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# The Authority of Decision Making of the People's Consultative Assembly Based on the Values of People's Sovereignty in Indonesia

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This research was done to analyse the concept of definitions of deliberation in the decision making carried out by the People's Consultative Assembly, based on Pancasila. Therefore, democracy is done indirectly or representative democracy system needs a place for deliberation to make a decision. The methodology used in this study was carried out using a normative study method with a philosophical approach. The result of this research is the development of democracy in Indonesia, in the practice of decision making by the People's Consultative Assembly (MPR) not to leave the people's opinion as part of deliberation. This is in accordance with the ideals and goals of the country compiled by the founders of the nation based on Pancasila and the 1945 Constitution.

**Key words:** *Deliberation, Democracy, Pancasila.*

## Introduction

Throughout the history of Indonesian state administration, it has never finished discussing the principle of popular consultation as a form of popular sovereignty to date (Jimly Asshiddiqie, 1994). The debate about deliberative democracy is due to the need to find a more democratic form that is suitable for Indonesian society (Fahrul Muzaqqi, June 2013). In practice, the principle of democracy or people's sovereignty is to be able to guarantee the participation of the community in the decision-making process, thus in every legislation it can provide a sense of justice to the community. (Muntoha, 2009).



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Aristotle argued that there are three kinds of government based on the number of people who govern, namely the monarchy of power in one person, oligarchy as power in some people and democracy as power in the hands of the people (Wirjono Projodikoro, 1981).

In the modern era, it would be possible to implement the people's sovereignty or direct democracy by the people. Therefore, it is common that the highest authority is given to an institution that would represent the people as well as implement the desire of the people manifested in a policy or legal product (Padmo Wahyono, 1982).

In the Preamble of the 1945 Constitution, paragraph four, contains the basis of the state, the duties and authorities of the state as well as the basic structure of the state's highest power, namely, people's sovereignty (Moerdiono, 1997). The provisions<sup>5</sup> the Preamble to the 1945 Constitution paragraph four are then contained in Article 1 paragraph (2) of the 1945 Constitution, which states that the People's Sovereignty is fully implemented by the People's Consultative Assembly (MPR) thus it makes the MPR the highest state institution. However, the third amendment to the 1945 Constitution has removed the position of the People's Consultative Assembly (MPR). This is in order to realise the principle of checks and balances among high state institutions.

Although the position and authority<sup>7</sup> of the People's Consultative Assembly experienced a shift, the duties and authority of the People's Consultative Assembly as the bearer of People's Sovereignty did not disappear entirely. The People's Consultative Assembly was formed more democratically than<sup>13</sup> before the 1945 Constitution underwent a change. All MPR members, consisting of members of the House of Representatives (DPR) and members of the Regional Representative Council (DPD) are formed through a general election process that is directly elected by the people.

Membership of the People's Consultative Assembly (MPR) after<sup>17</sup> the third amendment of the 1945 Constitution is expected to accommodate local content (Regional Representative Council) and political content (People's Representative Council). However, in practice the recruitment of DPR and DPD members only fulfils part of the people's interests. This can affect decision making in the People's Consultative Assembly.

In carrying out their duties, the two representative institutions contained in the People's Consultative Assembly (DPR and DPD) institutions sometimes carry out their own duties and functions as specified in the 1945 Constitution, and can also convene together at the MPR institution at least once in five years in the state capital (Article 2 paragraph (2) of the 1945 Constitution).



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It is hoped that the People's Consultative Assembly as a representative institution can realise the principle of deliberation /representation in the decision-making system as the implementation of people's sovereignty through its representation in the representative body (MPR). (Aidul Fitriaciada Azhari, 2000).

However, the People's Consultative Assembly (MPR) is very much needed, as a forum for joint deliberations between the DPR and DPD, not just as an institution. Even though it meets at least once every five years, the decision making system cannot be separated from the influence of group interests or ideology. Thus, the decision making takes a long time and it is difficult to reconcile differences of opinion.

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Seen from the recruitment of members of the People's Consultative Assembly (MPR), it has not fulfilled the people's representation in the assembly. Given that the function of the People's Consultative Assembly (MPR) is as a forum for deliberation, the membership of the People's Consultative Assembly (MPR) must be able to represent all the people of Indonesia. Representative members of the People's Consultative Assembly (MPR) through the House of Representatives (DPR) and the Regional Representative Council (DPD) have not reflected that the People's Consultative Assembly (MPR) is an incarnation of all the people of Indonesia.

From some of the above explanations, it is interesting to study or discuss the decision making of the People's Consultative Assembly (MPR), where the Assembly is a forum for democracy and deliberation in realising the values contained in Pancasila as well as in the fourth precepts of the Pancasila "People's Sovereignty Led by the People By Wisdom in Consultation/ Representative." Therefore, in this study a problem statement can be taken, namely; what is the form of deliberation in the decision making of the Pancasila-based MPR.

## Methodology

This research was carried out using the method of philosophical normative study by nature descriptive. As secondary legal materials, the writing of this study took literatures, papers, journals, as well as studies related to this research.

## Discussion

### *Democracy as the Embodiment of the People's Sovereignty*

Hatta's views on democracy also gained a lot of inspiration from Western thinkers. However, what is interesting about Hatta is that his style of thought and attitude to life never dissolve in the Western paradigm. He strongly opposed liberalism and individualism. Hatta remained grounded in native Indonesian values to formulate democracy in Indonesia. Therefore, for the



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Indonesian people, among the things that need to be explored deeper is Hatta's thoughts about the roots of Indonesian democracy that will not be lost forever (Ahmad Zubaidi, 2011).

The term democracy is often associated with sovereignty, democracy or also referred to as deliberation. In the implementation of democracy in general, it is known as direct democracy, which is a form of democracy that is carried out directly by the people, and also known in the form of indirect democracy, namely the implementation of democracy carried out through its representatives known as a form of representative democracy (Bintan R Saragih, 1988). According to Henry B. Mayo, what is meant by democracy is as a political system that shows that decisions are made through peoples' representatives who are elected by the people on a regular basis (A. Ubaedillah and Abdul Rozak, Jakarta, 2008).

In a democratic system, representation is as a rational system. The form of representative democracy, developed in the modern age, is also called modern democracy. This can be seen by the plurality in the life of the nation and state. Therefore, by using a representative system it can be expected to control the behaviour of authorities over one group towards another group (Dahlan Thaib, 1999).

As stated by Dahlan Thaib, the principle of democracy has two meanings namely: 1). In relation to the government system, it is seen in how the people participate in organising government, 2). In addition, the principle of democracy can also be influenced by history and socio-cultural aspect of the nation's character itself; thus the terms of constitutional democracy, people's democracy and Pancasila democracy emerge. In Pancasila Democracy it is paying more attention to prudence, and wisdom (common sense) as the basis of implementing democracy (Roch. Eddy Prabowo, 2011).

#### *Consultative Wisdom in the Values of Pancasila*

The concept of sovereignty has been debated since the 1930s between the country's founders. The debate was long before the concepts of the rule of law, Human Rights (HAM) and others in the preparation of the 1945 Constitution (Jimly Asshiddiqie, 1995). At the BPUPKI Session, Mohammad Hatta said that the state to be developed should not be a state of power, but would instead develop the country as an administrator. This was because Hatta captured the direction of thought by Sukarno and Soepomo, who tended to abandon the ideals of sovereignty, and would implement state power rather than a governing state. The heart of democracy as life in Indonesia lay in the spirit known as deliberation of consensus (Fahrul Muzaqqi, 2016).

In the 1945 Constitution, the 1949 Constitution of RIS, and the 1950 UUDS, the term 'musyawarah,' in addition to the values of popular sovereignty or democracy has also been





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recognised. In the 4th precepts of the Pancasila, that in democracy emphasises the values of consultation / representation led by wisdom and prudence. Thus the principle of deliberation for consensus is implemented through its representatives and representative bodies in fighting for the people's mandate (Yusdiyanto, 2016).

As was the case with the process of drafting the 1945 Constitution, the term consultation was first conveyed by Muh. Yamin in his speech on May 29, 1945 before the BPUPKI Session, referring to Al-Qr'an Surat Asy-Shura verse 38 which means that all their affairs should be deliberated. Understanding of the principle of Shura, that every decision decided by the congregation must be evidence of the will of the congregation or all individuals. (Taufiq Muhammad Asy – Syawi, 20000). Deliberation can be carried out in terms that are not explicitly mentioned in the Qur'an and the Sunnah of the Prophet. So there are some things that need to be considered from the meaning of deliberation for the progress of the country in order to get protection from God, namely: not having narrow views, not questioning differences as a form of mutual responsibility, minimising erroneous positions or behaviour. (Dudung Abdullah, 2014).

Muh. Yamin also gave an illustration that among the Islamic countries in the world, the Indonesian people gave a special colour in the implementation of the life of the nation and state life. Likewise in the Jakarta Charter, a document established by BPUPKI on 22 June 1945, there is a formula which means Godhead who is obliged to carry out Islamic sharia for his adherents. However, keeping in mind the pluralism of the Indonesian nation, there was a change when the 1945 Constitution was about to be stipulated by PPKI on 18 August 1945: belief in the one and only God. The change in the formulation shows that democracy contained in the Preamble of the 1945 Constitution, while reflecting democracy, is not based on Islamic religious values alone, but democracy is truly based on the idea of nationhood which is solely based on the values of independence or freedom and people's sovereignty (Aidul Fitriadi Azhari, 2017).

#### ***Consultative Democracy in Decision Making basing on Pancasila by MPR***

By looking at the process of decision making carried out by BPUPKI in determining the concept of Jakarta Charter above mentioned, this does not solely determine the interests of a certain group (Islam), but also serves as a reminder of the diversity of nationalities that exist in Indonesian society. However, the influence of modern democratic ideas on the formulation of the 1945 Constitution is also unavoidable. Therefore, the 1945 Constitution is inseparable from all kinds of complexities of problems inherent in the idea of modern democracy. The study on the idea of modern democracy is needed to be able to trace the influence of the idea of democracy that developed in the 1945 Constitution. Its contact with the notion of



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democracy also originates from Islamic teachings and traditions of the Indonesian people, whose influence is very strong in the formation of democratic ideas in the 1945 Constitution.

Thus, before Indonesia was made as a state; it already used the principle of deliberation in a form of the people's sovereignty as the basis for the implementation of community life. Thus basically the nature of deliberation contains several principles namely: 1). Solve shared problems, 2). Fulfil common interests, 3). Mutual respect to different groups and opinions, 4). Open to all the flow and dynamics that occur in society (Andi Pangerang, 1999).

It can be concluded that the founding fathers did not wish for liberal democracy. Therefore, the concept of consultative democracy was selected. This thought is special because there is a contribution of Islamic thought. As we have seen in the provisions in the Preamble to the 1945 Constitution, the fourth paragraph concerning deliberative / representative democracy implemented in Article 1 paragraph (2) of the 1945 Constitution of the Unitary State of the Republic of Indonesia, where before the amendment states, it is in the hands of the people's sovereignty is existed and implemented by the People's Consultative Assembly and compared with Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, after the amendment, that, Sovereignty was no longer exercised by the MPR, but in its implementation was determined by the Constitution. By looking at the 1945 Constitution of the Republic of Indonesia, both before and after the 1945 Constitution was changed, it can be concluded that the Indonesian State follows the model of indirect democracy or representative democracy.

In a representative system democracy, the people cannot directly implement people's sovereignty. The state must form an institution to exercise the people's sovereignty. The institution must truly represent the people as holders of people's sovereignty. The representative institution must reflect democratic values in order to carry out the mandate of the people well. An indicator that qualifies democratic practice in Indonesia is the function of the people's representative institutions. The implementation of people's sovereignty when before the amendment to the 1945 Constitution is to show that people's sovereignty has been fully implemented by a representative institution, namely the People's Consultative Assembly (MPR) as stated in Article 1 paragraph (2) of the 1945 Constitution. The article has placed the People's Consultative Assembly as the Supreme State Institution. This is also emphasised in the Explanation of the 1945 Constitution in the seven key points of the government system No. III, which confirms that the People's Consultative Assembly is the incarnation of all Indonesian people.

The idea of deliberative democracy which came to be known as deliberative democracy in Indonesia places more emphasis on agreement, and harmonises political democracy with a visionary economic democracy. The deliberative democracy model was introduced by Joseph



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M Bessete (1980), who had the concept of alignment with the concept of Social-Democracy (Yudi Latif, 2019).

Deliberative democracy is not a model of direct democracy as stated by Rousseau, but as a complement to the existing democratic system. Amendment to the 1945 Constitution is one of the demands for reform, because the 1945 Constitution is considered to give birth to undemocratic governments. The third amendment to the 1945 Constitution, amended Article 1 paragraph (2) of the 1945 Constitution, which caused the position and authority of the MPR to experience a shift. However, the duties and authority of the People's Consultative Assembly as the bearer of People's Sovereignty are not lost.

In Law No. 17 of 2014 which has been amended by Law No. 2 of 2018 concerning the MPR, DPR, DPD and DPRD as the manifestation of Article 1 paragraph (2) of the 1945 Constitution, states that in the implementation of people's sovereignty based on democracy led by wisdom in the deliberation / representation, it is necessary to form a people's consultative body, an institution as people's representatives, and regional representative institutions based on democratic values in order to accommodate and carry out the aspirations of the people and regions as demands for the development of the life of the nation and state. Therefore, since the post-1945 Constitution amendment, a people's consultative body was formed, namely the People's Consultative Assembly (MPR), a representative body of the people, namely the DPR and the regional representative body called DPD. In terms of MPR authority, among others are: amending and enacting the Constitution, inaugurating the President and / or Vice President, dismissing the President and / or Vice President during his term of office (Article 3 paragraph (1), (2), and (3)). Of these provisions, the authority of the MPR will rarely be exercised for decision making, bearing in mind the authority of the MPR is unlikely to be held in a hearing to deliberate. The provisions Article 3 of the 1945 Constitution will be implemented if there is a proposal from the House of Representatives (DPR) or the Regional Representative Council (DPD) (see Article 7 and Article 37 1945 Constitution).

In the Indonesian constitutional system, in terms of decision making it is known to be carried out by consultation / representation as contained in the fourth precepts of Pancasila. (Saafroedin Bahar, 1995). Muhammad Koesnoe stated that, the provisions contained in the Preamble of the 1945 Constitution are in the resolution of a problem, discussed together with the intention of reaching a decision made through deliberations by the people or through their representatives (Miriam Budiardjo, 1982).

Another thing is that in making decisions by the People's Consultative Assembly (MPR) as stated in Article 15 paragraph (5) of Law no. 17 of 2017 updated with Law No. 2 of 2018,





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the leadership of the MPR should consist of 1 (one) chairman and 7 (seven) deputy chairmen elected from and by members of the MPR (Article 15 paragraph (1) of Law No. 2 of 2018).

From these provisions, then in terms of determining the leadership in the MPR, the Assembly does so by way of deliberation to reach consensus, but if it is not reached, then it is carried out by voting procedures. In terms of reaching deliberations for consensus and voting in terms of decision making by the MPR, by looking at the unbalanced membership of the DPR and DPD, it is certain that the votes of DPD members will be smaller than the votes of DPR members. Thus it can be expected that the DPR will ignore the votes of the DPD in the MPR hearings in decision making.

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The institutional composition of the People's Consultative Assembly (MPR) consists of the House of Representatives (DPR) and the Regional Representative Council (DPD). The two state institutions, the House of Representatives and the House of Representatives, have equal positions, but in terms of the numbers, unbalanced membership. The number of DPR members is greater than the DPD members represented in each Province with four representatives, as determined in Article 22C paragraph (2) of the 1945 Constitution, which states that the number of DPD members is not more than one third of the DPR members.

This is the problem in determining the quorum in the trial if in the case of decision making using voting procedures, also known as one man one vote. The House of Representatives (DPR) can ignore the votes of the DPD, because the number of DPR members is approximately two-thirds of the total number of MPR members. So to achieve decision making in the MPR trial both through deliberation and voting based on democratic values, accommodate and carry out the aspirations of the people and regions as demands for the development of national and state life, then the number of DPD members needs to be changed. In addition, it is necessary to increase the membership of the MPR through the Group Envoy as the composition of the MPR membership prior to the amendment to the 1945 Constitution. On a practical level, the principle of democracy or people's sovereignty is to guarantee the participation of the community in the decision making process, so that every item of legislation that is applied and enforced truly reflects a sense of community justice.

Sidney Hook stated that, democracy is a form of government in making these decisions based on decisions freely given by the people (Sidney Hook, 1980). It can also be interpreted that in end it is in the hands of the people who will provide provisions in the main issues concerning their lives, among others in assessing the state's policy which will also determine the people's lives (Deliar Noer, 1983).

By looking at the provisions of what is meant by deliberative democracy, there is little difference between the two forms of democracy mentioned above. Deliberative democracy is



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a form of deliberation that demands a human mindset about democracy through technology as intended by Jurgen Habermas. The public can participate in the decision making process by using technology through social media. However, this can change or guide the existence of democracy without representation. In making decisions with the Habermas thinking it will encourage people to be free in the decision making process. Therefore, a representative institution is still required for the legality of the decision making.

Ziauddin Sardarmeng said that in order for humans to be wiser to nature, knowledge must be based on values in the form of: first, the principle of monotheism that the entire universe, heaven and earth, all of its contents are at the will of God. Second, the Principle of Khilafah and Mandate, namely human presence on earth in order to carry out the function as a caliph (2:30), which is mandated by God to prosper and preserve the natural environment. Everything is done in the context of worshipping God (51:56). Third, the Sharia Principle, namely in order to be a good human being, then what is done in life in the world, including in carrying out natural management must be based on shariah provisions. Implications in the field of law (shari'ah) in the form of things that are allowed (halal) and forbidden (kharam) are carried out by humans. Humans as noble creatures, leaders (caliphs) are not allowed to do damage to and exploit the earth, or to allow waste. Calling for good deeds (Ikhsan), is in the form of sustainability, and reconciliation to establish peace (Absori, 2015). Therefore, the exercise of people's sovereignty is a state understanding whose translation and regulation is set forth in the constitution or Basic Law of a State, and the subsequent application is adjusted with the philosophy of life of the people of the country concerned. This is so that the implementation of people's sovereignty can be controlled and not affected by the power or interests of certain groups.

### Implication

Based on the description above, then a conclusion can be drawn, that the <sup>23</sup>unitary state of the <sup>19</sup>Republic of Indonesia is a country that embraces democracy. In the third <sup>6</sup>amendment to the 1945 Constitution, Article 1 paragraph (2) of the 1945 Constitution concerning the position of the People's Consultative Assembly (MPR) is one of the representative institutions.



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