

ABSTRACT

Initially, the MPR was the highest state institution, but since the 1945 Constitutional Amendment, the MPR has become equal to other state institutions. This has an impact on the MPR's authority to make MPR Decrees and their placement in the hierarchy of laws and regulations. This research aims to examine the existence of MPR Decrees in the Indonesian Legal System, with a focus on its existence: in Indonesian Legislation; reviewed based on MPR Decree Number I/MPR/2003; and MPR Decrees in the Indonesian Legal System after the 1945 Constitutional Amendment. This research uses normative legal research using secondary data consisting of primary, secondary, and tertiary legal materials. The research methods used are the Statute Approach, Comparative Approach, and Historical Approach. To analyze legal issues, legal theories such as the Theory of Popular Sovereignty, the Theory of Separation or Division of Powers; and the Theory of Hierarchy of Laws and Regulations were used. This study concludes that TAP MPR is still recognized in the hierarchy of laws and regulations in Indonesia, above the Law or Perppu and below the Constitution. However, based on MPR Decree No. I/MPR/2003, all existing MPR Decrees are no longer valid or have not been implemented. The position of the MPR Decree under the 1945 Constitution makes the MPR Decree as one of the sources of law after the 1945 Constitution for the laws and regulations under it that originate from the will of the people as the holder of sovereignty. Based on the Theory of Popular Sovereignty, the sovereign in a country is the people, where the MPR by the Founders of the State is stated as the embodiment of the 4th Precept of Pancasila. Meanwhile, based on the Theory of Hierarchy of Laws and Regulations, the regulation of the enactment of TAP MPR by law is not appropriate because it contradicts the principle of Lex Superiori derogat Legi Inferiori. Meanwhile, based on the Theory of Separation or Division of Powers, the MPR based on the Constitution is authorized to amend and stipulate the 1945 Constitution, so based on the power of attribution, the MPR should be given the authority to interpret the 1945 Constitution. The validity of TAP MPR is to fill the legal vacuum and has become a logical consequence of the MPR being given the authority to regulate the implementation of the Constitution. In addition, by referring to Article 8 of Law No. 12/2011, the MPR still has the authority to form laws and regulations that are recognized and legally binding, as long as they are made based on higher laws and regulations, namely the Constitution, or formed based on its authority.

Keywords : *Existence of MPR Decree; Amendment to the Constitution; Indonesian Legal System*