



DOI: <https://doi.org/10.38035/gijlss.v4i2>
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Concept of Position and Role People's Consultative Assembly as an Embodiment of People's Sovereignty in the State System in Indonesia

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Abstract: The People's Consultative Assembly (MPR) is a state institution classified as a bicameral legislative institution in the constitutional system in Indonesia, with a membership composition consisting of members of the DPR and DPD. Condition gives rise to several potential problems, including conflicts of interest in carrying out their duties and authorities, so that it will be difficult to realize a people's sovereign democracy. It shows that first, the current position of the MPR is not related to a people's sovereign democracy, because there is a distortion of interests between the interests of the people and the interests of political parties, making it difficult for the MPR to accommodate the interests of the people. The importance of restructuring the position and role of the MPR to guarantee the upholding of the supremacy of democracy and the supremacy of the constitution, as mandated by the 1945 Constitution of the Republic of Indonesia.

Keywords: People's Consultative Assembly, Popular Sovereignty, Realignment.

INTRODUCTION

The Constitution mandates that "the State of Indonesia is a state of law", this is regulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. As a country based on law, the Constitution, which has the position as the highest legal norm, must be placed as the basic instrument that regulates the structure of the Indonesian constitutional system. Therefore, state administration and other matters relating to state organs or institutions and the functions attached to them need to be regulated in the Constitution. Apart from that, the formation and changes to the constitution itself also need to be regulated in the constitution, such as the mechanism for its formation and changes and which state organs or institutions have the authority to form or change it.

The constitution acts as the basic law or highest legal norm that forms the basis of an organization or state in the context of an organization of power. The main function of a constitution is to determine the division of power, protect individual rights, and establish basic

values that a society must uphold. Therefore, the term constitution is commonly referred to as a collective agreement or social contract that regulates state buildings.

The state constitution enshrines the supremacy of democracy or popular sovereignty, as regulated in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) which states that "Sovereignty is in the hands of the people and is implemented according to the Constitution". The meaning of the mandate of this article is to place democracy as a means of achieving state goals. The democracy implemented in Indonesia is a constitutional democracy based on Pancasila. The implementation of democracy or popular sovereignty is carried out by all state organs including the MPR.

The concept of a democratic state in the literature is known as a form or mechanism of how the government system in a country is run or organized as an effort to realize popular sovereignty (citizen power) over the country to be carried out by the government of that country. Burkens' opinion clarifies the concept of democracy by stating the minimum requirements for democracy, as follows: (Aminuddin 2014)

1. Everyone has the same rights in free and secret elections;
2. Everyone has the right to be elected;
3. Everyone has political rights in the form of the right to freedom of opinion and assembly;
4. Representative bodies influence decision-making through the right to participate in decisions (made *beslissing recht*) and/or through supervisory authority;
5. The principle of openness in decision-making and the open nature of decisions;
6. Respect for the rights of minorities.

Furthermore, in the context of constitutional democracy, a country should ideally develop a democratic concept based on its constitution. Constitutional democracy is a set of democratic ideas, principles, values, and behavior based on the Constitution, (Jimly Asshiddiqie 2005) a democratic government whose power is limited and the government is not permitted to act arbitrarily. (Miriam Budiardjo 2008)

Democracy without a legal basis will result in a country without order, while a legal state without the support of democracy will become an authoritarian rule, without firm, consistent, and transparent law enforcement, the democratic system will lead to anarchy, without law democracy can actually develop in the wrong direction. wrong because the law will be interpreted wrongly by the authorities in the name of democracy. (Bambang Yuniarto 2018) According to Frans Magnis Suseno, there are five essential characteristics of a democratic state, namely: (Frans Magnis Suseno 1995)

1. Rule of Law;
2. The government is under real control of the community;
3. Free general elections;
4. Majority Principle; and
5. There is a guarantee of democratic rights.

In a democracy, a constitution's existence is not only intended to be an obligation for the sustainability of democracy but also how the constitution can be widely accepted by the people. According to N. R. L. Haysom, the constitution as the basis of democracy must fulfill two inseparable requirements, namely, support and at the same time acceptance of the majority by various elements of society at all levels and regions. This is very important to maintain the integrity of the nation because it contains different values, culture, religion, race, and identities that are easily broken. From here it follows that the importance of the constitution as a foundation for all diverse members of society, so that all their needs and interests are protected, protected, and integrated into common interests and welfare. (Soimin dan Mashuriyanto 2013) In addition, to ensure the implementation of democratic supremacy, then the basis of

democracy or popular sovereignty must be based on the application of constitutional supremacy.

The implications of popular sovereignty implemented according to the constitution include, among other things, that the state must be governed and run according to the constitution. It is called a constitutional government when it fulfills 3 (three) elements, namely First, the implementation of government must be based on public interests; Second, the implementation of government must be based on law, where the law is not made based on arbitrariness; Third, there must be no pressure or coercion in the implementation of a government and the implementation of the government must be based on the will of the people. (Krisna Harahap 2003)

Constitutional supremacy is the foundation for a legal state, where the law has binding force on all parties and guarantees the protection of citizens' rights. This principle is the basis for stability, justice, and respect for the values recognized in a country's constitution, so it is a very important element in the legal system and government. In principle, a country's constitution or basic law, among other things, is a record (registration) of the distribution of powers within a country. The division of power according to function shows the differences between legislative, executive, and judicial government functions which are better known as Trias Politics. (Miriam Budiardjo 2005) The division of power within the state includes, among other things, the horizontal distribution of power to state organs or institutions.

Referring to its development, from independence until now, of the many state institutions, the MPR is the state institution that receives more attention from the public, this is due to its position and authority. In the pre-reform era, in the global scope, the MPR was often said to be a "different" state institution in terms of its position being higher than the DPR. Parliament is a representative institution whose members are elected through a general election process. The situation is different with the MPR, where representatives or those appointed as members of the MPR are produced through general elections or can be appointed as members of the MPR. (Krisna Harahap, 2003)

In the constitution or UUD before the amendment, the MPR was a state institution representing the people's sovereignty and political interests. This is as mandated in Article 1 paragraph (2) of the Constitution, which states that "Sovereignty is in the hands of the people, and is exercised entirely by the People's Consultative Assembly". The Constitution before the amendment placed the MPR as the highest state institution. In its development or after amendments to the Constitution, the MPR was placed on an equal footing with other state institutions, meaning that the MPR was no longer positioned as the highest state institution. The change in the position of the MPR conceptually reflects the distribution of the implementation of popular sovereignty to various state institutions. Every state institution included in the branch of power carrying out the mandate or state and government (except the branch of power which carries out the function of judicial power) carries out the sovereignty of the people and must obey and be responsible to the owner of the sovereignty, namely the people. (Sobirin Malian 2022)

Based on the third amendment to the Constitution, the implementation of popular sovereignty and the position of the MPR as the highest state institution changed. This change can be seen in the amended articles, namely: (Abu Samah 2022)

1. Article 1 paragraph (2) of the 1945 Constitution has the old formula: Sovereignty is in the hands of the people and is fully implemented by the People's Consultative Assembly.
2. Article 1 paragraph (2) of the 1945 Constitution, new formulation: Sovereignty is in the hands of the people and is implemented according to the Constitution.

There are several arguments put forward in the amendment to Article 1 paragraph (2) of the 1945 Constitution, namely:

1. The MPR is no longer fully an institution that exercises popular sovereignty. Contrarily, the MPR still exercises popular sovereignty even though it already has authority.
2. Through this new formulation, the Preamble to the 1945 Constitution of the Republic of Indonesia has returned to the understanding of popular sovereignty, meaning that it no longer adheres to the understanding of state sovereignty.
3. Some people's sovereignty is directly exercised by the people, while others are exercised by bodies/institutions according to the Constitution.
4. Experience system changes, from the MPR system to the UUD system, where the Constitution is the main reference in implementing the 1945 Constitution.
5. The terms highest state institutions and high state institutions are no longer known.

The composition of the MPR membership as regulated in the Constitution before the amendment consisted of members of the People's Representative Council, plus delegates from regions and groups, according to the rules established by law. Meanwhile, the composition of the MPR membership as regulated in the Constitution after the amendment consists of members of the People's Representative Council and members of the Regional Representative Council who are elected through general elections and are further regulated by law.

The People's Consultative Assembly is a state institution that is classified as a bicameral legislative institution in the Indonesian constitutional system. MPR members consist of members of the People's Representative Council and Regional Representative Council, as mandated in Article 2 paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Members of the DPR are also members of the MPR and are people who are affiliated with or have the status of political party cadres. The number of MPR members who come from the DPR is greater than the number of MPR members who come from the DPD, for example in the 2019-2024 period the total MPR members were 711 members consisting of 575 DPR members and 136 DPD members.

The large number of DPR members in the MPR means that DPR members in the MPR have great political power, so they can influence every decision made by the MPR. In other words, the MPR as a state institution is not autonomous, because as a member it is dependent on other state institutions, the largest portion of which is politically and legally held by the political power of the DPR which is related to political parties.

In this research two problems are formulated that will be discussed, namely what are the limits of the position of the People's Consultative Assembly as the embodiment of people's sovereignty in the constitutional system in Indonesia; and what is the concept of restructuring the position of the People's Consultative Assembly as an embodiment of popular sovereignty in the constitutional system in Indonesia

Departing from various matters as described above, it is necessary to reposition or rearrange the position of the MPR, such as restructuring the composition of the MPR membership and restructuring other roles in state administration. Referring to the results of the study by the Working Team for the Study of the Indonesian Constitutional System, the People's Consultative Assembly of the Republic of Indonesia, then regarding the MPR, one of the things that requires institutional strengthening, where the MPR is the state institution that has the highest authority in changing, enacting, interpreting the Constitution, and providing policy direction to other state institutions. (Anindita Purnama Ningtyas, at all 2019)

METHOD

This research was carried out using normative juridical research methods, by reviewing library materials or secondary data in the form of statutory regulations, theories, principles, and doctrines that relate to the position and role of the People's Consultative Assembly as the embodiment of People's sovereignty in the constitutional system in Indonesia, as well as other

aspects related to the object of research. Normative juridical research discusses doctrines or principles in legal science. (Zainudin Ali 2009)

Within the scope of legal science, studies related to legal principles have an important position, because statutory regulations are composed of a foundation of legal principles. Satjipto Rahardjo interprets "legal principles as ratio legis or the heart of legal regulations. Thus, it can be said that legal principles are the basis for the birth of a regulation or law." In line with what Yudha Bhakti stated, "legal principles are the basic concepts that guide the formation of law, where in the process of law formation they are concreted and further explained. Therefore, it can be said that "if it is not based on legal principles, the positive law that is formed will have no meaning, and its normative character will be lost, which in turn legal principles need a juridical form to become positive legal rules". (Bachtiar 2018)

RESULTS AND DISCUSSION

Limitations of the Position of the People's Consultative Assembly as the Embodiment of People's Sovereignty in the Constitutional System in Indonesia

The collapse of the New Order regime which was followed by the onset of the reform era was a turning point in the change in the political structure or configuration from authoritarian to democratic, this phase marked the return of democratic supremacy or popular sovereignty based on Pancasila. he states constitution mandates democratic supremacy or popular sovereignty, as stated in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia.

The meaning of the mandate of Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia is that the democracy implemented in Indonesia is a constitutional democracy based on Pancasila, and the role in implementing democracy or popular sovereignty is carried out by all state organs, including state institutions such as the MPR. The implications of democracy or popular sovereignty implemented according to the constitution include, among other things, that the state must be governed and run according to the constitution.

The constitution mandates that Indonesia is a state of law, this is regulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Regarding the rule of law, Sri Soemantri stated that four elements must be fulfilled, namely: (Sri Soemantri 1992)

1. The implementation of the Government's duties and obligations (in the broadest sense) must be based on law. The law in question is written and unwritten law;
2. Within the state there must be guarantees for human (and citizen's) rights;
3. There is the distribution of power (a division of power); and
4. In the state there must be judicial supervision (by judicial bodies).

As a country based on law, the constitution which has the position as the highest legal norm must be placed as the basic instrument that regulates the structure of the Indonesian constitutional system. Therefore, state administration and other matters relating to state organs or institutions and the functions attached to them need to be regulated in the Constitution. In the constitution or UUD before the amendment, the form of popular sovereignty was represented by the MPR, as regulated in Article 1 paragraph (2) of the Constitution.

The position of the MPR as regulated in the Constitution before the amendment was as the highest state institution. There is a difference between what is regulated in the constitution or UUD after the amendment, where the position of the MPR is only as a state institution whose position is horizontally equal to other state institutions. Apart from that, in the Constitution before the amendment, the MPR had duties and authorities, namely:

1. Establish the constitution and gbnh;
2. Elect, inaugurate, and dismiss the president and/or vice president.

The position of the MPR as the "incarnation of the Indonesian people" or as the "Supreme State Administrator" tasked with finding ways to best obtain happiness for the Indonesian people. At the same time, of course, you have to think about what the basics of the organization should be, and what direction it should follow. For this purpose, regulations are also needed.

After the amendment to the Constitution, the duties and authorities of the MPR changed. The duties and authorities of the MPR include:

1. Amend and establish the Constitution;
2. Inaugurate the president and/or vice president elected in the general election;
3. Dismiss the President and/or Vice President during their term of office according to the Constitution;
4. Appoint the vice president as president if the president dies, resigns, is dismissed, or is unable to carry out his obligations during his term of office;
5. Elect a Vice President from two candidates proposed by the President if a vice president is vacant;

The amendment to the 1945 NRI Constitution changed the position of the MPR which directly changed the concept of sovereignty within the constitutional domain. The form of popular sovereignty is no longer fully represented by the MPR and the political interests of the people are no longer fully manifested within the boundaries of the MPR's authority. In this case, the MPR's position is equal to other state institutions.

Concept of Rearranging the Position of the People's Consultative Assembly as the Manifestation of People's Sovereignty in the Constitutional System in Indonesia

The People's Consultative Assembly is a state institution that is classified as a bicameral legislative institution in the Indonesian constitutional system. MPR members consist of members of the DPR (People's Representative Council) and DPD (Regional Representative Council), as mandated in Article 2 paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Members of the DPR are also members of the MPR and are people who are affiliated with or have the status of political party cadres. The number of MPR members who come from the DPR is greater than the number of MPR members who come from the DPD, for example in the 2019-2024 period the total MPR members were 711 members consisting of 575 DPR members and 136 DPD members.

The large number of DPR members in the MPR means that DPR members in the MPR have great political power, so they can influence the role of the MPR, such as in making decisions issued by the MPR. This condition gives rise to various kinds of potential, including the MPR's decision having the potential to have strong political overtones, because the MPR members, one of whom comes from the DPR, do not rule out the possibility of their decisions being influenced by external parties such as political parties, this is logical because the DPR members are people -people or cadres from political parties.

If the MPR's decisions are more influenced by external parties such as political parties, it will be difficult for the MPR to carry out its role as a state institution that represents the political interests of the people in realizing people's sovereignty.

The concept of restructuring the position and role of the MPR is greatly influenced, among other things, by the composition of its membership. In terms of membership composition, it is necessary to fulfill the balance aspect to create checks and balances in the implementation of its duties and authority, and what is no less important is to realize democratic supremacy which is implemented according to the constitution based on Pancasila. Thus, the composition of the MPR membership must pay attention to the balance between national interests, and regional interests and needs to be supplemented by accommodating the interests of functional groups. This is directly proportional to the essence of the MPR as a representation

of the political interests of the people in the realization of popular sovereignty as mandated in the Constitution before the amendment, where there are three elements of membership in the MPR, namely:

1. DPR members who reflect the principle of people's representation, the election involves political parties.
2. Delegates from the regions who reflect the principle of regional representation to realize national unity and state unity; and
3. Delegates from groups who can balance the power of political representatives.

To maintain balance and minimize conflicts of interest, the composition of MPR members needs to be determined proportionally, where the number of DPR members who will also serve as MPR members must be balanced with the number of delegates from the regions, and must also be balanced with the number of delegates from groups with backgrounds consisting of religious, socio-cultural, economic, academic and other entities.

By restructuring the MPR in terms of its membership, the role of the MPR in carrying out its duties and authority can minimize the occurrence of conflicts of interest, especially between the interests of the people and external parties such as political parties. The arrangement of MPR membership will create a balance between the three powers together with their three interests, namely national, regional, and group powers, and interests. Thus, efforts to realize democratic supremacy implemented according to the constitution based on Pancasila can be realized.

Democratic supremacy or the manifestation of popular sovereignty in Indonesia must be in line with the values contained in Pancasila, especially the 4th Principle, which can be described into four principles, namely: (Ahmad Basarah 2017)

1. In principle, an absolute requirement for the strength of the Indonesian State is deliberation and representation. In the next representation, there will be a great struggle. There is no living state that is truly alive if within its representative body, it is not as if the Chandradimuka crater is boiling if there is no struggle for understanding within it;
2. In principle, by consensus we can improve everything, including national safety, namely by deliberation and consensus within the People's Representative Body;
3. In principle, emphasizing that the Indonesian people do not recognize a system of majority dictatorship or minority tyranny; and
4. In principle, the Indonesian people in making decisions are always guided by the values of divinity, humanity, unity, and justice in the spirit of wisdom in deliberation/representation to realize social justice.

Referring to the values of Pancasila as the basis of the state, power must be placed in the corridor of "rights" and "obligations" or what is called authority, so that every power exercised by a power organization (the state), one of which is the MPR, must be aimed at efforts to realize the happiness or welfare of the people. Thus. State equipment such as the MPR has the task of making efforts to achieve this goal. In using its authority, all state instruments such as the MPR must prioritize the interests of the people, the law and the will of the people. This means that the authority exercised is not for personal or group interests, so every exercise of this authority must take into account the basis of people's sovereignty.

This means, both in forming regulations, and in implementing these regulations or any actions necessary to achieve the happiness of the nation, one must not act arbitrarily. This is where respect and protection of human rights lie. Furthermore, its implementation must be carried out guided by the wisdom of the Deliberation–Representatives.

Referring to the description above, apart from its membership, another thing that needs to be reorganized relates to the position and role of the MPR, namely the mechanism for

decision-making. When referring to Article 2 paragraph (3) of the Constitution of the Republic of Indonesia, decisions made by the MPR are determined by a majority of votes. These provisions shift from the values contained in Pancasila, especially the 4th Principle, the majority vote should be placed as the second choice, in other words, deliberation to reach consensus must be prioritized in every decision-making in the MPR. This is important because by making decisions through deliberation to reach consensus, it will be more likely that the resulting decisions reflect the values contained in the other precepts in Pancasila.

CONCLUSION

Amendment to the 1945 Constitution of the Republic of Indonesia, changing the position and role of the MPR which directly changes the concept of sovereignty within the constitutional domain. Sovereignty is no longer fully exercised by the MPR institution and the political interests of the people are no longer fully manifested within the boundaries of the MPR authority.

Restructuring the position and role of the MPR is a step that needs to be taken to ensure the realization of democratic supremacy which is implemented according to the constitution and is based on Pancasila. The role of the MPR is supported by the existence of its membership, so in terms of its membership, the MPR must represent the various strengths and interests of all elements of the nation. In terms of political power and national interests based on people's representation, DPR members remain part of the MPR members, in terms of political power and regional interests based on regional representation, so regional delegates also take on the role of members of the MPR, then to balance the power of political representatives at both the national and regional levels there needs to be delegates from groups who are also members of the MPR. Furthermore, the decision-making mechanism in the MPR must prioritize consensus deliberation, while the decision-making mechanism by majority vote is placed as the second option.

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