



## Polemic of Law No. 23 of 2019 Concerning Management of National Resources for National Defense Formation of Reserve Components

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### **Abstract**

The study of legal politics in the polemic of Law No. 23 of 2019 PSDN, legal politics, namely legal policies that determine the direction, form and content of law which includes the formation, application and enforcement of law in order to achieve certain social goals/state goals. So linked in this sense the formation and application of this law creates confusion for implementers and society. so that the formulation of the problem is how to carry out the formal and material formation procedures for Law No. 23 of 2019 concerning the Management of National Resources for the Formation of Reserve Components and what are the suitability of substances and the results of material reviews by the Constitutional Court. The approach method used in this research is juridical-normative, this study concludes Whereas the PSDN Law has formally been formed and ratified, but materially there are norms or principles that are still not accommodated in these regulations so that it is feared that it will cause friction between one law and another and there is overlap between regulations (the PSDN Law and the State Defense Law) which regulates the same matter with regard to the concept of defending the country (reserve component). One of the several polemical articles of the PSDN Law, namely the concept of human rights (HAM), which was not fully given limited space to citizens in the election process, became a reserve component.

**Keywords:** *Politics of Law; Law No 23 of 2019; Management of National Resources*

### **A. Background**

The preamble to the 1945 Constitution of the Republic of Indonesia contains one of the objectives of establishing the Indonesian State Government, namely to protect the entire Indonesian nation and all of Indonesia's bloodshed. Then the role of the people is emphasized in Article 27 paragraph 3 and Article 30 of the 1945 Constitution that every citizen has the right and obligation to participate in efforts to defend the state. So, judging from the 1945 Constitution, National Defense is one of the nation's national goals. National defense is a very essential factor in ensuring the survival of a country. The existence of a country

is very dependent on the nation's ability to defend itself from any threats. Citizens are included as one who plays a role in the defense of the country.<sup>1</sup>

Provisions for state defense efforts are then regulated in Law Number 3 of 2002 concerning National Defence. In Article 1 paragraph 1 of the Law on National Defense "all efforts to defend state sovereignty, territorial integrity of the Unitary State of the Republic of Indonesia, and the safety of the entire nation from threats and disturbances to the integrity of the nation and state". Then the product of the House of Representatives (DPR) issued Law Number 23 of 2019 concerning Management of National Resources (PSDN) which regulates the formation of reserve components and their implementation is regulated in Government Regulation Number 3 of 2021.

Referring to Article 1 number 9 Law No. 23 of 2019 PSDN, what is meant by a reserve component is a national resource that has been prepared to be deployed through mobilization in order to enlarge and strengthen the strength and capability of the main component. Article 28 of the PSDN Law states that the reserve components consist of citizens, natural resources, artificial resources, and national facilities and infrastructure. In the ceremony of determining the reserve component, it is only used for national defense purposes. Reserve components may not carry out activities independently, which means reserve components may not be used for other than defense and state interests.

The active period of the reserve component is not every day like the main component of the Indonesian National Armed Forces (TNI). After being appointed, members of the reserve component return to their respective professions and carry out their activities as usual. The active period of the spare component is only when participating in training and mobilization. However, members of the reserve component must always be on standby if called upon by the state. Reserve components are deployed when the country is in a state of military emergency or a state of war. Then, it is mobilized by the President with the approval of the DPR, whose command and control lies with the TNI Commander. TNI as the main component is always on standby, but needs to be supported by reserve components and supporting components. Republic of Indonesia's defense is universal or involves all citizens, territories and other national resources.

However, there was a polemic in Law No. 23 of 2019 PSDN. The existence of this rule raises the potential for multiple interpretations of state power. One of them is related to the construction of rules that combine several rules into one form of rule that should be regulated separately, for example Law Number 3 of 2002 concerning National Defense which is still active and running so that there are two rules governing one object, so there is potential for overlap. overlapping at the time of implementation in the field, then in Article 8 paragraph (3) of Law Number 3 of 2002 concerning National Defense there is the formation of reserve components and supporting components, then related to State Defense as set forth in Article 9 paragraph (3) Number 3 of 2002 concerning National Defense, and then Law Number 27 of 1997 concerning Mobilization and Demobilization which was later repealed and replaced by the PSDN Law.<sup>2</sup>

Then in the formation of components this reserve. Both substantially, namely because several provisions in the law are considered to be contrary to human rights values in the constitution, and procedurally the discussion of the PSDN Law was rushed and minimal public participation.<sup>3</sup> More than that, the formation of the Reserve Component was carried out in the midst of the need for serious

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<sup>1</sup> Nanto Nurhuda, 2021, "Strategies to Prevent the Emergence of Negative Excesses After the Formation of Reserve Components in Indonesia", Journal of Research Innovation, Vol.1, No 1, Pg.11.

<sup>2</sup> Final Report, Study and Evaluation of Law No. 23 of 2019 concerning Management of National Resources for National Defense, 2019, collaboration of the Pancasila Ideology Development Agency (BPIP) with the Faculty of Law, University of Bangka Belitung (FH UBB), Pg.41.

<sup>3</sup> <https://kontras.org/2021/05/31/pengaturan-dinding-konstruksi-dan-ham/>, accessed on November 17, 2022.

handling from the state in dealing with the Covid-19 pandemic situation. This shows the country's low concern for humanity in handling the Covid pandemic.

The Advocacy Team for Security Sector Reform consists of several institutions working in the field of human rights and security sector reform and individuals, namely Imparsial, KontraS, the Jakarta Public Benevolence Foundation, PBHI, and several individuals who submitted the PSDN Law for Judicial Review to the Constitutional Court. As for a number of provisions in the PSDN Law that were proposed for material review to be annulled by the Constitutional Court are Article 4 paragraph (2) and (3), Article 17, Article 18, Article 20 paragraph (1) letter a, Article 28, Article 29, Article 46, Article 66 paragraph (1) and paragraph (2), Article 75, Article 77, Article 78, Article 79, Article 81 and Article 82 of the PSDN Law.<sup>4</sup>

One of the articles submitted for judicial review, namely Article 4 of the PSDN Law, for example, the scope of threats included includes military threats, non-military threats, and hybrid threats. This is considered too broad and can lead to conflicts between residents. Then Article 63 stipulates that in the event that all or part of the territory of the unitary state of the Republic of Indonesia is in a state of military emergency or a state of war the president can declare mobilization. The ambiguity of the meaning of martial law which has no clear benchmarks, so that it can be interpreted freely by the authorities. The PSDN Law has the potential to be misused by the authorities, especially at the level of the practical political area so that it will cause vertical conflict between the authorities and the people.<sup>5</sup>

The study of legal politics in the polemic of Law No. 23 of 2019 PSDN, legal politics, namely legal policies that determine the direction, form and content of law which includes the formation, application and enforcement of law in order to achieve certain social goals/state goals. So linked in this sense the formation and application of this law creates confusion for implementers and society.

## **B. Formulation of the Problem**

Based on the background that has been described, the formulation of this problem is as follows:

1. How is the Formal and Material Formation Procedure Implemented Against Law No. 23 of 2019 concerning Management of National Resources for the Formation of Reserve Components?
2. What is the suitability of the substance and the results of the material review by the Constitutional Court of Law No. 23 of 2019 concerning the Management of National Resources for the Formation of Reserve Components?

## **C. Research Methods**

This study uses empirical legal research, namely examining the implementation of legal products with what happens in reality in society as the object of regulation. The approach method used in this research is juridical-normative, this type of research is descriptive research. Researchers try to reveal the full facts and what they are. This descriptive method collects actual detailed information to describe existing symptoms, identify problems or examine prevailing conditions and practices, make comparisons and determine what others have done in dealing with the same problems and learn from experience.<sup>6</sup>

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<sup>4</sup> Ibid.

<sup>5</sup> Nanda Perdana Putra, "Pros and Cons of Reserve Component Recruitment, the PSDN Law was sued to the Constitutional Court", <https://www.merdeka.com/events/pro-kontra-recruitment-component-reserve-uu-psdn-diclaim-to-mk.html>, Accessed November 17, 2022.

<sup>6</sup> Suteki, Galang Taufani, *Legal Research Methodology (Philosophy, Theory and Practice)*, Depok: PT Rajagrafindo Persada, Third printing, 2020, Pg. 133.

According to its form, this research is a diagnostic research, namely obtaining and analyzing the causes of symptoms.<sup>7</sup>The data analysis uses a qualitative approach. The definition of qualitative research according to Syaodih Sukmadinata is research aimed at describing and analyzing phenomena, events, social activities, events, beliefs, attitudes, perceptions, and thoughts of people individually and in groups.<sup>8</sup>

## **D. Discussion**

### **1. Implementation of Formation Procedures Formally and Materially Against Law No. 23 of 2019 concerning Management of National Resources for Formation of Reserve Components**

#### **a. Orderly Formation of Legislation Procedures**

Based on the appropriate forming institution or official in the formation of this PSDN Law. The President and the DPR have passed the PSDN Law. In terms of the authority of the institution or official who formed this regulation, it is in accordance with the authority or powers given because in accordance with the 1945 Constitution of the Republic of Indonesia Article 20 paragraph (1) states that the DPR holds the power to form laws. Article 20 paragraph (2) stipulates that every draft law is discussed by the DPR and the President for mutual approval.<sup>9</sup>This means that when a law has been promulgated, an agreement has been made between the President and the DPR so that in principle the PSDN Law has received approval from the DPR as the legislative body. This means that formally the formation of this law has complied with the procedures for forming laws in accordance with the provisions of Law No. 12 of 2011.

#### **b. Principles of Formation of Laws and Regulations (Conformity between Types, Hierarchies, and Content Material, Openness)**

Conformity Between Types, Hierarchies, and Content Materials; The compatibility between the types of regulations and the hierarchy in the PSDN Law is visibly in line with the formation of statutory regulations, however, for the content of the PSDN Law, it still intersects between an obligation from citizens and the volunteerism of citizens which in principle ends on a human right whose material at first glance has not been fully or comprehensively regulated in the said PSDN Law. The concept of human rights which has been ratified and promulgated through Law Number 39 of 1999 concerning Human Rights, the existing content material should also be included in the PSDN Law, this is very closely related to the inclusion of citizens (humans) in the reserve component system.

The basic considerations are in accordance with the philosophical, sociological and juridical foundations:<sup>10</sup>

### **1. Philosophical Foundation**

The important point is national defense as a fundamental aspect in maintaining state sovereignty as one of the national goals in the preamble of the 1945 Constitution, even including participating in maintaining world peace. Then in order to maintain sovereignty. As for the legal political direction of Law Number 23 of 2019 concerning Management of National Resources for National Defense as set out in the foundationThe philosophy is that the regulation of national resources for national defense is

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<sup>7</sup> Ibid, p.137.

<sup>8</sup> Ibid., p.139.

<sup>9</sup> Final Report, Study and Evaluation of Law No. 23 of 2019 concerning Management of National Resources for National Defense, 2019, collaboration of the Pancasila Ideology Development Agency (BPIP) with the Faculty of Law, University of Bangka Belitung (FH UBB), Pg. 26.

<sup>10</sup> Ibid, pp. 15-17.

intended as an important and strategic effort for the state in managing order for the effectiveness of the defense system.<sup>11</sup> Therefore, the involvement of national resources for national defense aimed at enlarging and strengthening the main component, namely the Indonesian National Armed Forces (TNI) which is a state tool that handles the defense sector, and in its implementation it is assisted by other components, namely supporting components and reserve components originating from the people.

## 2. Sociological Basis

Indonesia has a diversity that is vulnerable to horizontal conflicts, giving rise to social conflicts, ethnicity, religion, race, and even separatist movements. This condition is partly due to the fading understanding of unity and nationalism. One way that can be used as a form of unity for Indonesian society is the Development of State Defense Awareness and the Reserve Component program. By participating in the Reserve Component program, a citizen is expected to have a correct understanding of the spirit of defending the country and be able to fight for Indonesia if needed at any time during an emergency.

## 3. Juridical Foundation

Explicitly the juridical basis of this Law is in Article 27 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that every citizen has the right and obligation to participate in efforts to defend the state. Then in Article 30 paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Meanwhile in Article 30 paragraph (2) efforts to defend the state and state security are implemented through a system of defense and security for the people as a whole by the Indonesian National Armed Forces and the Indonesian National Police, as the force the main force and the people as the supporting force. It is clear that the national defense posture consists of main, reserve and supporting components that must be regulated by law.

Deterrent power is built through the Development of State Defense Awareness for all citizens, so that the character of the people who are militant is built on the basis of love for the Unitary State of the Republic of Indonesia. To carry out these provisions, Law Number 3 of 2002 delegates arrangements regarding Reserve Components, Supporting Components, civics education, mandatory basic military training, and service in accordance with the profession regulated by law. However, until now this regulation does not yet exist, so it is necessary to regulate the management of national resources for national defense.

The objectives of drafting the a quo law include, firstly, as the government's effort to complete legal reform in the field of defense, secondly, as a manifestation of the concept of universal people's defense as part of the grand national strategy in the field of defense, thirdly, to build an adaptive defense system, visionary which has deterrent power and is prepared in an early, directed and sustainable manner by the state to deal with threats, fourth, the awakening of a national character that consciously and voluntarily participates in efforts to defend the country, fifth, the organization of the national defense area which will become a trigger for restructuring the sector other, namely to make the territory of the unitary state of the Republic of Indonesia become a unified whole of the territory of the state defense, and lastly, the establishment of an ideal defense posture consisting of main, reserve and supporting components.<sup>12</sup>

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<sup>11</sup>Academic Text of the Draft Law on Management of National Resources for National Defense, [https://www.bphn.go.id/data/document/na\\_ruu\\_on\\_management\\_of\\_national\\_resources\\_for\\_national\\_defense.pdf](https://www.bphn.go.id/data/document/na_ruu_on_management_of_national_resources_for_national_defense.pdf), p. 73. Retna Gumanti, "Reconceptualizing Consumer Contracts in the Philosophical Perspective of Pancasila", 1 (1) Prophetic Law Review 37, 2019, p. 37-39.

<sup>12</sup> Ibid. p.78.

**c. Harmonization of the Material Content of the PSDN Law with the Principles of Forming Legislation**

**1. Principle of Clarity of Purpose**

In the perspective of clarity on the objectives of the PSDN Law, it implicitly shows that this PSDN Law is a regulation to legitimize the existence of unity between elements for national defense by involving all human resources, natural resources, and national facilities and infrastructure. In principle it is very useful in the national defense corridor. Article 3 of the PSDN Law states that the purpose of managing National Resources for National Defense aims to transform Human Resources, Natural Resources and Artificial Resources, as well as National Facilities and Infrastructure into National Defense forces that are ready to be used for the benefit of National Defense.<sup>13</sup>

**2. Executable**

In each Formation of Legislation, it must take into account the effectiveness of said Legislation in society, both philosophically, sociologically, and juridically. Consciously, the PSDN Law has a "legal intersection" with other laws, it is hoped that there will be no conflict or overlap between one regulation and another that regulates principal matters, for example relating to human rights.

**3. The Principle of Openness**

The era of information disclosure, providing space for the establishment of laws and regulations starting from planning, drafting, discussing, validating or stipulating, and promulgation is transparent and open. Thus, all layers of society have the widest possible opportunity to provide input in the Formation of Legislation. The procedural constituency for the establishment of the PSDN Law has met the administrative requirements in drafting laws and regulations, but on the other hand, it is necessary to pay attention again in terms of discussion, there are several suggestions and expectations from institutions or parties related to principle issues so that the PSDN Law is not used as a as a tool of power

**2. Compatibility of Substances and Results of Material Testing by the Constitutional Court Law No. 23 of 2019 concerning Management of National Resources Formation of Reserve Components**

The interesting thing about the PSDN Law is related to the concept of human rights (HAM), which is not fully given limited space to citizens in the election process to become a reserve component. This is in Article 28 paragraph (2) which states that the reserve component is voluntary service in the national defense effort. In the process of becoming a reserve component, going through the stages of selection and verification as well as basic military training, then it is ready but in the PSDN Law it is not stated in Article 41 letter g, which states that the reserve component must fulfill the summons for mobilization. The diction "mandatory" is an order and if you do not fulfill the summons for mobilization you will be subject to sanctions as set forth in Article 77 paragraph (1) which states that if each reserve component does not fulfill the summons for mobilization it is threatened with imprisonment for a maximum of 4 (four) years. The PSDN Law itself only explains the rules and requirements for becoming

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<sup>13</sup> Dede Anggara Saputra, 2020, "Political Analysis of Law Number 23 of 2019 Concerning the Management of National Resources for National Defense", Journal of Lex Renaissance, Vol 5, No.4, Pg.6.

a reserve component, but does not explain if a citizen who has entered the reserve component wants to resign based on acceptable logical reasons.<sup>14</sup>

The Advocacy Team for Security Sector Reform assessed that the formation of the Reserve Component based on the PSDN Law actually had problems both substantially and procedurally. Substantially, namely because several provisions in the law are considered to be contrary to the values of human rights in the constitution, and procedurally the discussion of the PSDN Law was rushed and minimal public participation. More than that, assessing the formation of the Reserve Component which was carried out in the midst of the need for serious handling from the state in dealing with the Covid-19 pandemic situation shows the country's low concern for humanitarian issues in handling this Covid pandemic. For this reason, a number of non-governmental organizations (NGOs) of community appeal groups have submitted a judicial review of a number of articles in the PSDN Law to the Constitutional Court.<sup>15</sup>

### a. The Articles Submitted for Judicial Review<sup>16</sup>

Meanwhile, several substances that are considered problematic legally, human rights, and the governance of the defense-security system in the PSDN Law that the petitioners have asked to be annulled by the MK are:

*First*, related to a very broad scope of threats. In Article 4 of the PSDN Law, the scope of threats includes military threats, non-military threats, and hybrid threats. The wide scope of threats creates its own problems, where the Reserve Components that have been prepared and formed by the government can be used to deal with domestic security threats such as pretexts for dealing with the dangers of communism, terrorism and domestic conflicts which have the potential to cause horizontal conflicts in society. For this reason, the applicant team considers that the provisions in Article 4 paragraphs (2) and (3) and Article 29 of the A Quo Law are contradictory to a number of provisions regarding national defense, as stipulated in the National Defense Law which is the main regulatory instrument for national defense. And therefore,

*Second*, determination of Reserve Components in the form of natural resources and artificial resources as well as national facilities and infrastructure ignores the principle of volunteerism. To become a Reserve Component, the two resources and facilities and infrastructure that are managed by both citizens and the private sector only pass verification and classification by the Ministry of Defense without voluntarily from the owner. Thus, this law does not provide recognition and protection of property rights which are part of human rights. This will open up space for potential conflicts over natural resources and land conflicts between the state and society. For this reason, we assess the provisions in Article 17, Article 28, Article 66 paragraph (2), Article 79,

*Third*, regarding criminal sanctions, it also targets criminal sanctions that apply to everyone who becomes a Reserve Component, but avoids summons for mobilization with a penalty of up to 4 years. Meanwhile, if someone makes a Reserve Component and does not comply with the summons for mobilization, they are threatened with a prison sentence of 2 years.

This of course violates the principle of conscientious objection (the right to refuse on the basis of one's beliefs) which is the main principle in involving civilians in defense in various countries which

<sup>14</sup> Final Report, Study and Evaluation of Law No. 23 of 2019 concerning Management of National Resources for National Defense, 2019, collaboration of the Pancasila Ideology Development Agency (BPIP) with the Faculty of Law University of Bangka Belitung (FH UBB), pp. 39-40.

<sup>15</sup> <https://kontras.org/2021/05/31/pengaturan-dinding-konstruksi-dan-ham/>, Accessed on November 17, 2022.

<sup>16</sup> Op. Cit, Nanda, <https://www.merdeka.com/events/pro-contra-recruitment-Components-backup-uu-psdn-diclaim-ke-mk.html>.

has been recognized in international human rights norms. The reserve component must have the right to freedom of religion and belief and freedom of thought as guaranteed in the constitution. We consider that the provisions in Article 18, Article 66 paragraph (1), Article 77, Article 78 and Article 79 of the A Quo Law are contradictory to Article 28E paragraph (2) of the 1945 Constitution which guarantees the right of every citizen to freedom of thought, conscience, and religion, including the right to refuse to join military service on the grounds of conscientious objection.

*Fourth*, related to the use of military law for the Reserve Component during its active period as stipulated in Article 46 of the PSDN Law is inappropriate. At a time when military reform was faltering due to the military's disobedience to the general justice system, the PSDN Law actually required the Reserve Component to comply with military law. In fact, the obligation to submit to the general justice system for members of the military is an order in Article 3 paragraph (4) TAP MPR VII/2000 and Article 65 paragraph (2) of Law no. 34 of 2004. Failure to comply with general justice has the potential to perpetuate impunity and hinder military justice reform. For this reason, we are of the opinion that the provisions in Article 46 of the A Quo Law which regulate the use of the military justice system for the Reserve Component is in conflict with the principles of equality before the law,

*Fifth*, namely related to the budget for Reserve Components which can be obtained from sources other than APBN, namely APBD, as well as other non-binding sources. According to Article 25 of Law no. 3 of 2002 concerning National Defense and Article 66 of Law no. 34 of 2004 concerning the TNI, the source of the defense budget is only through the APBN. Therefore, the PSDN Law contradicts the Defense Law itself and violates the principle of defense budget centralism. We consider that the provisions of Article 75 of the A Quo Law which allow for sources of budgeting for the Reserve Component outside of the APBN do not comply with the principle of centralizing the implementation of the national defense sector as the principle of division of authority between the central and regional governments which is emphasized in Articles 9 and 10 of the Regional Government Law which state that the field Defense is an absolute government affair. What's more, the centralization of the budget is a control mechanism for the security sector, not only to oversee the effectiveness of the use of the budget but also to control the TNI. Accommodation of defense financing from APBD and other sources clearly has the potential to cause serious problems because the contribution of this budget assistance is difficult to control. In addition, this will also complicate the accountability process, thereby opening up opportunities for abuse and irregularities. For this reason, we consider the provisions of Article 75 of the A Quo Law to be unconstitutional because they contradict Article 28D paragraph (1) of the 1945 Constitution. Accommodation of defense financing from APBD and other sources clearly has the potential to cause serious problems because the contribution of this budget assistance is difficult to control. In addition, this will also complicate the accountability process, thereby opening up opportunities for abuse and irregularities. For this reason, we consider the provisions of Article 75 of the A Quo Law to be unconstitutional because they contradict Article 28D paragraph (1) of the 1945 Constitution. Accommodation of defense financing from APBD and other sources clearly has the potential to cause serious problems because the contribution of this budget assistance is difficult to control. In addition, this will also complicate the accountability process, thereby opening up opportunities for abuse and irregularities. For this reason, we consider the provisions of Article 75 of the A Quo Law to be unconstitutional because they contradict Article 28D paragraph (1) of the 1945 Constitution.

**b. Results of the Constitutional Court Decision on the Material Review of Law No. 23 of 2019 concerning Management of National Resources**

Results Constitutional Court Decision Number 27/PUU-XIX/2021 Stating the petition of the Petitioners with regard to Article 75 and Article 79 of Law Number 23 of 2019 concerning Management



of National Resources for National Defense (State Gazette of the Republic of Indonesia of 2019 Number 211, Supplementary Sheet Republic of Indonesia Number 6413) cannot be accepted; then, Rejecting the petition of the Petitioners for other than and the rest.<sup>17</sup>This means that the Constitutional Court rejected all requests for articles that were used as a judicial review, and considered that there were no articles in the law that contradicted the 1945 Constitution.

### ***Evaluation Recommendations***

In this PSDN Law there is management of activities or processes of these reserve components. This is also closely related to Law Number 3 of 2002 concerning National Defense which is still active and running so that there are two regulations governing one object, so that there is the potential for overlap during implementation in the field, then in Article 8 paragraph (3) of Law Number 3 of 2002 concerning National Defense, there was the formation of reserve components and supporting components, then related to State Defense as set forth in Article 9 paragraph (3) Number 3 of 2002 concerning National Defence. So, in my opinion the need or urgency for Law Number 23 of 2019 concerning the Management of National Resources for National Defense to be ratified in general is not too urgent, because basically,

Indirectly, there are two rules that regulate the same thing regarding state defense and national defense, which can result in a clash of arrangements in the context of national defense. Then the discussion of the PSDN Law was rushed and minimal public participation. More than that, assessing the formation of the Reserve Component which was carried out in the midst of the need for serious handling from the state in dealing with the Covid-19 pandemic situation shows the country's low concern for humanitarian issues in handling this Covid pandemic. What should be expected from the Constitutional Court's decision is that it can harmonize the content or material of the PSDN Law with other conceptions of legal rules so that a more comprehensive material content of the rules will be formed without conflicting with the concept of human rights.

Then it is proposed to immediately revise and review the articles in the PSDN Law which are contrary to the basis of inaccuracy on the conceptual basis of other legal principles, so that the purpose of this regulation in its implementation can lead to calm and justice in society. And to clarify the state's position in the form of protection for its citizens so that it does not cause harm to society, especially in fulfilling human rights.

### ***Conclusion***

The Law on Management of National Resources for National Defense (UU PSDN) has been formally ratified by the People's Legislative Assembly of the Republic of Indonesia, which means that the PSDN Law is a rule that every Indonesian citizen must know and understand. Based on the study of the PSDN Law, it can be concluded as follows:

- a. Whereas the PSDN Law has formally been formed and ratified, but materially there are norms or principles that are still not accommodated in the regulations so that it is feared that it will cause friction between one law and another.
- b. There is an overlap between the regulations (UU PSDN and the Law on State Defense) which regulate the same matters relating to the concept of defending the country (reserve component). One of the several polemical articles of the PSDN Law, namely the concept of human rights (HAM), which was not fully given limited space to citizens in the election process, became a reserve component.

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<sup>17</sup> Rule of Decision of the Constitutional Court Number 27/PUU-XIX/2021, Pg.329.

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