

The Prospects Of People's Consultative Assembly Resolutions In The National Legal Hierarchy Indonesian

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Abstract

The inclusion of People's Consultative Assembly Resolutions in the hierarchy of laws and regulations, as regulated in Article 7 paragraph (1) of the Republic of Indonesia Law Number 12 of 2011 concerning the Establishment of Legislations, raises several problems related to the formation and testing of laws and regulations. This study answers two questions as follows: (1) how the resolutions of the People's Consultative Assembly in Law Number 12 of 2011 are, and (2) what prospect that the resolutions of the People's Consultative Assembly bring in the hierarchy of laws and regulations in the future. The results of the discussion indicate two points. First, the existence of the resolutions of the People's Consultative Assembly in the hierarchy of legislation as regulated in Article 7 paragraph (1) of the Law of the Republic of Indonesia No. 12 of 2011 is not appropriate because it is contrary to the theory of legislation. This is because the resolutions of the People's Consultative Assembly cannot be changed and tested. In addition, the existence of the resolutions may be contrary to the constitution. Second, the resolution of the People's Consultative Assembly may lose its usefulness due to two factors. They are, (1) if the content of the resolutions has a very high level of abstraction regulated in the constitution, and (2) if the content of the resolutions has a high level of abstraction regulated by law. Thus, formally the resolutions of the People's Consultative Assembly do not exist.

Keywords

Resolutions of
People's
Consultative
Assembly,
Hierarchy of
Legislation.

1. Introduction

One of the state institutions affected by the constitutional reform is the People's Consultative Assembly (hereinafter called MPR). The changes

occurred in the Third Amendment of the 1945 Constitution. They included the position of state institutions that affected the changes in duties,

authorities, and functions. Article 1 paragraph (2) of the 1945 Constitution of the Third (Guidelines for the 1945 Constitution of the Republic of Indonesia, 2005), Amendment states: "Sovereignty is in the hands of the people and implemented according to the Constitution." This formulation is different from the formulation of Article 1 paragraph (2) of the 1945 Constitution before the amendment which states: "Sovereignty is in the hands of the people and is carried out entirely by the People's Consultative Assembly".

Prior to amendments to the 1945 Constitution, the People's Consultative Assembly (MPR) was constructed as a forum for the incarnation of all sovereign people, a place where the President must submit and be responsible for all the implementation of his constitutional duties. In the Elucidation of the 1945 Constitution, it is stated that "the President submits and is responsible to the MPR". With such a construction, the MPR is regarded as the highest state institution where the sovereignty of all Indonesian people is incarnated. Therefore, all the decrees issued by MPR have a higher position than legal products stipulated by other high state institutions, such as the President, People's Representative Council (hereinafter called DPR), or the Supreme Court. Thus, the resolutions of Provisional MPR (hereinafter abbreviated to MPR/S) have a higher hierarchical position than the law or other forms of regulation (Asshiddiqie, 2010).

The MPR's powers in the 1945 Constitution before the amendment, include: (i) enacting the basic constitution, (ii) amending the constitution, (iii) electing the President and/Vice President, and (iv) setting out the Broad Guidelines of State Policy. Jimly Asshiddiqie explained that the Broad Guidelines of State Policy are needed because the guidelines or policies of the state stipulated in the 1945 Constitution before the amendment were too short and simple. Therefore, in addition to the directions that have been determined in the 1945 Constitution, more elaborate state policies are needed in addition to the 1945 Constitution (Asshiddiqie, 2010).

With such considerations, the state's policies need to be stated in statutory regulations with effective binding power. Because the position of the MPR itself is higher than that of the President and the DPR, then automatically the position of the MPR/S Resolutions is higher than the law. The regulations of the MPR/S which are regulatory in nature also have the status of a constitution because they are made and stipulated by the same institution that stipulates the constitution. The MPR/S resolutions as the regulatory legal products (*regeling*) are forms of MPR's interpretation of the 1945 Constitution and decisions that contain the state's direction in the 1945 Constitution. The MPR/S stipulation also has constitutional value or at least as a form of interpretation of the 1945 Constitution or even an amendment to the constitution in an informal form according to the provisions of Article 37 of the 1945 Constitution (Asshiddiqie, 2010).

Based on Article 37 of the 1945 Constitution, the procedure for discussing and making decisions in the process of forming the MPR/S resolutions is indeed different from the preparation or amendment of the constitution according to that provision, so the two are considered unequal. The Constitution as the highest law still has a higher position than other MPR/S resolutions (Asshiddiqie, 2010). That is why MPRS resolutions No. XX/MPRS/1966 concerning Sources of Orderly Law determines the hierarchy of the MPR/S resolutions as regulations under the constitution and above the law.

The authority of the MPR after the amendment to the 1945 Constitution includes: (i) stipulating the constitution, (ii) amending the constitution, (iii) inaugurating, dismissing, and electing the President and/Vice President. Thus, the MPR no longer has the authority to determine the outlines of the state policy as in the text of the amendment to the 1945 Constitution, the MPR's authority to determine the outlines of the state policy has been removed. Therefore, the MPR is not authorized to make MPR resolutions as regulatory legal products (*regeling*). As a consequence, through Article I of the Supplementary Rules of the 1945

Constitution of the Fourth Amendment, the MPR is tasked with reviewing the material and legal status of the MPR resolutions and MPR/S resolutions. As a follow-up to the order of Article I of the Additional Rules, namely at the 2003 MPR annual session, a review of 139 MPR resolutions and MPRS resolutions was held in the period 1960-2002. The results of the review are MPR Resolutions No. I/MPR/2003 concerning Review of the Material and Legal Status of Provisional People's Consultative Assembly Resolutions and Resolutions of the People's Consultative Assembly of the Republic of Indonesia.

One of the material changes to Law no. 12 of 2011 namely, the inclusion of MPR resolutions in the hierarchy of laws and regulations, whose procedures are under the 1945 Constitution and above Laws/Government Regulations in Lieu of Laws. This will have implications for several things, namely in the process of forming and reviewing legislation, as well as the existence of the current MPR Decree which may conflict with the 1945 Constitution and after future amendments to the constitution.

2. Research Method

This research belongs to the type of normative juridical research because normative or doctrinal juridical research methods are qualitative (not in the form of numbers). This research represents a qualitative with study's focus the resolutions of the People's Consultative Assembly in Law Number 12 of 2011 are, and prospect that the resolutions of the People's Consultative Assembly bring in the hierarchy of laws and regulations in the future.

3. Discussion & Result

3.1 The Existence of MPR Resolutions in Law Number 12 of 2011

Statutory regulation is generally formed by institutions that have the authority to form laws. Regarding this matter, not all institutions obtain it.

An institution will gain authority both by attribution and delegation (Farida, 2007).

What about the MPR? The MPR has the authority to form a legal product called the MPR resolution. The authority to form it is obtained based on the authority (duties) it has through the 1945 Constitution. Commonly, a state institution makes rules, especially those that are the scope of its functions and related to issues that are within its authority. MPR has that authority. The problem is, what is the form of this arrangement and where is it located in the Indonesian legal hierarchy? Apart from being in the form of a Constitution and "broad guidelines of state policy", the 1945 Constitution (before the Amendment) did not provide other explanations about the MPR products. However, according to Bagir Manan, the presence of the MPR resolution can be based on two things. First, the provisions are implicit in the 1945 Constitution. The existence of inferred provisions that also contain implied powers is recognized by every constitutional system. Second, the legal form of the MPR resolution is the practice of state administration or constitutional habits. Constitutional practices or customs are one of the sources of constitutional law found in every country (Manan, 1992).

The Indonesian constitutional system recognizes the existence of constitutional practices or habits as stated in the Elucidation of the 1945 Constitution: "The Constitution of a country is only part of the basic law of the country, the Constitution is the written basic law, while beside it the unwritten basic law also applies, are the basic rules that arise and are maintained in the practice of state administration, even though they are not written down". In detail, the constitutional customs or constitutional conventions according to Dicey as quoted by Bagir Manan are (Manan, Constitutional Convention, 1987):

- a. Conventions are part of the constitutional rules that grow, are followed, and obeyed in the practice of state administration.
- b. Conventions as part of the constitution cannot be enforced by (through) courts.

- c. Conventions are obeyed solely driven by ethical, moral, or political demands in the administration of the state.
- d. Conventions are provisions on how discretionary powers should (should be) exercised.

Historically, the origin of the MPR resolutions in the hierarchy of laws and regulations in Indonesia can be traced back to 1960. At that time, the MPRS first convened and made decisions. This practice is carried out and continued by the MPR. As it has been running for quite a long time and is accepted as part of the practice of the Indonesian state administration, the MPR resolution can be seen as one of the Indonesian laws and regulations. In the provisions concerning the MPR Rules of Procedure, it is stated that MPR resolutions are binding in and out of the MPR. Meanwhile, MPR decisions that are solely binding are called MPR decisions (Nazriah, 2007).

The existence of the MPR resolution as a form of constitutional convention certainly applies as a (formal) source of law. The MPR's stipulation is very important to complete or dynamic the legal rules under it. Moreover, the content of the 1945 Constitution (Before the Amendment) is very limited. Thus, it can be understood in its development that various contents of MPR/S Resolutions emerged, especially to realize the "Broad Guidelines of State Policy" (Article 3) and are products of the MPR/S as the holder of people's sovereignty (Article 1 paragraph (2) of the 1945 Constitution) Before the Amendment).

To strengthen the existence of the MPR Resolution, the MPR established MPR Decree No. XX/MPRS/1966 which includes the MPR Resolution as one type of legislation in the Indonesian legal hierarchy. However, the MPR's stipulation as a form of legislation is still being debated. According to Hamid S. Attamimi, it is inappropriate to classify the 1945 Constitution and MPR Resolutions into types of legislation (Attamimi, 1990).

The MPR Resolution is lower in degree than the Constitution because the MPR Resolution (which contains legal norms) is complementary to the Constitution. Sri Soemantri and Moh. Tolchah Mansoer, did not question the inclusion of the Constitution and MPR Decrees into the legislation, only the issue of the degree to which the MPR Resolutions were questioned by Sri Soemantri which was related to the power of the MPR. If the MPR amends the 1945 Constitution, then that change is of course outlined in an MPR Resolution, thus the MPR Resolution is of the same level as the 1945 Constitution (Tambunan, 2002).

Furthermore, the existence of the MPR Resolution was strengthened through the MPR Decree No. VI/MPR1973 and Decree No. III/MPR/1978. These MPR stipulations have been the main framework for understanding the constitution, even constitutional law, since 1960. These provisions lasted until the issuance of Decree No. III/MPR/2000 concerning Sources of Law and Order of Legislation which has been amended to Law Number 10 of 2004. As a refinement of Law Number 10 of 2004 currently applies Law Number 12 of 2011, where there are new content materials added to this law, including:

- a. The addition of the Resolution of the People's Consultative Assembly as a type of legislation and its hierarchy placed after the 1945 Constitution of the Republic of Indonesia;
- b. Expansion of the scope of planning laws and regulations not only for National Legislation Program (hereinafter called Prolegnas) and Regional Legislation Program (hereinafter called Prolegda) but also planning for Government Regulations, Presidential Regulations, and other Legislations;
- c. Arrangement of the mechanism for discussing the Draft Law on Revocation of Government Regulations in Lieu of Laws;
- d. Arrangement of Academic Papers as a requirement in the preparation of Draft Laws or Draft Provincial Regulations and Draft Regency/Municipal Regional Regulations;

- e. Arrangements regarding the participation of legislators, researchers, and experts in the stages of forming laws and regulations; and
- f. Addition of techniques for the preparation of Academic Papers in Attachment I to this Law.

The hierarchy of laws and regulations in Law Number 12 of 2011 includes MPR Resolutions in the composition of types and hierarchies of laws and regulations. According to Article 7 paragraph (1), the hierarchy is as follows: the 1945 Constitution, Resolutions of the People's

Consultative Assembly, Laws/Government Regulations in Lieu of Laws, Government Regulations, Presidential Regulations, Regional Regulations, and Regency Regulations.

Elucidation of Article 7 Paragraph (1) Letter b of Law Number 12 of 2011 concerning the Establishment of Legislation is "The Provisional People's Consultative Assembly Resolution and the valid People's Consultative Assembly Resolution as referred to in Article 2 and Article 4 Decree of the People's Consultative Assembly of the Republic of Indonesia Number: I/MPR/2003 concerning Review Regarding the Material and Legal Status of Provisional People's Consultative Assembly Decrees and People's Consultative Assembly Decrees from 1960 to 2002, dated August 7, 2003".

According to Nasrudin, Director of Legislations Harmonization, Ministry of Law and Human Rights of the Republic of Indonesia (Nasrudin, 2013):

"...The legal implication is that the MPR Resolution is included in the hierarchy of laws and regulations as the legal basis for the formation of laws and regulations under the MPR Decree. Meanwhile, the existence of the MPR Resolution is to form a law at the behest of the MPR Decree. Therefore, the MPR Resolution in the Law of the Republic of Indonesia Number 12 of 2011 as stipulated in Article 7 paragraph (1), MPR Resolution is under the 1945 Constitution and above the Law. The MPR Resolution is used to harmonize the sectoral regulations that have

already been issued. To prevent the sectoral egos, the MPR Resolution needs to be maintained in the hierarchy of the current legislation."

According to the author, the reasons for the inclusion of MPR Resolutions in the hierarchy of laws and regulations that have been described above, both representing the executive and the legislature, are only seen from the side for the formation of laws and regulations. The existence of an MPR Resolution becomes a reference in the formation of legislation under the MPR Decree. However, it does not consider the implications of including MPR Resolutions in the hierarchy. So that the current MPR Resolution cannot be tested either the Law against the MPR Resolution or the MPR Resolution itself against the Basic Law.

The existence of the MPR Resolution in the hierarchy of laws and regulations was also responded to by an expert in statutory science, Maria Farida, as follows (Farida, 2007), The MPR Resolution is a Staatsgrundgesetz or Basic State Rules, as is the body of the 1945 Constitution, so the MPR Resolution also contains the outlines or main points of state policy, the nature of the legal norms is still broad and is a single legal norm and not attached by legal norms that contain sanctions, the MPR Resolution, in essence, cannot be classified into statutory regulations because it contains a higher and different type of norm than the norms contained in the law, the nature of the legal norms in the MPR Resolution is one level lower than the norms in the body of the 1945 Constitution.

Then Maria Farida Indrati also commented on the inclusion of MPR Resolutions in the hierarchy of laws in Article 7 paragraph (1) of Law no. 12 of 2011, as follows (Indrati, 2013), To mention the Constitution and MPR Resolutions with the hierarchy of legislation is "incorrect" because the Constitution and MPR Resolutions are not legislation. In the Constitution and MPR Resolutions, there are two norms. They are, first, fundamental norms/basic norms of the state which in this case is in the preamble of the Constitution, and second, the body norms of the basic rules of the state that form the basic rules only. The

existence of MPR Resolutions in Law Number 12 of 2011 is useful for regulating everything which the Constitution incompletely regulates or incompletely arranges. In this case, the Resolutions of MPR become the basic state rules

Jimly Asshiddiqie, Mahfud MD, and Yuliandri have a different opinion from Maria Farida regarding the inclusion of MPR Resolutions in the legal hierarchy in Article 7 paragraph (1) of Law Number 12 of 2011. According to Jimly Asshiddiqie; (Asshiddiqie, 2013), Incorporating MPR Resolutions in Law Number 12 of 2011 is "inappropriate" because with such a structure it will make MPR Resolutions valid for an indefinite period. Because the MPR Resolution is above the law, the legislators may not change it or are not authorized to change it. Because the MPR Resolution is not a law and is higher than the law, the MPR institution is also not authorized to change it because it is not Constitution. So the Resolution of the MPR whose position is above the law under the constitution is not correct."

Harjono also stated the inclusion of MPR Resolutions into types and hierarchies. According to him (Yani, 2011), The MPR stipulation that is still in effect is the will of the people. Therefore, it should need to be included in the Act. If it has not been stated in the Act, it cannot be used to punish people who violate the MPR Decree. Therefore, the MPR Resolution is limited to inspire only. It is inspiring for the DPR to make something that was previously agreed upon, so it is not used as a formal source, but rather as a source of inspiration. More than that, based on its form, there is no more about MPR Resolution.

Based on the various descriptions above, the researchers argue that it has become a worldwide accepted doctrine that legal norms in any country are always tiered. The norms below apply, are sourced, and based on higher norms; higher norms apply, sourced, and based on even higher norms, until a higher norm is called the basic norm.

Theoretically in the context of legislation, this doctrine has two consequences, namely in terms of the formation and testing of statutory regulations. In the case of the formation of laws and regulations, each law is formed from and based on higher legislation, because it is sourced and based on a higher law, the legislation must not conflict with higher laws and regulations. The next consequence of every legislation (legal norms) must be tested, there should be no legal norms that cannot be tested.

The existence of the current MPR Resolution, as previously stated, cannot be tested, this is contrary to the doctrine that every legislation (legal norm) must be testable. Because the MPR Resolution cannot be tested, it is possible that the current MPR Resolution may conflict with the current constitution and the future constitution if there is a change to the constitution. The next problem is, if the current MPR Resolution is not correct, then how will the MPR Resolution exist in the future? This will be discussed in detail in the next sub-chapter.

3.2 Prospects of the Existence of MPR Resolutions in the Hierarchy of the Arrangement of Indonesian Legislation in the Future

The previous section has elaborated that the inclusion of the MPR Resolution in the hierarchy of laws as regulated in Article 7 paragraph (1) of Law Number 12 of 2011 is incorrect. The question then is, how is the existence of the MPR Resolutions that are still valid? Currently, there are 14 MPR Resolutions that are still valid according to Article 2 and Article 4 MPR Decree Number I/MPR/2003, and eight MPR Resolutions consisting of two MPR Resolutions according to Articles 2 and six MPR Resolutions based on Article 4 MPR Decree Number I/MPR/2003. According to data from the Secretariat General of the MPR RI, currently, there are twelve MPR Resolutions, namely, three MPR Resolutions based on Articles 2 and 9 nine MPR Resolutions according to Article 4 MPR Decree Number I/MPR/2003.

With regard to the number of MPR Resolutions, researchers have different opinions from previous experts. The researchers are of the view that currently, there are six valid MPR Resolutions, namely two MPR Resolutions based on Articles 2 and four MPR Resolutions according to Article 4 MPR Decree Number I/MPR/2003 as discussed in the previous section.

From the descriptions above, it is known that there were fourteen MPR Resolutions based on the MPR Decree Number I/MPR/2003. In its development, there are six valid MPR Resolutions. From the rest of the MPR Resolutions, it is necessary to think about the concept of its existence in the future, or other words, it is necessary to make efforts to formulate or initiate the concept of the existence of MPR Resolutions in the future.

The author is of the view that the ideal idea or concept of the existence of MPR Resolutions is to treat MPR Resolutions so that these Resolutions always "exist and develop". Exist means that the content of the MPR Resolution must be maintained because it is important and useful. In this case, it is possible that the MPR Resolution physically (the instrument) does not exist in the hierarchy of laws and regulations, but the content or material must still exist. 'Develop' means that the positive and good content of the MPR Decree is not only rigid (not developed), but must be able to develop into more applicable norms or become a source of forming and testing norms from other legal norms.

To develop into a more applicable norm or become a source of norm formation from other legal norms can occur by dividing the MPR Resolution material into two classifications. First, MPR Resolution material with a "very high abstraction" level (legal norms whose material nature is very general and broad) is included in the legal instrument of the Constitution. Second, the material for the MPR Resolution with a "high abstraction" level (legal norms whose material nature is still very general but still under the first classification) is included in the legal instrument of the Act.

Explanation of hierarchical structure is based on norm classification with the very high abstraction (UUD) and high abstraction (Law). The concept of "existing and developing" can be realized by changing MPR Resolutions into legal instruments of the constitution and/or laws, so that the concept of the existence of the MPR Resolution in the hierarchy of Indonesia's future legislative arrangements is physically (the instrument) outside the hierarchy of laws and regulations, but the content or material must still exist or exist and develop in the hierarchy of laws and regulations. Here, the researchers describe the material of the MPR Resolution as a legal instrument of the Constitution and the material of the MPR Resolution as a legal instrument of the Act.

The concept of existing and developing from the material of MPR Resolutions in the formation and development of laws and regulations can be planned. In this case, the researchers examine the existence of the current MPR Resolution from its substance whether the MPR Resolution that is still valid today is included in the material of the constitution (very high level of abstraction) or legal material (high level of abstraction). To examine the material for the MPR Resolutions, the material for the MPR Resolutions that are still valid is discussed as follows:

a.MPR(S) Decree Number XXV/MPRS/1966 concerning the Dissolution of the Indonesian Communist Party, the Declaration as a Prohibited Organization in the entire Territory of the Republic of Indonesia for the Indonesian Communist Party, and the Prohibition of Any Activities to Spread and Develop the Understanding or Teachings of Communists/Marxism Leninism

Regarding the material in this Decree, it regulates an ideology. In the formulation of the basic state into the "fundamental philosophy" of the Indonesian state, Pancasila is the philosophy of the Indonesian nation. Regarding ideologies that are contrary to Pancasila, they must not develop while still respecting the law, democratic principles, human rights, and justice.

Because the material for this MPR Resolution has a very high level of abstraction, in the future the material for this MPR Resolution will be regulated in the constitution. In the future, MPR/S Decree No. XXV/MPRS/1966 may lose its usefulness.

b. Decree of the People's Consultative Assembly of the Republic of Indonesia Number XVI/MPR/1998 concerning Economic Politics in the Context of Economic Democracy

In Article 33 of the 1945 Constitution concerning the National Economy and Social Welfare, it is the Government's obligation to encourage political and economic alignments and provide more opportunities for economic support and development, small and medium enterprises and cooperatives as economic pillars in generating the implementation of national development within the framework of economic democracy.

Economic law politics in this MPR Resolution further encourages the formation of mutually beneficial engagements and partnerships between economic actors and prioritizes small, medium, and cooperative businesses, large private businesses, and State-Owned Enterprises that mutually strengthen economic democracy and national efficiency that are highly competitive for achieving state independence in the national economic sector.

Because the material for this MPR Decree has a high level of abstraction and this provision is a mandate in Article 33 of the 1945 Constitution, in the future the material for this MPR Resolution will be regulated in law. In the future, Decree Number XVI/MPR/1998 will lose its usefulness.

c. MPR Decree Number VI/MPR/2001 concerning the Ethics of National Life

This stipulation mandates to improve the quality of human beings who are faithful, devoted, and have a noble character, and have Indonesian personalities in the life of the nation. The ethical principles of national life refer to the ideals of unity and integrity, resilience, independence,

excellence, and glory, as well as environmental sustainability which is imbued with religious values and noble values of the nation's culture, so it is necessary to uphold the ethics of national life.

Because the material of this Resolution is about regulating the ethics of national life and the level of abstraction is very high, in the future the material for this MPR Resolution is regulated in the constitution. In the future, MPR Decree No. VI/MPR/2001 may lose its usefulness.

d. MPR Decree Number VII/MPR/2001 concerning Indonesia's Future Vision

Indonesia's future vision is needed to maintain the continuity of the direction of the implementation of the life of the nation and state in order to realize the noble ideals of the Indonesian nation through ideal visions, intermediate and five-year visions so that it is necessary to realize an Indonesian society that is religious, humane, united, democratic, just, prosperous, advanced, independent and good, and clean in the administration of the state in accordance with the direction of the policy and the rules of its implementation.

Because the material of this Resolution is about regulating Indonesia's vision of the nation's future and the level of abstraction is very high, in the future the material for this MPR Decree will be regulated in the constitution. In the future, MPR Decree No. VII/MPR/2001 may lose its usefulness.

e. MPR Decree Number VIII/MPR/2001 concerning Recommendations for Policy Directions for the Eradication of Corruption, Collusion, and Nepotism

This stipulation is mandated to accelerate and further ensure the effectiveness of eradicating corruption, collusion, and nepotism (hereinafter called KKN) as mandated in MPR of the Indonesian Republic Decree No. XI/MPR/1998 concerning the implementation of a clean and free state of KKN, as well as various related laws and regulations, thus ordering the formation of laws

and their implementing regulations for the acceleration and effectiveness of eradicating and preventing KKN until all these provisions are implemented.

Because the material of this resolution stipulates the recommendation for the policy direction of eradicating and preventing corruption, collusion, and nepotism and the recommendation of this policy direction is shown to the President of the Republic of Indonesia and other high state institutions to carry out in accordance with the roles, duties, and functions and the material of this MPR Decree has a high level of abstraction, then the material for this MPR Decree is regulated in the law. MPR Decree No. VIII/MPR/2001 lost its usefulness.

f. MPR Decree Number IX/MPR/2001 concerning Agrarian Reform and Natural Resources Management

This stipulation contains the two substances. First, this stipulation encourages agrarian reform through a continuous process regarding the realignment of control, ownership, use, and utilization of agrarian resources carried out in the context of achieving legal certainty and protection. Second, this stipulation relates to the management of natural resources contained in the land, sea, and space carried out in an optimal, fair, sustainable, and environmentally friendly manner for justice and prosperity for all Indonesian people.

Currently, there is a Bill on Land which includes MPR Decree No. IX/MPR/2001 as the legal basis for the bill. It contains the order of the formation of laws for the DPR and the President to implement, encourage agrarian reform and natural resource management which must be implemented based on the principles of the integrity of the Unitary State of the Republic of Indonesia, human rights, the rule of law, people's welfare, democracy, legal compliance with people's participation, justice including gender equality, maintenance agrarian resources/natural resources, maintenance sustainability for current and future generations, attention to environmental

capacity and carrying capacity, integration and coordination between sectors and between regions, respect and protection of the rights of indigenous peoples, decentralization, the balance of the rights and obligations of the state.

Because the material for this provision has a high level of abstraction, it is regulated by law. In the future, MPR Decree No. IX/MPR/2001 may lose its usefulness. From the results of the study of the MPR Decree above, it will be seen that the concept of the existence of the MPR Resolution in the future will lose its usefulness because the material for the MPR Decree is divided and included in the classification of norms that have a very high level of abstraction (regulated in the constitution) and the classification of norms with a high level of abstraction (provided by law). The current MPR Resolution will continue to exist and develop in the hierarchy of legislation, even though it is outside the legislative hierarchy.

The existence of MPR Resolutions outside the hierarchy of laws and regulations will have a positive impact and minimize negative impacts in legislation. The material on the norms of the MPR Resolution will not disappear. Even though it is outside the hierarchy of laws and regulations, the MPR Resolution will still exist and develop in the constitution and the norms of the MPR Resolution will exist and develop also in the law so that it can be formed and tested.

4. Conclusion

The existence of the MPR Resolution in the hierarchy of laws and regulations in Article 7 paragraph (1) of the Law of the Republic of Indonesia Number 12 of 2011 is not correct because the existence of the MPR Resolution currently contradicts the theory of legislation. Whereas legal norms are tiered and sourced from higher norms, every legislation (legal norms) besides being able to be formed must also be tested. Because the MPR Resolution cannot be tested, it is possible that the current MPR Resolution may conflict with the current constitution and the future constitution if there is a change to the constitution.

The prospect of the existence of the MPR Resolution in the future is related to its effectiveness. Materials on MPR Resolutions are divided and included in the classification of norms which have a very high level of abstraction and a high level of abstraction. The material for the norms of the MPR Decree will not disappear, even though the MPR Decree is outside the hierarchy of laws and regulations. This is because norms with very high abstraction are regulated in the constitution, while norms with high abstraction are regulated in law.

5. Recommendations Sustainability

Based on the findings, the present study proposes three recommendations as follows. First, it is necessary to formulate harmonization of laws and regulations by the House of Representatives and the Government to include the substance of MPR Resolutions contained in MPR Decree Number I/MPR/2003, especially MPR provisions regulated in Article 2 and Article 4 of MPR Decrees into the National Legislation Program (Prolegnas). Second, immediately form a law by taking into account the procedure for the formation of legislation starting from the planning stage of academic texts relating to the MPR Resolutions that still exist can be included in the process of drafting laws, the discussion process, the process of ratification or stipulation and legalization. Finally, the study suggests abolishing the MPR Resolution in the hierarchy of laws and regulations, by revising Law Number 12 of 2011 concerning the Establishment of Legislations, especially Article 7 paragraph (1). Thus, the hierarchical structure of the legislation becomes: (a) the Constitution Republic of Indonesia in 1945, (b) Laws/Government Regulations in Lieu of Laws, (c) Government Regulations, (d) Presidential Regulation, (e) Regional Regulations, (f) Regency Regulations, and (g) Village Regulations.

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