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## The Existence of People's Consultative Assembly in Indonesian State System in the Pancasila Democracy Perspective

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### Abstract:

The sovereignty of the people is one of the principles of Indonesian state administration, contained in the Preamble and Articles in the 1945 Constitution of the Republic of Indonesia, implemented through the People's Consultative Assembly (MPR). But after the Amendment to the 1945 Constitution, the position of the MPR in the Proclamation Constitution has been placed as the highest state institution and the holder of popular sovereignty, and today based on the institutional structure of the state, the People's Consultative Assembly (MPR) has been degraded becoming an equal institution with other State institutions. Such implications, which are certainly seen from a constitutional perspective, have injured Pancasila democracy, which is based on deliberation and consensus, resulting in no more oversight mechanisms that can be carried out against various state institutions, including the President, and this in turn has led to liberal democracy based on individualism. Therefore, a comprehensive study is needed to reinstate the MPR as the highest state institution and holder of popular sovereignty in the format of State institutions in Indonesia as a representation of all Indonesian people based on deliberation and consensus in every decision making.

**Keywords:** Existence; People's Consultative Assembly; Pancasila Democracy; Indonesian State System.

**JEL Classification:** K19; K40.

### Introduction

The sovereignty of the people is one of the principles of Indonesian state administration, contained in the Preamble and Articles in the 1945 Constitution of the Republic of Indonesia. Therefore, it is necessary to study the adoption of the sovereignty theory of the Indonesian people not only the adoption of J.J. Rousseau, but also coming from the values that live in the Indonesian people (*volksgeist*). The populist principle led by wisdom in deliberation / representation in paragraph IV of the Preamble of the 1945 Constitution, is marriage between popular principles in rural communities centered on deliberation and consensus, with the teachings of the sovereignty of people from Europe and America based on representation (Bakar, 1987).

Muhammad Yamin (1971) in such context, views that the notion of popular sovereignty in the 1945 Constitution comes from 2 (two) schools of thought: the first, is the continuation of the development of sovereignty in the course of Indonesian history, and the second flow is the excerpt of the turbulent world revolutions in world history since the American, French and Russian revolutions (Bakar, 1987) The wisdom of being a popular leadership of Indonesia is healthy nationalism, as it has let go of anarchy, liberalism and the spirit of colonialism.

In connection with this deliberation, Soekarno states that there are 3 (three) things that could provide progress to the people living in a country protected by the greatness of the God. First, on the basis of the deliberation, humans refine their struggle and work on the path of the God, by opening their minds in consultation with fellow humans. Second, through consultation, the state is not borne by a human or a complicated person's perspective. The state should be held by all groups; thus the state is not related to someone. Everyone does his duty and all problems can be solved by deliberation and consensus. Third, deliberation understates or eliminates the mistakes of a person's establishment or behavior and deliberation brings the state to the right action and eliminates all errors.

Such reality shows that democracy led by wisdom in consultation / representation contains philosophical ideals. First, democracy is a basic philosophy and spiritual basis. Furthermore, it can also be called that democracy is a philosophical ideal, that the state is essentially for all people. Therefore, democracy is a philosophical ideal concerning political and socio-economic democracy, so democracy is not focused on one thing but has broader senses. Second, consultation / representation, namely that the definition of democracy cannot be separated from the notion of consultation / representation. Representative consultations relate to the notion of political democracy. So this political democracy is an absolute requirement for the achievement of populist (Kaelan, 1996).

Therefore, if the minutes of the formulation of the 1945 Constitution are considered, the existence of the MPR as an institution is an embodiment of the representation of all the people of Indonesia, and has the highest authority in the State. Muhammad Yamin in relation to the constitutional structure that will be built recommends that in front of the Head of State and Deputy Head of State is a Consultative Assembly for all the people of Indonesia, which is the highest power in the republic. The power held by consultants throughout the Indonesian people is occupied, not only by the representatives of the Indonesian regions, but also by the representatives of the entire Indonesian group or people, who are freely elected by the people with the most votes. This context shows that the existence of the Consultative Assembly at the level of the founding fathers was intended as a place of deliberation for all the people of Indonesia, so that it is placed as the highest institution of the State. Based on the identification of the problem and the purpose of this study, the specification or type of research is descriptive (Lubis, 1994), because this research is intended to obtain an overview of the existence of the MPR after the Amendment to the 1945 Constitution in the perspective of Pancasila democracy.

With regard to this research, the implementation of Pancasila democracy in relation to the MPR will be analyzed, both historically by the founding fathers and after the Amendment to the 1945 Constitution, so that a holistic study can be obtained in order to establish an Indonesian constitutional format.

## Research Method

The approach method used in this study is a normative juridical research method (legal research) (Soekanto and Mamudji, 1985). by using several approaches to be able to answer the problems under study, namely: the statute approach, conceptual approach and historical approach (Marzuki, 2005; Sidharta, 2000). Normative legal research is used, because the data studied are in the form of secondary data or legal literature, covering primary, secondary and tertiary legal materials (Sunggono, 2001).

The legislative approach is used to examine in depth the regulations relating to legal products in the MPR (People's Consultative Assembly), DPR (House of Representatives) and DPD (Regional Leadership Council) as constitutional juridical implementation of the 1945 Constitution of the Republic of Indonesia, such as Law No. 17 of 2014 concerning the MPR, DPR, DPD and DPRD (Regional House of Representatives) as amended by Law No. 2 of 2018.

The conceptual approach is used to be able to understand the existence of the MPR in the Indonesian parliament system, which currently consists of members of the DPR and DPD members, without the Group Envoy desired by the founding fathers. Historical research is intended to examine in depth the existence of the MPR as an institution in historical aspects, especially in the formulation of the MPR in various sessions of the Investigation Board of Preparatory Undertaking for Indonesian Independence (BPUPKI) as well as the Preparatory Committee for Indonesian Independence (PPKI) until the establishment of the 1945 Constitution.

## Results

After the Amendment to the 1945 Constitution, the position of the MPR in the Proclamation Constitution was placed as the highest state institution and the holder of popular sovereignty, and today the institutional structure of the state has been degraded to be an institution equal to other State institutions, such as the House of Representatives, the Council Regional Representatives, the Supreme Court and the Constitutional Court, the President and others through the implementation of the checks and balances system, whereas according to Asshidique (2004), in the perspective of the division of power, the principle of equality and balance of power is not primary.

In this connection, and for the futuristic view, a comprehensive study of the position of the MPR is needed as an independent institution and has the highest position in the State institutional system, so as not to injure the mandate of the founding fathers in the Proclamation Constitution. For this reason, of course if we want to reinstate the MPR in the highest structure, then the membership is not only the DPR and DPD, but also the Group Representatives as functional representation, which in turn is reflected in the MPR, and this is a specific state institution which comes from values rooted in society.

The existence of Group Representatives in MPR membership has very strong historical roots. The concept of Group Representatives (UG) reflects the adoption of the notion of a system of functional representation in our country's constitution. In a broader sense, the delegation of this group is associated with other functional groups whose aspirations cannot be represented through the mechanism of political representation, such as religious groups, scholars, professional groups, women, laborers, educators (teachers), farmers, fishermen and so on, are certainly carried out through a special selection mechanism in the Pancasila democracy formula. The position and structure of the MPR after the Amendment to the 1945 Constitution is no longer the center of all branches of government and is no longer the highest institution of the State that fully implements popular sovereignty - before the Amendment, the MPR was fully implementing people's sovereignty (Zoelva, 2016).

This is an erroneous paradigm if the formulation of the Amendment to the 1945 Constitution only places political representation and regional representation in the MPR structure, and makes the MPR only as an equal state institution with other state institutions, eliminating the original thought developed by the founding fathers at the time of formulation of The 1945 Constitution by the Board of Preparatory Undertaking for Indonesian Independence (BPUPKI) and the Indonesian Independence Preparatory Committee (PPKI).

On the other hand, strengthening the presidential government system in the construction of the 1945 Constitution of the Republic of Indonesia, has implications for the full submission of development policy (public policy) to the elected President. The existence of the President and his authority basically comes from attributive authority, which gives birth to new powers, and is carried out by an entity whose formation is based on legislation (authorized organs).

Mulyosudarmo (1997) states that the process of distribution only involves two parties, namely the owner of power and the recipient of power. Giving power to the subject of a new law, can also be said as the formation of power. In each formation of power there will be a problem of supervision, namely an oversight of legal subjects that form power over legal subjects formed or given power, only in the context of the formation of attributes that are attribute, not necessarily known to whom the recipient of power must be responsible for.

The fact that arises from this arrangement is that the five-year State policy is basically in the hands of individuals (President), without an accountability mechanism, so that at the level of practice the direction of state life policy is not based on a systematic direction, which can endanger the integrity of the State, because the national development agenda is only based on the vision and mission of the elected President, who has a subjective tendency.

In such implications, it can be noted that there are times when the Government takes policy making on strategic industries, without any policy accountability mechanism to the MPR, such as President Joko Widodo in the 2017 National Musrenbang (Development Planning Deliberation) ordering State-owned Enterprises to sell completed infrastructure projects to the private sector. This pattern is done so that the state-owned enterprises get fresh funds to be able to build other infrastructure projects quickly. The implementation of the Ministry of Transportation has handed over the management of 20 ports and 10 airports to the private sector, with the reason that budget savings are sourced from the state budget, even though the authorities remain with the Government, including those that are handed over to the private sector are toll roads, which are economically possible, because it will further burden the community and contradict Article 33 of the 1945 Constitution of the Republic of Indonesia:

- (1) The economy is structured as a joint effort based on the principle of kinship;
- (2) Production branches that are important to the state and which control the livelihood of many people are controlled by the state;
- (3) The earth and water and natural resources contained therein are controlled by the state and are used for the greatest prosperity of the people;
- (4) The national economy is organized based on economic democracy with the principle of togetherness, efficiency with justice, sustainability, environmental insight, independence, and by maintaining a balance of progress and unity of the national economy.

Such construction shows that the regulation of the existence of the MPR today has basically injured Pancasila democracy which is based on deliberations of consensus in decision making, because it is no longer designed as a 'big house' of the Indonesian people where deliberation and accountability of various state

institutions, not individuals like America, the notes are based on the philosophy of individualism and liberalism, so that today there is a presumption that development policies are without direction.

The practice of oligarchy shows that sovereignty has been taken arbitrarily by political parties from the people. As a result, the people lose the most valuable and most basic rights in the state. So, nothing should be done other than to take back the sovereignty which has been taken by officials and political parties to be returned to the people. Sovereignty in this context is certainly not only translated as political power, choosing people's representatives and so on. Sovereignty must also be understood in relation to welfare, justice, prosperity and so on (Siregar, 2015).

Such a constellation shows that the MPR as a form of power in the 1945 Constitution of the Republic of Indonesia (as constitution-forming) needs to be reconstructed in accordance with the spirit of Pancasila democracy, with several reasons as follows:

First, Indonesia, which is based on the joint sovereignty of the people based on consensus agreement, implies that the MPR (which currently consists of DPR and DPD) is a manifestation of the representation of the Indonesian people. Therefore, ideally in Indonesia the MPR must be a specific institution in Indonesian constitution born of national cultural roots, not based on mere division or separation of powers which is the adoption of American and European democratic values, tending to be individualism and liberalism.

Second, the position of the MPR as a body formed based on the constitution has the authority to form new powers (attribution and delegation) given to other state institutions, which are also based on the 1945 Constitution of the Republic of Indonesia, so that it needs to be returned to the nation's soul (volkgeist) by reconstructing MPR membership consisting of DPR, DPD and Group Representatives.

Third, it is the accountability mechanism. Today, various state institutions do not have an accountability mechanism arrangement, even though in a power, so as not to create absolutism, it is necessary to regulate accountability. In this context, if the MPR is placed back as the holder of popular sovereignty, then other state institutions will have implications for being responsible to the MPR.

## Conclusion

The study revealed that it is necessary to reconstruct the MPR as the highest state institution in the Indonesian constitutional system, as a manifestation of the joint state based on people's sovereignty carried out through the principle of consensus agreement, which consists of various components of the DPR, DPD (political and regional representation) and functional representation originating from the roots of national culture. It is to reassign the MPR as the holder of popular sovereignty in accordance with the Constitution of the Proclamation, as an institution that represents all the people of Indonesia, so that there is a mechanism for the institution of accountability in the constitutional system.

## References

- [1] Asshiddiqie, J. 2004. *Format of State Institutions and Shifts of Power in the 1945 Constitution*. UII Press.
- [2] Bakar, M. 1987. *People's Sovereignty and Its Implementation after the Presidential Decree July 5, 1959*. Dissertation of Padjajaran University, Bandung, 1987.
- [3] Kaelan, K. 1996. Pancasila Precepts Unit. *Journal of Philosophy* 1 (1), 42-52.
- [4] Lubis, M. S. 199. *Philosophy of Science and Research*. Bandung: Mandar Maju.
- [5] Marzuki, P.M. 2005. *Legal Research*. Jakarta: Kencana Prenada.
- [6] Mulyosudarmo, S. 1997. *The Transfer of Power: Theoretical and Juridical Study of Nawaksara's Speech*. Jakarta: Gramedia.
- [7] Sidharta, B. A. 2000. *Reflections on the Structure of Legal Studies, A Study of Philosophy Funding and the Scientific Nature of Legal Studies as the Foundation for the Development of Indonesian National Law*. Bandung: Mandar Maju.
- [8] Siregar, Sofjan S. 2015. *Ijtihad Democracy*. Rotterdam: Nasuha Center.
- [9] Sukanto, S., and Mamudji, S. 1985. *Normative Legal Research: A Short Review*. Jakarta: Rajawali.
- [10] Sunggono, B. 2001. *Legal Research Methodology*. Jakarta: Rajawali Press.
- [11] Yamin, M. 1971. *Manuscript Preparation for the 1945 Constitution of Indonesia* Vol II, III.
- [12] Zoelva, H. 2016. Implementation of the Pancasila Ideology in Indonesian State Administration. *Journal of State Administration*, 1.