Pillars (Pancasila, UUD NRI 1945, NKRI, Bhineka Tunggal Ika) as well as the National Interest and its priorities. Differences of opinion are bridged with Public Communication, Material Socialization, and Public Space for improvement, including in the DPR. The response to the National Security Bill to equalize perceptions is an option that continues to be opened. The Draft Law on National Security has become part of the 2015 National Legislation Program for defense. That means this bill (RUU Kamnas) has officially become a part that the DPR and the government will discuss. The studies, input, and even cross-opinions from various elements of society can enrich aspects of the discussion in the DPR. The Head of State can declare a state of Martial Law. A civil emergency is not recognized in the national treasures internationally. That is when all civilian institutions are reorganizing, and the military is deployed for a limited period to take action to overcome this distress; who can scientifically prove that currently, most countries in the world already have a National Security Law (Kamnas).

²⁷ Muhammad Irfan Hilmy and Rama Halim Nur Azmi, "Konstruksi Pertahanan Dan Keamanan Negara Terhadap Perlindungan Data Dalam Cyberspace Untuk Menghadapi Pola Kebiasaan Baru," *Kajian Lembaga Ketahanan Nasional Republik Indonesia* 9, no. 1 (2021): 579.

Why is that? Therefore, the military has five systems ready to be deployed anywhere at any time without facing the complexities of bureaucracy. The five systems are weapons, telecommunications, transportation, medical, and logistics. Based on a clear law with clear arrangements, the international community can also understand when a country is declared martial law. The existence of a law that regulates when the State is in a state of emergency closes the opportunity for the military authorities to act outside the law and based on their interests. Therefore, it is necessary to strictly stipulate the boundaries of an emergency, who is authorized to declare a state of emergency and how the mechanism for declaring an emergency may require approval from the DPR. The National Security Law's urgency is necessary to support the stability of state security and anticipate various threats ranging from threats to geography, demography, social conditions such as geology, socio-cultural politics, and defense and security.

Some examples of other countries have National Security Laws (Kamnas). The United States, for example, has had the National Security Act since 1947. Even Australia has had a National Security Act since 1939 (National Security Act of 1939). Likewise, despite receiving criticism from the international community, Malaysia continues to apply the Internal Security Act, which has existed since 1960. It is possible that some provisions in the law need to be adjusted to global developments. However, based on this law, Malaysia may be able to maintain the security and stability of the country. This is also an important capital for Malaysia for sustainable development to create prosperity for its people. Within this framework, the State must pay attention to national political capacity, dynamics of relations between countries in certain regions and globally, democracy, human rights and international norms, rules and laws.

Essentially in the framework of protecting every citizen. In addition, the urgency of the National Security Law is precisely to complement Law No. 2 of 2002 on the Indonesian National Police, UU PN, and UU PSDNUPN. The three laws above have no firm distribution of authority over aspects of national security, defense and aspects of public order. There is still a need for affirmation in law enforcement authority. It all reflects the absence of a comprehensive and integrative arrangement on national security. The debate will never end in today's highly democratic Indonesia if each party uses its benchmark. Indeed, the public debate must exist, and it can enrich the quality of statutory regulation. But at a certain stage, the debate must end. Ideally, it is the state administrator who has the final say in a debate related to a policy, including the issue of the National Security Bill. That is because the State has the tools to create the welfare of its citizens.

It doesn't matter if they desire to issue a national security law solely for the benefit of its citizens, not for the interests of the "soldiers," let alone to awaken the ideology of militarism in this country. On the other hand, it is also not appropriate if the public always gives excessive suspicion of government actions involving the army. Some people may have experienced trauma from the past government, but that does not mean there is a permanent judgment against state administrators. Especially if the assessment is only based on prejudice that does not necessarily contain the truth, the government and the DPR must pay attention to public opinion, which differs in opinion on this bill based on good thinking. Not based on excessive worries but the memory of this nation's journey; who must admit that some people are traumatized by the term "security, in the name of the interest of the State," which is often corrupt in its implementation. Those who are involved in the discussion of the RUU Kamnas must pay attention and have sensitivity in this matter.

Legislators must be able to ensure that the existing articles do not have a plan to create militarization. Simply put, the military will no longer be in all walks of life and activities of society by bringing its military doctrine. There are fears that the RUU Kamnas will make the army superior and inferior to its people. That is what many people understand about the position of the Indonesian military in the past. The group against establishing a national security law is also based on these concerns. In addition, legislators must ensure that the RUU Kamnas is in sync and does not collide with related laws that have previously existed. One of the weaknesses of some existing statutory products is the synchrony between one regulation and another. Based on the description above, reformulation related to the urgency of the passage of the RUU Kamnas must be carried out by prioritizing formal and material aspects, namely: formally, the RUU Kamnas must be formed and reviewed by prioritizing community participation and comprehensively reviewed and criticized by experts. That is important because public participation is the “heart” of a law. In this case, the formation of the National Security Bill must be reviewed comprehensively and involve holistic and comprehensive public participation. Materially, the establishment of the RUU Kamnas must prioritize and pay attention to various aspects.

First, it is necessary to harmonize and synchronize the National Security Bill with Law No. 2 of 2002 on the Indonesian National Police, UU PN, and LUU PSDNUPN. Harmonization is carried out not only concerning substance but also with delegation regulations.²⁸ The application of delegation regulations is important because there are often defects related to delegation regulations, especially the presence of blank delegates; who should anticipate this in the RUU Kamnas in the future.²⁹ *Second*, related to the substance of the RUU Kamnas, it is also necessary to emphasize the establishment of the National Security Council (DKN). That is because the National Security Council will be the “conductor” in leading conditions related to national security, especially concerning national security policies. Of course, the division of authority and clear and measurable arrangements can be the basis for the effective operation of the National Security Council in the future. *Third*, the substance of the RUU Kamnas also needs to be studied further on human rights and guarantees of constitutional rights for citizens. This is important to fence off so that the RUU Kamnas does not become “a tool of authoritarianism” in carrying out national security. *Fourth*, the RUU Kamnas must provide opportunities for substantive and proportional public participation.

Based on ratifying the RUU Kamnas above, this can be implemented as soon as possible as long as there is political will from the President and the DPR, especially in ratifying the National Security Bill. Thus, the future formulation of the formation of a national security law related to the universal people's security and defense system, namely formally, the RUU Kamnas, must be formed and reviewed by prioritizing community participation and comprehensively reviewed and criticized by experts as well as materially needs to be considered several things, which includes: harmonization and synchronization of the National Security Bill with other laws; the substance of the RUU Kamnas also needs to emphasize the establishment of the National Security Council (DKN); it is necessary to pay attention to the substance of human rights and guarantees of constitutional rights for

²⁸ Moh. Fadli, “Peraturan Delegasi Di Indonesia: Ide Untuk Membangun Kontrol Preventif Terhadap Peraturan Pemerintah” (Malang: Universitas Brawijaya, 2020).

²⁹ Muhammad Hikmah, “Delegasi Wewenang Dalam Undang-Undang Perpajakan,” in *Simposium Nasional Keuangan Negara*, 2018, 320–35.

citizens, as well as to provide opportunities for substantive and proportional public participation.

4. CONCLUSION

The urgency of forming a national security law related to the universal people's security and defense system is needed to fill the legal vacuum related to the unregulated national security in legal products in the form of laws. That includes anticipating developments in national security threats, particularly non-military threats, and creating synchronized national security policies between state institutions. The future formulation of the formation of a national security law related to the universal people's security and defense system, namely formally, the National Security Bill, must be formed and reviewed by prioritizing community participation and comprehensively reviewed and criticized by experts as well as materially needs to be considered several things, which include: harmonization and synchronization of the National Security Bill with other laws, the substance of the National Security Bill also needs to emphasize the establishment of the National Security Council (DKN), it is necessary to pay attention to the substance of Human Rights and guarantees of constitutional rights for citizens, as well as provide opportunities for substantive and proportional public participation.

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