

The Constitutionality Of The Establishment Of The Law On The Institution Of The People's Consultative Assembly (MPR) Of The Republic Of Indonesia As A Form Of Manifestation Of Article 2 Paragraph (1) Of The 1945 Constitution Of The Republic Of Indonesia

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ABSTRACT

This study discusses two main problems: first, constitutional values in the institutional arrangements of People's Consultative Assembly of the Republic of Indonesia (MPR RI) based on the 1945 Constitution of the Republic of Indonesia in the development of legislation in Indonesia; second, the urgency of the establishment of the MPR RI Institutional Law as an implementation of Article 2 paragraph (1) of the 1945 Constitution of the Republic of Indonesia. The article states that "The People's Consultative Assembly consists of members of the People's Representative Council and the Regional Representative Council who are elected through general elections and further regulated by law." Therefore, a special law is needed to regulate the MPR, as also explained in the appendix to Law Number 12 of 2011. However, until now, the MPR institution is still regulated together with the House of Representatives (DPR), the Regional Representative Board (DPD), and the Regional House of Representatives (DPRD) in Law Number 2 of 2018 (UUMD3), which has the potential to cause confusion because the four institutions have different positions, functions, and authorities. This study uses a normative legal method with a descriptive analytical approach that is perspective in nature to provide solutions to the problems of state institutional arrangements in Indonesia. The results of the study show that based on Article 2 paragraph (1) of The 1945 Constitution of the Republic of Indonesia post- amendment, a special law is needed regarding the MPR institution. The regulation of the MPR in one joint legal product with DPR, DPD, and DPRD not only creates ambiguity in society, but also contradicts the characteristics of each institution from a historical, philosophical, sociological, and legal perspective. Therefore, it is necessary to establish a separate MPR Institutional Law from the UUMD3.

Keywords: MPR RI Institution, Article 2 Paragraph (1) of the 1945 Constitution of the Republic of Indonesia, UUMD3

INTRODUCTION

Article 2 paragraph (1) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) which states that "The People's Consultative Assembly consists of members of the House of Representatives and members of the Regional Representatives Council elected through general elections and further regulated by Law," confirms the change in the

composition of the membership of the People's Consultative Assembly (hereinafter referred to as MPR) after the amendment of the 1945 Constitution of the Republic of Indonesia. Thus, after the amendment, members of the House of Representatives (hereinafter referred to as DPR) and the Regional Representatives Council (hereinafter referred to as DPD) are members of the MPR. In particular, the phrase "...further regulated by law" implies that a special law is required for this purpose when compared to the wording of Article 2 paragraph (1) of The 1945 Constitution of the Republic of Indonesia. Similarly, the phrase "regulated by law" contained in an article or paragraph of the 1945 Constitution, on the other hand, can refer to a matter that is the subject of one or more laws that are not specifically issued for that purpose. Although the DPR, DPD, and Regional People's Representative Council (hereinafter referred to as DPRD) are state institutions that have different constitutional responsibilities and powers, the current institutional structure of the MPR is further regulated in the same Act.(Novianto.et al,2012)

Law No. 2/2018 on the Second Amendment to Law No. 17/2014 on the MPR, DPR, DPD, and DPRD or better known as the MD3 Law, and Article 5 of Law No. 2/2018 on the second amendment to Law No. 17/2014 on the MPR, DPR, DPD, and DPRD (MD3 Law), both expand the authority granted to the MPR by Article 3 and Article 8 of the 1945 Constitution. If examined closely, these regulations have no relevance to the MPR's institutional arrangements, which have been accommodated in one law that is united with other representative institutions. This is because the 1945 Constitution of the Republic of Indonesia and the MD3 Law describe the authority, duties and functions of the MPR which are significantly different from those of the DPR, DPD and DPRD.

Unlike the Judicial Commission, which is regulated by Law No. 18 of 2011 on the amendment of Law No. 22 of 2004 on the Judicial Commission, and the Supreme Court, which is regulated by Law No. 3 of 2009 on the Second Amendment to Law No. 14 of 1985 on the Supreme Court, other state institutions are regulated by separate laws. As with other state institutions, the Constitutional Court is regulated by Law No. 4 of 2014, which stipulates government regulations in lieu of Law No. 1 of 2013 on the second amendment to Law No. 24 of 2003 on the Constitutional Court into law.

A number of abnormalities are also revealed by the unification of the four branches of government under one law. The idea that all four would appear to have the same responsibilities and powers is one of them.(Haerani.2017) In addition, when state institutions are combined under one law, there will be duplication or overlap in their regulation. For example, Law No. 2 of 2018 on the second amendment to Law No. 17 of 2014 on the MPR, DPR, DPD, and DPRD will overlap with Law No. 9 of 2015 on the second amendment to Law No. 23 of 2014 on Regional Government.(Novianto,1012)

Based on this background, it is necessary to further study the constitutionality of the formation of the Law on the Institutionalization of the People's Consultative Assembly. The problem formulations in this study are: First, How are the constitutional values of the MPR RI institutional arrangements based on the 1945 Constitution of the Republic of Indonesia in the development of Legislation in Indonesia? Second, how is the urgency of the establishment of the MPR RI Institutional Law as a form of manifestation of Article 2 paragraph (1) of the 1945 Constitution of the Republic of Indonesia?

THEORETICAL FOUNDATION

According to Soerjono Soekanto, every research project will have a theoretical framework or track, which basically outlines the social elements that are considered important by researchers. The theoretical foundation is a collection of various assumptions, points of view, procedures, guidelines, rules, and facts that make sense together and can be used as a basis, guideline, and reference to achieve goals in writing or research. The theoretical foundations used in this study are:

1. Constitutional Theory

According to C.F. Strong, "The rise of the Constitutional State is essentially a historical process," Constitutions are an inherent component of the constitutional systems of all countries around the world. One of the sine quanon (absolute prerequisites) for a state is the existence of a constitution. In his dissertation, Hamid S. Attamimi states that the constitution is very important because it sets the boundaries, guidelines, and proper use of government authority. (Muhammad Rakhmamat, 2004)

The following classifications of constitutions can be made, according to the book "Modern Constitution" by K. C. Wheare 1975: 1) written constitution and no written constitution; 2) flexible constitution and rigid constitution; 3) supreme constitution and not supreme constitution; 4) federal constitution and unitary constitution; 5) presidential constitution and parliamentary constitution. Currently the 1945 Constitution of the Republic of Indonesia is the written constitution of the Indonesian state, according to Indonesia's current interpretation of the document. (Sri sumanti, 2016)

The 1945 Constitution of the Republic of Indonesia, which is also the Verfassungsnorm, is the basis and main law of the Indonesian state. The 1945 Constitution of the Republic of Indonesia is the source and foundation for the making of regulations under it, such as the Verordnung or the Decree of the People's Consultative Assembly, and also the regulations used to make the Gesetz or laws. This is in line with the thinking of Hans Kelsen who debated the degree of legal norms (Stufentheori) in relation to the hierarchy of legal norms. According to Hans Kelsen, legal norms are layered and tiered in a hierarchical structure, where lower norms apply, derived from and based on higher norms, and

so on, up to the basic standard (*grundnorm*), which is fictitious and cannot be traced further. Because it serves as the foundation for the entire system of state life, Bryce came to the conclusion that Indonesia's written constitution, known as the Basic Law, was deliberately created as a set of fundamental norms that have a higher political value than other rules. This presumption implies that other aspects of the legal system must be consistent with the Constitution or not.

2. Theory of State Institutions

In Dutch, the term "*staatsorgan*" refers to the idea of state institutions. The phrase "political institution" is used in English. This term is equivalent to state bodies, state organs, or state institutions in Indonesian. George Jellinek, a state scientist, states that state institutions can be divided into two main categories, namely indirect state institutions (*mitterbare organ*) and direct state institutions (*unmitterbare organ*). Whether the state organs mentioned in the constitution are formed directly or indirectly, determines the size of the direct or indirect state organs. The presence of indirect organs depends on the existence of direct state organs, while indirect state organs determine the existence of the state.

The 1945 Constitution contains more than 34 institutions, which are mentioned either directly or indirectly. Thus, it can be concluded that all 34 institutions are primary or main in terms of their functions, while some of them are secondary or auxiliary. Three levels can be distinguished among the 34 institutions in the hierarchy. The higher state institutions are another name for the first-tier organs. Only state supreme institutions belong to the second-tier organs, while regional supreme institutions belong to the third-tier organs. Indeed, the designations of higher state institutions and higher state institutions are no longer used.

The MPR is an extension of parliamentary functions, particularly in the areas of constitution-making and amendment, dismissal and filling of vacancies in the office of president and vice president, and inauguration of the president and vice president. The DPD supports the DPR, which is the main parliamentary institution in the legislative branch group. Although the DPD supports the DPR's functions in the legal field, it still holds a significant position in the field of supervision relating to regional interests. Therefore, the DPD can continue to be referred to as a major state institution.

RESEARCH METHOD

This research uses a normative legal approach, namely by looking at secondary data.

1. Research Typology, This type of research is analytical in nature, which means that this research is conducted to find fresh ideas and answers to solve certain problems. (Bambang Sugono, 2011)

2. The legal materials used are secondary data materials which in this study are classified into primary legal materials consisting of the 1945 Constitution of the Republic of Indonesia, Law Number 2 of 2018 concerning the second amendment to Law Number 17 of 2014 concerning the MPR, DPR, DPD and DPRD, Law Number 12 of 2011 concerning the Formation of Legislation, and other regulations related to the discussion are secondary legal materials and primary legal materials used in this study. The term "secondary legal materials" refers to sources that explain fundamental legal texts. Books, scientific publications, dissertations, and legal research reports are examples of secondary legal literature used in this research. Tertiary legal publications, such as encyclopedias and legal dictionaries, provide clarification and recommendations for primary and secondary legal materials. (Soerjono Soekanto, 1986)
3. Analysis Method, the research itself determines the truth of the data or the main premise of this research. The data analysis method is carried out using a qualitative approach, which produces data in the form of a description of what is stated by the research target. (Lexi J Moleong, 2005)

RESEARCH RESULTS

A. Constitutional Values of the MPR RI Institutional Arrangements based on the 1945 Constitution of the Republic of Indonesia in the Development of Legislation in Indonesia

The government, state institutions and societal institutions are bound by the 1945 Constitution of the Republic of Indonesia as written basic law. the 1945 Constitution of the Republic of Indonesia sets out the rules or regulations that must be obeyed. the 1945 Constitution of the Republic of Indonesia serves as the main pillar of the state and establishes the exact position and boundaries of every legal organization in Indonesia. And it serves as the legal basis for making regulations based on the 1945 Constitution of the Republic of Indonesia (the main source of law). All laws and regulations must refer to and not contradict the 1945 Constitution of the Republic of Indonesia (lex superior derogat legi inferior principle). The 1945 Constitution of the Republic of Indonesia is a written constitution of the Indonesian state.(Sri Sumantri, 2016) which has traveled a long history as a basic rule or basic rule of the state that applies in Indonesia, until it passed four amendments carried out in stages.(Jimly, 2014) This amendment was carried out in four stages: October 19, 1999, August 18, 2000, November 10, 2001, and August 10, 2002. (Titik w, 2010)

The content of the 1945 Constitution of the Republic of Indonesia has changed significantly as a result of the amendments that have been made. The consequences of the amendments to the 1945 Constitution of the Republic of Indonesia have had a significant impact on all state institutions, especially on the Indonesian

constitutional system. On the one hand, state institutions have gained a larger portion, particularly through the substantial expansion of constitutional jurisdiction. However, some state institutions also experienced a decrease in power compared to before the modifications were implemented. One of these is the modification of the powers and role of the MPR.(Ataniari Siahaan, 2012) As the embodiment of the fourth principle of Pancasila, the MPR is an institution established by the Constitution. Prior to the amendment of the 1945 Constitution, Indonesia's constitutional system differed from Montesquieu's trias politica theory. For example, Soepomo highlighted that the 1945 Constitution followed a power-sharing system rather than the trias politica theory in the sense of Montesquieu's concept of separation of powers. Montesquieu's theory of separation of powers is flatly rejected by the MPR supremacy system, which is linked to this. (Jimly Asshiddiqie, 2014)

However, the amendment upholds the principle of separation of powers, making all government institutions equal, In line with Article 1 paragraph (2) of the amended 1945 Constitution of the Republic of Indonesia, which states that "Sovereignty is in the hands of the people and is exercised according to the Constitution," the MPR is not positioned as the highest state institution or as the full implementer of popular sovereignty, (Widayati.Then "The People's Consultative Assembly consists of members of the House of Representatives and members of the Regional Representative Council who are elected through general elections and further regulated by law," according to article 2 paragraph (1) post- amendment.

The phrase "...further regulated by law" implies that there must be a specific law for that purpose. The phrase regulated by law contained in an article or paragraph of the 1945 Constitution of the Republic of Indonesia, on the other hand, allows the meaning of the matter regulated in the provision to be the subject of one or more laws that are not expressly issued for that purpose, implying that the MPR must be regulated by a separate law. For example, Law No. 4 of 2014 on the Stipulation of Regulations in Lieu of Law No. 1 of 2013 on the Second Amendment to Law No. 24 of 2003 on the Constitutional Court where the Constitutional Court is based on the mandate of the 1945 Constitution of the Republic of Indonesia as stated in Article 24C paragraph (6), specifically on the phrase "...further provisions regarding the Constitutional Court shall be regulated by law.", then the Supreme Court is based on the mandate of the 1945 Constitution of the Republic of Indonesia as stated in Article 24A paragraph (5), and the birth of Law No. 3 of 2009 concerning the Second Amendment to Law No. 14 of 1985 concerning the Supreme Court has fulfilled the mandate which states that "The structure, position, membership, and procedural law of the Supreme Court and the judicial bodies under it shall be regulated by law.", in addition there is the Judicial Commission established based on the 1945 Constitution of the Republic of Indonesia, which in Article 24B paragraph (4) states that "The structure, position, and membership of the Judicial Commission shall be regulated by law.". Law No. 15 of 2006 on the Supreme Audit Agency is a

manifestation of the mandate of the Supreme Audit Agency, which is based on Article 23G paragraph (2) of the 1945 Constitution, which states that "further provisions concerning the Supreme Audit Agency shall be regulated by law."

The mandate of the 1945 Constitution of the Republic of Indonesia Article 2 paragraph (1) is still realized in the same law, namely Law Number 2 Year 2018 on the Second Amendment to Law Number 17 Year 2014 on the MPR, DPR, DPD, and DPRD, in contrast to the state institutions of the MPR, DPR, DPD, and DPRD. From a constitutional perspective, it is clear that these four institutions are mandated to be represented by different laws. "The People's Consultative Assembly consists of members of the House of Representatives, members of the Regional Representatives Council, and members of the Regional Representatives Council who are elected through general elections and further regulated by law," reads Article 2 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which established the MPR. The 1945 Constitution of the Republic of Indonesia, particularly Article 19(2) on the House of Representatives, states that "The composition of the House of Representatives shall be regulated by law." "The composition and position of the Regional Representative Council shall be regulated by law," reads Article 22C(4) of the 1945 Constitution, which specifically regulates the DPR. Article 18 paragraph (3) states that "The provincial, regency and municipal governments shall have a Regional House of Representatives whose members shall be elected through general elections," which includes the DPRD. Article 18 paragraph (7) states that "The structure of the procedures for the administration of regional governments shall be regulated by law," indicating that regional governments regulate the constitutional provisions relating to DPRDs.

The four state institutions of the MPR, DPR, DPD, and DPRD clearly have the same article formulation as other institutions. This is especially evident in the phrase "...regulated further by law," which has the effect of being contained in separate laws rather than being united in one law. In addition, the four state institutions need to be seen as organs of the state even though they are representative institutions. Although representative institutions are organs of the state or state institutions, they are also formed through the process of upholding democracy, particularly through general elections. Therefore, the process of forming laws governing representative institutions must be seen within the framework of the legal or constitutional system and not only from the perspective of political interests that are renewed every five years as an effort to adjust to the political climate at that time. Unlike the other three state institutions, especially the DPRD, which is part of the local government and has no hierarchical relationship with the DPR, the MPR, which is a representative institution, was first established as a consultative institution. Therefore, the local government should have the authority to regulate the MPR.

B. Urgency of Establishment of MPR RI Institutional Law as a Form of Implementation of Article 2 paragraph (1) of the 1945 Constitution of the Republic of Indonesia

The MPR arrangement has always been united with the arrangement of the DPR and DPRD (and DPD after the 1945 Constitutional changes) since Law No. 16 Year 1969 on the Structure and Position of the People's Consultative Assembly, the House of Representatives, and the Regional Representatives Council until Law No. 17 Year 2014 in conjunction with Law No. 42 Year 2014 on the People's Consultative Assembly, the House of Representatives, the Regional Representatives Council, and the Regional Representatives Council (MD3 Law), which was later amended by Law No. 2 Year 2018. The public is made aware that the four state institutions are the same by regulating the MPR as a package with other institutions. In addition, the MPR is regulated in a limited manner, including the institutionalization of its supporting apparatus, especially in special bodies such as the State Administration Study Institute and others. Of course, there are not many integrative solutions starting from the planning, development, implementation, supervision, and evaluation of the MPR institution in order to fulfill the responsibilities and authority of the MPR. Therefore, in accordance with the constitutional mandate, a separate law relating to the MPR is needed to maximize the regulation of the implementation of the MPR's powers and duties in carrying out its mission as an institution that is considered to represent the people.

The MPR Study Body, as one of the MPR Organs, has the task of, among others, studying the constitutional system, the 1945 Constitution of the Republic of Indonesia, and its implementation; absorbing the aspirations of the community, regions, and state institutions related to the implementation of the 1945 Constitution of the Republic of Indonesia; formulating points of view on MPR recommendations related to the dynamics of community aspirations. The Study Body carries out the task of studying the 1945 Constitution of the Republic of Indonesia, its implementation, and the aspirations of the community by establishing a number of activities that ensure the achievement of all set objectives in order to maximize the success of the study and be useful in supporting the tasks of the MPR. There are several suggestions and thoughts regarding the need for additional MPR duties regulated in law based on the results of studies that have been carried out and aspirations that have continued to increase since the Study Body was formed in 2014.

Apart from being regulated in the 1945 Constitution and Law No. 2/2018 on the second amendment to Law No. 17/2014 on MD3, which is not discussed much, the current arrangements regarding the composition, position, and membership of the MPR are also regulated and detailed in MPR Regulation No. 1/2014 on the Rules of Procedure of the MPR. This is a continuation and detailing of the MPR institution from two previous laws.

The hierarchy of laws and regulations does not include MPR regulations. This is a cause for concern as it implies weak signs of binding legal force as it is evident that MPR regulations are made and amended internally by MPR members. Unlike laws, which are subject to change and dependent on the authorities holding office over time, laws can have lasting legal force that is binding both internally and externally. In contrast, laws are the product of the legislature and the president. Laws are made and amended through a separate process, and once decided, they apply both internally and externally to all Indonesians and constitutional stakeholders. If a violation of the Constitution is found, judicial review must take place in the Constitutional Court. This means that the MPR institution can have legal strength and certainty if the arrangements regarding the membership, composition, and position of the MPR outlined in MPR regulation No. 1/2014 are transferred to a separate law on the MPR. This will ensure that MPR members do not abuse their power.

Differences in the composition, roles, membership, responsibilities, and activities of the MPR, DPR, DPD, and DPRD can be used as a starting point for further debate on the establishment of the MPR Institutional Law. Along with the revision of the Election Law, the institution of the MPR, DPR, DPD, and DPRD changes every five years, making it difficult to give legal authority to MPR regulations. Legally, Law No. 27/2009 has also been defended as the only law that combines four state institutions into one law. This is unlike other state institutions, which are all subject to the same law. Therefore, the DPRD is part of the law on regional government, the MPR must be governed by a separate law, the DPR by a different law, and the DPD by a separate law.

According to Zein Badjeber, former Chairman of the Working Committee of the People's Consultative Assembly (MPR), Law No. 27/2009 on the MPR, DPR, DPD and DPRD (MD3 Law) is a constitutional misinterpretation. In order for all state institutions, including the MPR, DPR, DPD, and DPRD, to work in accordance with the direction of the constitution, he argues that each of these institutions should be regulated by different laws. Regulation under one law is a constitutional misinterpretation.

Article 18(7) of the 1945 Constitution states that laws should regulate the composition and processes of local government. This article requires the local government to make laws, not the DPRD. While the word "with" is used in Article 2(1) of the 1945 Constitution on the MPR, Article 19(2) on the DPR, and Article 22C(4) on the DPD. Therefore, in accordance with these remedial measures (which represent the official or authentic interpretation of the Constitution) there should be different laws governing the MPR, DPR, and DPD. Moreover, it can be observed that the functions, duties, and authorities of the four institutions are completely different from each other; therefore, combining them under one law will result in the perception that they all have the same capabilities. In reality, each institution has

different roles, responsibilities, and authorities, as explained below.

Authority, responsibility and function are clearly different. The various organs and operational procedures of each state institution will be affected by its various roles, responsibilities and powers. Therefore, it would be deceptive to combine all four institutions under one law, as if they all have the same responsibilities, powers and activities. To answer constitutional issues, such as those relating to the legal umbrella of institutions, Suhino argues that organic laws are laws made to directly implement the commands of the provisions of the basic law. In addition, according to Abdul Gani Abdullah, organic laws are laws that specifically implement the 1945 Constitution of the Republic of Indonesia. By distinguishing the notion of constitution in a broad and limited sense, Usep Ranawidjaja indirectly provides an understanding of Constitutional Law.

In general, constitution, according to Ranawidjaja, refers to all clauses relating to the structure of the state, whether contained in the constitution, organic laws, other laws and regulations, or customary conventions. By definition, a constitution is the primary document that provides the rules governing the structure and operation of the state.(Usep R, 1960) "Organic law is the fundamental law, or constitution, of a state or nation, whether written or unwritten; the law or system of laws or principles that defines and establishes the organization of its government," according to Black's Law Dictionary. Organic Law is congressional legislation that grants governmental authority to a territory; not the same as Organic Law.

According to the author's interpretation, organic laws are laws created in accordance with the Constitution's duty to regulate state institutions or organizations. These laws can serve as a strong foundation and a powerful remedy for creating different MPR institutional laws. On the one hand, representative institutions are formed through the process of upholding democracy, particularly through elections, but on the other hand, representative institutions are organs or institutions of the state. Therefore, the process of forming laws governing representative institutions must be seen within the framework of the legal or constitutional system and not just from the perspective of political interests, which are renewed every five years in an effort to adapt to the political climate at the time. Furthermore, the MPR, DPR, DPD and DPRD will be interpreted as having the same responsibilities and powers if they are all governed by the same laws. These institutions clearly have different responsibilities and powers under the constitution.

It is important to change the notion that laws relating to representative institutions are components of a larger body of political legislation. Within the framework of the institutional state system, laws governing representative institutions should be considered as laws. As mentioned earlier, the institutional makeup of the MPR, DPR, DPD and DPRD tends to change every five years, which is one of the issues that arise when these laws are considered as part of a package of

political legislation. Therefore, it would be difficult to create a strong and durable legal framework for the MPR institution as policy changes can occur every five years. In the case of the DPRD, which is regulated under Law No. 2/2018 on the second amendment to Law No. 17/2014 on the MPR, DPR, DPD, and DPRD with Law No. 9/2015 on the second amendment to Law No. 23/2014 on Regional Government, the merging of state institutions under one law will also result in duplication or overlapping arrangements. (Novianto M. Hantoro, 2012)

It is necessary to look at the formation of the MPR Law from a philosophical, sociological, and legal perspective, in addition to its constitutionality;

a) Philosophical Foundation

The philosophical foundation is the factor or justification that shows how the law is made considering the philosophy and mystique of the Indonesian nation, which is rooted in Pancasila and the 1945 Constitution, as well as the outlook on life, awareness, and legal ideals of the Indonesian nation. The Preamble of the 1945 Constitution of the Republic of Indonesia, which gives actualization value to the ideas of the People's Consultative Assembly, addresses the philosophical component of this law. The Preamble of the 1945 Constitution of the Republic of Indonesia in the fourth paragraph states that the Preamble is essential for the realization of the mission and purpose of the nation and state. "Then to form a Government of the Republic of Indonesia that protects the entire Indonesian nation and the entire Indonesian homeland and to advance the general welfare, educate the nation's life, and participate in implementing world order based on independence, lasting peace and social justice," the fourth paragraph reads. "Then than that to compile the Indonesian National Independence in an Indonesian State Constitution, which is formed in an arrangement of the Republic of Indonesia which is people's sovereignty based on the Supreme Godhead, fair and civilized Humanity, Indonesian Unity and Democracy led by wisdom in Consultation / Representation, and by realizing a Social Justice for all Indonesian people.

According to the preamble of the 1945 Constitution, Indonesia is a country with a sovereign government that is obliged to protect the entire Indonesian nation and all Indonesian blood spilled, as well as to promote general welfare, educate the nation's life, and participate in implementing world order based on social justice, independence, and lasting peace. The Indonesian government then uses these goals as its objectives. One of the objectives of the Indonesian state is to promote the general welfare and intellectual life of the nation through the administration of the state by the central government and local governments. Regulations made under the Constitution serve the state's purpose of promoting the general welfare and intellectualizing the nation's life.

If the central government and local governments in the Republic of Indonesia do not make rules and policies that are fair to the people, nation and state, then the progress and welfare of society will not be maximized. In order for the MPR

Institution to carry out the mandate of the 1945 Constitution of the Republic of Indonesia, namely realizing the objectives of the Indonesian state as stated in the fourth paragraph of the Preamble of the 1945 Constitution of the Republic of Indonesia, namely promoting general welfare, a legal product is needed that functions as a regulation. The philosophy of Pancasila, which is basically as follows, must be the basis for the actualization of the MPR:

1. The People's Consultative Assembly Regulations must be implemented in accordance with the principle of Belief in God Almighty and must not contain clauses that contradict the religious beliefs of the Indonesian people or violate the standards of religious harmony;
 2. Fair and civilized humanity, as a high state institution that functions as a representative of the Indonesian people and regional representatives, the People's Consultative Assembly is directly elected through general elections. Therefore, the regulations governing this assembly must be implemented by considering human rights, both in terms of citizen rights and the rights of business actors.
 3. Indonesian Unity, the Unitary State of the Republic of Indonesia (NKRI) which always upholds the integrity and unity of the nation must always be the framework for implementing MPR regulations. In implementing MPR regulations, the public interest and efforts to fortify the unity and integrity of the Indonesian nation must always be taken into consideration in addition to the main purpose of these regulations to realize the goals of the Indonesian state.
 4. The people also participate in the implementation of the regulations of the People's Consultative Assembly, particularly in the area of monitoring the performance of the People's Consultative Assembly, which will be regulated by regulations of the People's Consultative Assembly. The implementation of the regulations of the People's Consultative Assembly must not contradict the principles of democracy, nor must it be carried out in an authoritarian or arbitrary manner, or limit power to certain powers.
 5. Social justice for all the people of Indonesia, The implementation of the rules of the People's Consultative Assembly must be carried out in a way that promotes welfare so that development goals and their implementation always create an environment conducive to development to achieve welfare, namely ensuring that all Indonesians are treated with respect.(Makmur A.et al, 2006)
1. Volksraad period 1918-1942;
 2. The 1945 Constitution period, which was determined by the PPKI decision 1945-1949;
 3. The period of the RIS Constitution, which lasted from December 27, 1949 to August 17, 1950;

4. The 1950 UUDS period, which lasted from August 17, 1950 to July 5, 1959;
5. The period of the 1945 Constitution based on the Presidential Decree of July 5, 1959;
6. The New Order period; and
7. The reformation period.

After the 1999 elections, the MPR amended the 1945 Constitution four times: in 1999, 2000, 2001 and 2002. The MPR underwent significant changes to its institutional structure and authority as a result of the last amendment, which was passed in 2002. Members of the DPR and DPD make up the membership of the MPR in terms of institutional structure. As a result of the amendment to Article 1 Paragraph (2) of the 1945 Constitution, the MPR no longer functions as a high state institution as it no longer fully exercises the sovereignty of the people. The powers of the MPR have also changed. Currently, members of the DPR and DPD elected through general elections form the membership of the People's Consultative Assembly (MPR), a consultative body for the people. The MPR is a democratic and representative organization that represents the interests of the people and regions in its role as a consultative body.

c) Juridical Foundation

The juridical basis is a factor or reason that shows how the regulation was made to overcome legal problems or close legal loopholes by paying attention to existing regulations that will be amended or revoked to ensure legal certainty and a sense of justice for the community. New rules and regulations must be made because their juridical basis relates to legal issues related to the regulated item or substance. Some legal issues include, but are not limited to, outdated regulations, inconsistent or overlapping regulations, regulations that are inferior to laws and therefore have weak enforcement, regulations that currently exist but are inadequate, or no regulations at all.

The following are the legal bases considered in the Draft Law on the People's Consultative Assembly:

1. Law No. 27/2009 on the People's Consultative Assembly, the House of Representatives, the Regional Representatives Council, and the Regional People's Representatives Council;
2. Law Number 22 Year 2003 on the Structure and Position of the People's Consultative Assembly, the House of Representatives, the Regional Representatives Council, and the Regional Representatives Council;
3. Law Number 4 of 1999 concerning the Structure and Position of the People's Consultative Assembly, the House of Representatives, and the Regional House of Representatives;
4. Law of the Republic of Indonesia Number 2 of 1985 Concerning the Amendment to Law Number 16 of 1969;
5. Law of the Republic of Indonesia Number 5 of 1975 Concerning Amendments to Law Number 16 of 1969 concerning the Structure

- and Position of the People's Consultative Assembly, the House of Representatives and the Regional House of Representatives;
6. Law of the Republic of Indonesia Number 16 of 1969 concerning the Structure and Position of the People's Consultative Assembly, the House of Representatives and the Regional House of Representatives;
 7. Law Number 17 Year 2014 on the MPR, DPR, DPD and DPRD;
 8. Law of the Republic of Indonesia Number 2 of 2018 concerning the second amendment to Law Number 17 of 2014 concerning the MPR, DPR, DPD and DPRD;
 9. Constitutional Court Decision Number 75/PUU - XII/2014; and
 10. Regulation of the People's Consultative Assembly of the Republic of Indonesia Number 1 of 2014 concerning the Rules of Procedure of the People's Consultative Assembly of the Republic of Indonesia.
- Some of these regulations are taken into consideration in drafting the MPR Bill.

CONCLUSION

Based on Article 2 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that "The People's Consultative Assembly consists of members of the House of Representatives and members of the Regional Representatives Council elected through general elections and further regulated by law", it is necessary to have an institutional arrangement of the MPR RI that is different from the results of the amendment. This is indicated by the Constitutional Values of the Institutional Arrangement of the MPR RI based on the 1945 Constitution of the Republic of Indonesia in the development of legislation in Indonesia. The phrase "...further regulated by law" implies that there must be a special law for it. The MPR must be regulated by a special law, in contrast to the phrase regulated in a law contained in an Article or paragraph of the 1945 Constitution, which implies that the matter regulated in the provision is material from one or several laws that are not specifically issued for that purpose, such as the Supreme Court(MA), Constitutional Court(MK), Judicial Commission (KY), and Audit Board (BPK). As a measure of the constitutionality of the 1945 Constitution of the Republic of Indonesia, evaluation based on philosophical, sociological, and juridical perspectives and considerations shows that there are adequate reasons for the establishment of the MPR RI Institutional Law outside the MD3 Law.

Indonesia is a state of law, so it must uphold the provisions of the law in force in Indonesia, one of which is by practicing the values contained in various regulations, especially the state constitution, which in this case is the 1945 Constitution of the Republic of Indonesia. From the factors that have been explained, in order to achieve a good institutional structure in the life of the state in Indonesia, it is necessary to establish a separate MPR institutional law separate from the MD3 Law.

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