

Institution of the People's Consultative Assembly of the Republic of Indonesia After the Amendments to the 1945 Constitution in State Administration

Firman Freaddy Busroh

STIH Sumpah Pemuda, Palembang

firmanbusroh@gmail.com

* corresponding author

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ABSTRACT

Four times, in 1999, 2000, 2001, and 2002, amendments to the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) were made. With the amendments to the 1945 Constitution of the Republic of Indonesia, the Indonesian constitutional system, particularly the institution of the MPR-RI, has undergone substantial alterations. Based on the 1945 Constitution and the Fourth Amendment, the Indonesian parliament might be composed of three chambers or institutions simultaneously. This is justifiable due to the MPR's establishment as a separate organization from the DPR and DPD. The 1945 Constitution continues to grant the MPR independent authority from the DPR and DPD. The purpose of this study is to determine the existence of the MPR after the 1945 Constitution was amended in accordance with the Indonesian Constitution. This study employs a qualitative approach and descriptive methodologies. In our constitutional system, the Indonesian legislative institution does not correspond to the concept of bicameralism as conceptualized by experts; rather, it adheres to the concept of tricameralism. This is proven by the existence of the MPR, DPR, and DPD, which each possess equal authority but are still superior to one another. Due of this, some refer to the Indonesian parliamentary system as a half-hearted tricameral.

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I. Introduction

Four amendments to the 1945 Constitution of the Republic of Indonesia have placed the Indonesian Constitution as a solid constitutional state. The Constitution, which was initially almost turned into a "holy book" during Soeharto's reign, was changed by the current democratization trumpeted by reformers. During this rolling democratic transition, the Constitution was changed to respond to political changes and constitutional dynamics [1]. The first amendment to the fourth amendment to the Constitution still implies an unequal relationship between state institutions, especially in the scope of legislative powers. The House of Representatives is still working with the president in drafting laws, which should not have happened in a presidential system. Although it is also recognized, that is what characterizes Indonesia [2]. The People's Consultative Assembly was initially a separate institution and had ultra-power power because all of it was based there, making it the highest state institution that was transformed into a state institution that was equal to other state institutions.

Predating the amendments to the 1945 Constitution, the People's Consultative Assembly (MPR) was set up as a forum for the expression of all sovereign people and as a body to whom the president would be answerable for carrying out his constitutional responsibilities. Under the Clarification of the 1945 Constitution, the President is responsible to the MPR. Based on this definition, the MPR represents the collective sovereignty of Indonesia [3]. Because of this, all decrees issued have precedence over other legal goods indicated by the President, the DPR, or the Supreme Court. In this sense, the MPR(S) Decree is superior to statutes and other administrative rules [4].

Before the amendment, the MPR was responsible for (i) establishing the Constitution, (ii) modifying the Constitution, (iii) electing the President and/or Vice President, and (iv) establishing the broad outlines of national policies [5]. According to Jimly Asshiddiqie (2014), the 1945 Constitution, prior

to its alteration, provided very concise and straightforward principles or directions of state policy. This means that, in addition to the Constitution of 1945's established guidelines, further, more explicit state guidelines are required.

In light of these factors, regulations outlining the intended state directions with sufficient binding force are required. The MPR/S Decree is superior to the law since the MPR is more powerful than the president and the DPR [6]. MPR/S decrees that are regulatory also have the status of a constitution because they are made and determined by the same institution that establishes the Constitution [7]. The MPR/S Decree as a legal product that regulates (regelung) is a form of MPR's interpretation of the 1945 Constitution and the Decree containing the state policy contained in the 1945 Constitution. is a change in the Constitution in an unofficial form according to the provisions of Article 37 of the 1945 Constitution [4].

In 1945, the Constitution was amended to change the concept of popular sovereignty, which had an effect on the MPR's standing and power. Since other government bodies have acquired MPR Decree-issuing authority under the 1945 Constitution, the MPR no longer has that authority. While the MPR does serve as a joint session of the DPR and DPD, its principal function is that of a constituent institution (with the authority to amend and stipulate the Constitution) [8]. The People's Consultative Assembly now has the power to amend and create the Constitution, as stated in a change to Article 3 of the Constitution from 1945. [9].

After the 1945 Constitution was revised, the MPR gained the power to I create the Constitution, (ii) make constitutional changes, and (iii) inaugurate, dismiss, and elect the President and Vice President. The text of the modification to the 1945 Constitution removes the MPR's authority to set the contours of state policy, and as a result, the MPR is no longer able to do so (Nugraha, 2019). As a result, the MPR cannot legislate its Decrees into effect. Consequently, I was tasked with evaluating the practical and legal standing of MPR Decrees and Provisional MPR Decrees in accordance with the Fourth Amendment of the MPR via Article I of the Additional Rules to the 1945 Constitution. In accordance with Article I of the Additional Rules, 139 MPR Decrees and MPRS Decrees from 1960-2002 were reviewed at the 2003 MPR annual session. MPR Decree No. I/MPR/2003 was issued as a consequence of the review; it is titled "Review of the Material and Legal Status of Decrees of the Provisional People's Consultative Assembly and Decrees of the People's Consultative Assembly of the Republic of Indonesia"[10].

It is unclear whether the People's Consultative Assembly is a physical chamber within parliament or whether it follows the constitutional reasoning that it is composed of both the People's Representative Council and the Regional Representatives Council [11]. Furthermore, the House of Representatives is invested with more power by the Constitution than the Regional Representatives Council is. The House of Representatives and the Regional Representatives Council both wield legitimacy power, albeit to varying degrees, from the perspective of the parliamentary system and democratic participation. different This is according to [12]. While both the People's Representative Council and the DPR Regional Representatives are elected by the people in free and fair elections, the People's Representative Council's constituents are those represented by political parties, hence the term "political representative," while the DPR Regional Representatives are elected on the basis of their geographic districts [13].

In light of what has been said about the problem's context, the question that arises is this: given that the Constitution of Indonesia has been amended, how does the People's Representative Council, the Regional Representative Council, and the People's Consultative Assembly all function as distinct chambers of the representative body of Indonesia?.

II. Methods

The research methodology is the planned and methodical approach to the research problem. Work is at the heart of the research method, which entails the processes and approaches used to better comprehend the study's stated objective. This study employs a normative judicial approach. The focus of normative legal study is on secondary sources, such as law reviews [14]. The study followed a descriptive-analytical design. In contrast to quantitative analysis, analytical description offers a synopsis, clarification, and interpretation of the data [15]. Secondary data from the field of law, namely, is used in this study to shed light on issues of constitutional law. Official documents, books,

and study findings presented in reports, diaries, and other formats all fall under the category of secondary data. Utilizing primary legal sources, secondary legal sources, and tertiary legal sources, we will conduct research using the normative juridical approach, as described above [16].

III. Result and Discussion

A. Representative Institutions in Indonesia

The People's Representative Council and the Regional Representative Council are the two branches of Indonesia's representative government. Others, however, argue that the People's Consultative Assembly makes four representative bodies in Indonesia. This is why the question of whether Indonesia uses a bicameral or tricameral system of government remains contentious.

There has been a wide range of reactions to the People's Consultative Assembly's status as a distinct legislative chamber in Indonesia. According to some, like [17], the People's Consultative Assembly's status as a distinct legislative body in Indonesia is viewed quite differently depending on who you ask. It stated that the People's Consultative Assembly's authority under the Constitution remains in effect. If both the President and Vice President offices become empty, the People's Consultative Assembly will continue to have the power to choose their successors. The People's Consultative Assembly has the power to remove the President and Vice President from office, according to the Constitution. In addition to ratifying new laws, the People's Consultative Assembly can alter existing ones. Final thought: the People's Consultative Assembly can officially swear in the President and Vice President as well. As a result, the People's Consultative Assembly is mandated under the Law on the Composition and Position of the MPR, DPR, DPD, and DPRD of 2003 to continue to be led by a figure chosen independently of the People's Representative Council and the Regional Representative Council, as reported by [18].

The existence of the People's Representative Council, which is a forum between the House of Representatives and the Regional Representatives Council, is a phenomenon that shows that our parliament has three chambers. With the authorities mentioned above, in practice, the Indonesian parliament has quite significant differences compared to parliaments in other countries, such as the United States, which only has two chambers that are given equally strong powers [19].

Furthermore, the long-standing People's Legislative Assembly in the Constitution will have to share its authority with a new body known as the Regional Representatives Council. Legislation, budget, and oversight are the three constitutional responsibilities of the House of Representatives, which are determined by popular vote. The People's Representative Council represents the official institutionalization of democracy, making its existence both a historical danger and a requirement for a democratic nation [20].

However, it's thrilling to see a new institution emerge as part of the parliament: the Regional Representatives Council. It is consistent with Yusdar's accusation (2016) that, while the DPD can be a "counterweight" for the DPR in the MPR session forum, it appears to be subordinated because the number of DPR members is limited, and it turns out that the institution expected by most legal and political observers to counterbalance the existence of the People's Legislative Assembly by the Constitution is not given such significant authority [21]. As a result, the DPD's voting power is built in such a way that it cannot undermine or win over the DPR.

Concerning the chamber system in this parliament, Karel Brantz, as quoted by Laica Marzuki (2005), said that one of the advantages of the chamber system is that when one of the chambers makes an error, the other chambers can still correct it. Brantz also believes that when one of the chambers conflicts with the executive, the other chambers can act as intermediaries. However, when the two chambers jointly fight against the president's state institution, the legal settlement is the Constitutional Court. This balance of positions between the two parliamentary chambers gives birth to democratization in parliament. However, we must be disappointed with the editorial of the Constitution, which does not accommodate the idea of balancing parliamentary chambers, such as the relationship between the DPR and the DPRD [22].

The Regional Representatives Council is an exciting new organization that has recently emerged as a part of the parliament, which is a really exciting development. It is consistent with Yusdar's accusation (2016) that, while the DPD can be a "counterweight" for the DPR in the MPR session

forum, it appears to be subordinated because the number of DPR members is limited, and it turns out that the institution expected by the majority of legal and political observers to counterbalance the existence of the People's Legislative Assembly by the Constitution is not given such significant authority. This is consistent with Yusdar's accusation (2016) that, while the D [21]. As a consequence of this, the DPD's voting authority is constructed in a manner that prevents it from undermining or winning over the DPR.

The existence of the People's Consultative Assembly as the highest institution in the past was regarded as an institution that was not only institutionally the highest, but all of its duties and authorities had strengths that were very different from the others. Because it is considered the highest institution, it then has the right to dismiss the president in the middle of the road if there are criminal acts or violations and crimes regulated in the Constitution. This happened because they chose the president and had the right to withdraw the presidency. For example, when President Abdurrahman Wahid ruled, the People's Consultative Assembly withdrew its support and replaced Abdurrahman Wahid midway through. This shows that the executive power in the post-reform era before the constitutional amendments had no power when dealing with the legislature.

The position of the People's Consultative Assembly as the highest state institution allows this institution to play strategic roles and can even intervene in other state institutions. This means there is no clear separation of powers between state institutions because the institutions within them may intervene. The demand for reform is how to proportionally separate state institutions as regulated in the Constitution.

Even if parts of the People's Consultative Assembly's functions, including the inauguration of the President and Vice President, are purely ceremonial, the constitutional amendments did not fundamentally change and shift this institution's authority. A "marriage" of the People's Representative Council and the Regional Representatives Council created the People's Consultative Assembly, which retains significant power. Article 2 of the Constitution as amended by the Fourth Amendment reads: "The People's Consultative Assembly consists of members of the People's Representative Council and members of the Regional Representatives Council who are elected through genera" (The People's Consultative Assembly is an assembly where the People's Representative Council and The Regional Representative Council). According to research [23].

B. MPR in the constitutional system after the amendment to the 1945 Constitution

The post-amendment MPR powers of the 1945 Constitution include I authoring the Constitution, (ii) amending the Constitution, and (iii) inaugurating, dismissing, and electing the President and Vice President. Consequently, the MPR no longer has the jurisdiction to set the contours of state policy, as the text of the 1945 Constitutional amendment removes the MPR's authority to do so. Thus, the MPR lacks the authority to convert MPR Decrees into regulatory legal goods. In line with Article I of the Additional Rules of the Fourth Amendment to the 1945 Constitution, the MPR assigned me the duty of examining the material and legal status of MPR Decrees and Provisional MPR Decrees [henceforth MPR/S Decrees]. As a follow-up to Article I of the Additional Rules, the 2003 MPR annual session evaluated 139 MPR Decrees and MPRS Decrees from 1960 to 2002. I/MPR/2003 on the Review of the Material and Legal Status of Provisional People's Consultative Assembly Decrees and Decrees of the People's Consultative Assembly of the Republic of Indonesia is the result of the review [24].

This demotion of the MPR is based on the notion that the president frequently uses the institution to validate his authority. After the 1945 revisions to the Constitution, the MPR no longer acted as the highest state institution and only executor of people's sovereignty, but instead fulfilled a role equivalent to that of the President, DPR, DPD, MA, and MK. Before the amendment, Article 1 paragraph 2 of the 1945 Constitution stated: "Sovereignty is in the hands of the people and is fully exercised by the People's Consultative Assembly"; after the amendment, it reads: "Sovereignty is in the hands of the people and is carried out in accordance with the Constitution" [8]. Article 3, paragraph 1: "The People's Consultative Assembly has the authority to amend and clarify the Constitution." The Constitution is a collection of concepts that define the powers of the government, the rights of the governed, and their relative relationships.

Originally the Constitution was only intended to limit the authorities' powers, guarantee people's rights, and regulate the government. Furthermore, along with the rise of nationalism and democracy, the Constitution became a tool for the people to consolidate their political and legal standing by

regulating life together to achieve goals. That is why at present, the Constitution does not only contain legal rules but also formulates or concludes legal principles, state policies, and policy standards that are binding on the authorities.

Changes or amendments to the Constitution have many meanings. Amendments not only mean "to be different in content and sound" provisions in the Constitution but also "to contain something that is an addition to provisions in the Constitution which were not previously contained therein." From the various opinions expressed by experts, at least there are four aspects of amendment to the Constitution, namely: a. Change procedure; b. Change mechanism; c. Change system; and D. Substance change.

In addition, according to [25], there are four methods for amending the Constitution: primary forces, formal amendment, judicial interpretation, and usage and conventions. Jellinek [26] drew a distinction between the more straightforward method of amending the Constitution, namely *Verfassungsänderung* (changes to the Constitution that were made intentionally and based on the provisions contained in the Constitution) and *Verfassungswandlung* (amendments to the Constitution through unique means such as revolution, coup d'etat, convention, etc).

The mechanism for amending the Constitution deals with the steps in implementing the changes. Preparations for amendments to the Constitution are carried out by the institution authorized to make changes or can be delegated to other institutions. If other institutions carry out preparations for amendments to the Constitution, then the institution authorized to make changes is merely to stipulate or authorize

According to [27], after the fourth amendment to the 1945 Constitution, the existence of the MPR, which has been referred to as the highest state institution, has indeed undergone fundamental changes. However, its existence has remained so that the system we adhere to cannot be called a bicameral or one-chamber system but a system of three chambers (tricameralism). According to Jimmy Asshiddiqie, the basics that support that the parliamentary system adheres to a tricameralism system are as follows:

- a. Structurally, the composition of the MPR members is due to the abolition of the existence of Group Representatives, which reflects the principle of a functional representation of the members of the MPR membership. Thus, members of the MPR only consist of members of the People's Representative Council (DPR), who reflect the principle of political representation, and members of the Regional Representative Council (DPD), who reflect the principle of regional representation.
- b. This group no longer serves as a "supreme body." Therefore, its authority undergoes major changes prior to the modification of the Constitution, as it has the highest authority and is uncontrolled.
- c. The adoption of the principle of strict separation of powers between the legislative and executive functions in the amendment to Article 5 paragraph (1) junto Article 20 paragraph (1) in the First Amendment to the Constitution of 1945, which was reemphasized with the addition of Article 20 paragraph (5) in the Second Amendment to the Constitution of 1945. The 1945 Constitution no longer adheres to the MPR system based on the idea of parliamentary supremacy and a system of power-sharing (distribution of authority) by the highest institution of the MPR to the state institutions below.
- d. Adoption of the principle of electing the President and Vice President together directly by the people in accordance with Article 6A paragraph (1) of the Third Amendment to the 1945 Constitution, which is also intended to strengthen and consolidate the rules of the presidential government system in the 1945 Constitution. With direct election by the people, the concept and accountability system of the president are no longer implemented by the People's Consultative Assembly, but rather by the people themselves. The legislative function of the people's sovereignty is therefore administered by the MPR, which consists of two chambers. In contrast, the President and Vice President oversee the executive branch as a single unit. directly elected by the executive branch.

After the modification of the Constitution of 1945, the concept of people's sovereignty altered the parliamentary constitutional system of Indonesia. Article 1, paragraph 2 of the Constitution of 1945

states that "sovereignty rests with the people and is exercised in conformity with the Constitution" ; the Constitution of 1945 specifies the authority, duties, and functions. Which portions are directly implemented by the people, in the sense that they are not delegated to anybody or any institution, but rather are implemented directly by the people via elections?

With the implementation of this new clause, the MPR is no longer the deciding institution within the constitutional framework of Indonesia. The MPR is no longer the highest state institution preserving people's sovereignty; it has been replaced by a state entity comprised of members of the DPR and DPD who were all elected by political parties and individuals. In terms of its mission, in addition to retaining the ability to amend and enact the Constitution, the MPR is now only authorized to inaugurate the President and Vice President, but not to elect them. Based on the Constitution of 1945 and the Fourth Amendment, the Indonesian parliament could simultaneously consist of three chambers or institutions. Due to the MPR's creation as an independent agency from the DPR and DPD, this is justifiable. The Constitution of 1945 continues to guarantee the MPR autonomy from the DPR and DPD.

Nothing in this world has a three-chamber parliamentary structure except Indonesia. In this world, it is only known if it is not a one-room or unicameral system; of course, it adheres to a two-room or bicameral system. Meanwhile, the parliamentary structure in Indonesia consists of three chambers or institutions, namely the DPR, DPD, and MPR. The three positions are equal to each other. Even the MPR can be an extension as an auxiliary organ or a completely separate forum for the DPR and DPD to make decisions outside the authority of the DPR and DPD.

IV. Conclusion

Indonesia is the only country in the world with a three-chamber or trilateral parliamentary structure, namely the DPR, DPD, and MPR, where all three are equal, as a result of radical amendments to the Constitution of 1945. The fundamental basis for the tricameral system is that the composition of the MPR members reflects the political representatives (DPR) and regional representatives (DPD), the MPR is no longer a super body without control, and the MPR is no longer the highest state institution as the sole executor of the sovereignty of the people. It does not elect the president and vice president any longer. Regarding authority, the only authority of the MPR that has remained unchanged since the 1945 Constitution was the authority to stipulate and alter the Constitution. Originally, the Constitution's sole purpose was to limit the authorities' powers, protect the rights of the people, and regulate the government. In addition, with the emergence of nationalism and democracy, the Constitution became a vehicle for the people to cement their political and legal status by controlling their existence together in pursuit of common objectives. The MPR no longer elects (appoints) the President and Vice President because the change aims to enhance the presidential government system, which includes the direct election of the president and vice president by the citizens. Therefore, the president is no longer a requirement of the MPR. In addition, the MPR no longer determines the framework of state policy.

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