Return implications of TAP MPR (Regulation of People's consultative assembly) as part of hierarchy of legal regulations

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Abstract

Based on Regulation UU no. 12 of 2011 concerning the Establishment of Legislation, there are Regulations which re-establish the Decree of the MPR as part of the type and hierarchy of legislative regulations with various legal issues. This research analyzes the position of the MPR Decree in the hierarchy of legislative regulations in Indonesia and its implications. MPR has no longer the authority to make Decrees because the position of the MPR was declined from the highest state institution. This condition makes the MPR decree not in compliance with the 1945 Constitution of the Republic of Indonesia. The Executive review cannot be carried out because the MPR Decree is still valid today, while now the MPR is only a high state institution equivalent to other high-level institutions..

Keywords: Decree of the MPR, legislation, the highest state institution, 1945 Constitution of the Republic of Indonesia.

Introduction

As a country that has declared itself as a Legal State explicitly, as Stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (R. Indonesia, 2002), after amendment. The problem at the practice level is that this provision is in accordance with the concept that has been planned or not, that is what needs to be done in depth and study. One way to deepen and study is to see how constitutional supremacy works. This benchmark can be done how the level of legal norms can provide certainty for guaranteeing the protection of the constitutional rights of its citizens. The norm hierarchy is part of the implementation of the order of the nation and state based on the legal order, which has been regulated by the Constitution. Against this issue, the hierarchy of legislation has experienced dynamics and changes. With the enactment of Regulation Number 12 of 2011 concerning the Establishment of Legislation Regulations has re-entered the MPR Decree to be part of the type and hierarchy of laws and regulations, this provision is contrary to what is stated in Regulation Number 10 of 2004 concerning the establishment legislation that eliminates the position of the MPR decree becomes part of the type and hierarchy of legislation (S. N. R. Indonesia, 2011).

The Return of the Decree of the MPR to be part of the type and hierarchy of legislation is controversial legal politics at the height of the discourse on improving legal systems. In addition to the placement of the Decree of the MPR as part of the type and nature of the legislation that becomes a problem, the position of the MPR Decree is under the 1945 Constitution of the Republic of Indonesia and above the Law. As a norm which is a legacy of the previous regime which was graded due to changes in the 1945 Constitution of the Republic of Indonesia.

The problems presented in this study are:

1. The position of the MPR Decree in the hierarchy of legislative regulations in Indonesia;
2. Implications for the re-entry of the Decree of the People's Consultative Assembly to be part of the type and hierarchy of laws and regulations, in relation to the concept of the Indonesian legal state.

Research Method

This research is a normative legal research (Bernard Arief Sidharta, 2003), which is carried out to obtain secondary data, where the research materials consist of books, arteries, journals, results of previous research, legislation and expert opinions especially those related to hierarchical theory of legislation - invitations and implications of the inclusion of the MPR provisions to be part of the type and hierarchy of legislation in the conception of the rule of law.

This library research uses the basis of the opinions of experts and the hierarchical theory of legislation Hans Kelsen, in order to deepen the MPR's Appraisal, the researcher concentrated more on sharpening the MPR Ketetqpan Number 1/ MPR/2003. MPR Decree Year 1960 until 2002 August 7, 2003. As the implementation of 1 Additional Rule of the 1945 Constitution of the Republic of Indonesia. Then an analysis of the conception of legal states is expected to be able to present a sense of justice and legal certainty. Then an analysis of the implications of the re-entry of MPR provisions in type and hierarchy of legislation.

The results of the analysis are then compared between applications and ideal concepts as scientific studies. Then the implications of the return of the MPR Decree are formulated in the type and hierarchy of laws and regulations related to the conception of the rule of law. The materials related to the writing of the results of this study are qualitative descriptive analysis, namely by carrying out an analysis that is basically returned to three aspects, namely clarifying, comparing and linking. The materials that have been collected from the library research are then analyzed qualitatively to answer the problems presented in this study.

Result and Discussion

The hierarchy of laws and regulations has undergone several changes including:

1. MPR Decree Number XX / MPRS / 1966, Attachment 2:
1. 1945 Constitution;
2. MPRS Provisions;

3. Substitute Government Laws or Regulations;
4. Government Regulations;
5. Presidential Decree;
6. Rules of implementation:
- Ministerial regulation;
- Minister's Instruction; and
- and others.

2. MPR Decree Number III / MPR / 2000:
1. 1945 Constitution
2. Decree of the People'sConsultative Assembly
3. Law;
4.SubstituteGovernment Regulations;
5.Government Regulations;
6. Presidential Decree; and
7. Regional Regulations.

3. Law Number 10 of 2004:
1. 1945 Constitution;
2.Substitute Government Laws / Regulations;
3. Government Regulations;
4. Presidential Regulation;
5. Provincial Regional Regulations;
6. Regency / City Regulation; and
7. Village Regulations.

Regulation Number 10 of 2004 is essentially intended to fulfill the Decree of the People's Consultative Assembly Nomro III/MPR/2000 concerning the Source of Law and Order of Legislation. Because the law is considered to have weaknesses, so improvements are made.

The enactment of Regulation No. 12 of 2011 concerning the Establishment of Legislation Regulations, in substitute of law Number 10 of 2004, because Law Number 10 of 2004 is considered to have many weaknesses and deficiencies, including:

a. Contains multi-interpretative content material so that it is difficult to create legal certainty;
b. Inconsistent formulations of norms;
c. There are materials that require more specific arrangements to adapt to legal requirements in the formation of legislation; and
d. Need to improve the systematic arrangement in each chapter.

One material that was added to in Law Number 12 of 2011, added that the Decree of the People's Consultative Assembly was part of the type and character of legislation placed under the Constitution of NRI and was above the law, as stated in Article 7 paragraph (1). Thus the type and hierarchy of laws and regulations according to Law Number 12 of 2011 concerning the establishment of legislation are as follows:

1. The 1945 Constitution of the Republic of Indonesia;
2. Decree of the People's Consultative Assembly;
3. Substitute Government Laws / Regulations;
4. Government Regulations;

5. Provincial Regional Regulations; and
6. Regency / City Regulations

Regarding the provisions of the People's Consultative Assembly, what is meant by this law is the MPR provisions that are still valid which have been regulated in Article 2 and Article 4 of the Decree of the People's Consultative Assembly Number 1/MPR/2003 concerning the review of material and legal status. The People's Consultative Assembly from 1960 to 2002 dated August 7, 2003.

The accuracy of the position of the MPR Decree which is under the 1945 Constitution of the Republic of Indonesia and above this Law is similar to the MPR Decree Number XXX / MPRS / 1966, based on the argument that the MPR Decree is the realization of Article 3 and Article 6 paragraph (2) of the NRI Constitution 1945. This argument also becomes the basis that the content material of the MPR Decree is not constitutional material. The MPR is an institution that has the task of amending and stipulating a constitution, it is only natural that the MPR be placed above the Constitution and act as a constituent who forms the Constitution. Whereas the position of the MPR which has the authority to set GBHN is still limited to the territory of the implementation of the Constitution so that the MPR must submit to the self-created Constitution. According to the Selbstbindungstheorie theory which was coined by Jellinek (Attamimi. A Hamid. S, 1990).

The People's Consultative Assembly has the authority to determine the Basic Laws and Outlines of State Policy, as stated in Article 3 of the 1945 Constitution of the Republic of Indonesia so that it is natural for the MPR to require a legal forum in the form of Decrees and Decisions. The MPR's decision was the decision of the MPR which tied in and out, while the MPR Decree only binds it inward. The choice of container is based on two things (Manan B., 1995).

1. Provisions implied in the MPR 1945 Constitution according to the 1945 Constitution before the amendment have various powers to carry out legal actions such as stipulating the GBBHN, selecting and appointing the President and Vice President. The legal action on the journey is given in the form of provisions originating from authority, namely stipulating the Constitution and GBHN;
2. Because the legal entity in the form of the MPR Decree becomes a habit, then the Decree becomes a source of law.

In essence, there is no difference in principle between provisions and decisions (Manan B., 1995). Decision or Decision as bikcikking is closely related to government actions that have a one-sided nature. However, for the determination of the elements it can be explained as follows (S.F.Marbun,Moh.MahfudMD, 2004).

1. It is a unilateral act of the government and is not the result of the agreement of two parties, or it can be termed a one-sided public legal act;
2. Obtained based on special power or authority; and
3. Intended for changes in the field of legal relations.

Actually, the existence of the MPR Decree is now considered to be less relevant to the state of affairs in Indonesia, given the constitution of the 1945 Constitution of the Republic of Indonesia asserted that sovereignty is no longer in the hands of the MPR, but sovereignty is in the hands of the people, according to the provisions The 1945 Constitution of the Republic of Indonesia before the amendment was made, in which

Article 1 paragraph (2) states "sovereignty is in the hands of the people and carried out fully by the People's Consultative Assembly. Likewise, the referral of the MPR authority listed in Article 3 has also been amended. So that the practical constitution does not provide space for the MPR to make a Decree.

1. MPR provisions in the hierarchy of legislation

The hierarchy of legislation is essentially a means of proof that the State of Indonesia adheres to the law of positive law. With a structured and tiered hierarchy, there will be a guarantee that there will be no conflict between lower regulations and higher regulations. The concept of the hierarchy of laws and regulations is:
a. Higher regulations are the basis for the formation of law under it;
b. The legal regulations below are the implementation of legal regulations on it; and
c. The laws and regulations that have just overtaken the old laws and regulations as long as the laws and regulations are equal and govern the same thing.
The description is a description of the legal principles of lex superiori derogate legi inferiori, lex specialis derogate legi generalis, and lex posteriori derogate legi priori. Thus the existence of a hierarchy of laws and regulations as an affirmation to maintain consistency between the norm building of each statutory regulation.
Every norm always has a basic norm (grundnorm), this basic norm then becomes the basis for the birth of another (niom) norm. The theory originally coined by Hans Kelsen was then refined or developed by Hans Nawiasky so that the Stufenbau der Rechtsordnung norm hierarchy became more perfect and could be described as follows (Kelsen, 1934):
A norm is valid because and in sofar as it was created in a certain way, that is, in a way determined by another norm; and this latter norm, then, represents the basis of the validity of the former norm. The relation between the norm determining the creation of another norm, and the norm created in accordance with this determination, can be visualized by picturing a higher and lower-level ordering of norms. The norm determining the creation is the higher-level norm.
Initially, this theory emphasized the dimensions of development and norm validity. This means that a norm is considered to have validity when the norm is formed by the mechanism outlined by other norms. There is a charge material that is regulated as a continuation of other norms. Therefore higher norms must be able to determine other lower norms. Hubert Bergmann Avilla calls a shift in the objective of the hierarchy originally to assess further validity as norm coherence so that the existence of hierarchies is not only a means of evaluating norm validity based on making mechanisms but also as a pillar in maintaining the coherence of positive legal norms. Those hierarchies in maintaining norm coherence will be confronted with abstract and concrete approaches, both of which rely on the relations between these norms.
Thus the existence of a hierarchy is an important part as a means of assessing the validity of norms in terms of the mechanism of formation, the material content of norms contained in a legislation regulation and has a role to maintain the coherence of legislation. In the context of Indonesia, there are essentially no norms that explicitly determine the hierarchy of norms in Indonesian positive law.

Before the MPRS Decree Number XX / MPRS / 1966 Regarding the DPR-GR Memorandum Regarding the Source of the Law Order of the Republic of Indonesia and the Regulations of the Republic of Indonesia, Indonesia did not recognize the hierarchy of legislation. Although there have been several regulations, the regulations do not explicitly or implicitly refer to the hierarchy of laws and regulations. For example:

1. Law Number 1 the Year 1950 concerning Regulations, Types and forms of Regulations issued by the Central Government;
2. Law Number 2 the Year 1950 concerning Establishing Emergency Law concerning Issuance of State Gazette of the Republic of Indonesia United States and concerning Issuing, announcing and commencing the Federal Law and Government Regulations as well as Federal Law (issued based on KRIS 1949).
3. The Presidential Letter to DPR Number 2262 / HK / 59 ladder1 August 20, 1959, concerning Forms of State Regulations; andLetter of the President to the House Number 2775 / HK / 59 dated September 22, 1959, concerning Examples of State Regulations;
4. Presidential Letter to DPR Number 3639 / HK / 59 dated November 26, 1959 concerning Explanation of the Forms of State Regulations as follows (Saraswati R., 2009).

a. Law (Regulations made jointly between the President and the DPR;
b. Government Regulations (Regulations made by the President to implement the Law);
c. Government Regulations Substituting Laws (Regulations made by the President are made in a state of compulsion urging about what the President should make together with the DPR;
d. Determination of President / Presidential Decree (Regulations made by using authority sourced in Article IV of the Transitional Rules of the 1945 Constitution, namely before the MPR, DPR and DPA are formed or to implement Decree of 5 July 1959 concerning Returning to the 1945 Constitution;
e. Presidential Regulation / Perpres (Crawling made based on Article 4 paragraph (1) of the 1945 Constitution and for carrying out Presidential Decree;
f. The Government Regulation to implement the Presidential Regulation was rectified and abolished by the Presidential Letter Number 3639 / HK / 59 to prevent many different types of Government Regulations, then the second type of Government Regulation was deleted and given a form of Presidential Decree;
g. Presidential Decree / Presidential Decree (Contains certain actions / actions of the President that are stipulating (beschikking) for example in the appointment of certain officials;
h. Ministerial Regulations and Decrees (Regulations or decisions made in state ministries / Government departments, each for regulating things (regeling) and for making / inaugurating appointments *(beschikking).*

The initial design of the 1945 Constitution was actually also explicitly regulating the order of the rules of law, namely: MPR Decree (Article 2 paragraph (3)) MPR Decree (Article 3), Law (Article 5 paragraph (1)), Regulations Government (Article 5

paragraph (2)), and Government Regulation in substitute of Law (Article 22 paragraph (1)), but the mention is not followed by how the relation between regulations of legislation above. Even so, it is an initial indication that the founding fathers of this nation and the constituents of the constitution have included the substance of the theory of norms in the constitution.

It is by this arena that further clarification in the form oflaw is needed so that the relationship is clearly established and becomes an inseparable part of legal politics which becomes the benchmark for the direction of legal development in Indonesia. Because in essence legal politics is a combination of law and policy so that it can be interpreted as a choice of concepts and principles as a macro framework plan that determines the direction, form and content of the law to be created, or as a series of concepts and principles that form an outline and basis plans for implementing a job, leadership, and ways of acting in the legal field.

Becoming increasingly bright the existence of a hierarchy of laws and regulations is part of Indonesian legal politics, because the existence of a statutory regulatory hierarchy strongly colors the style of the national legal system in achieving state goals. Validation of formal and material norms, and regulatory coherence is the desired meeting point can be realized from the existence of hierarchies. With the existence of valid norms and coherence, it can be ascertained that the business towards the ideals of a legal state that can provide legal certainty and can reflect justice can be realized.

2. Return of the Decree The MPR is part of the type and hierarchy of legislation

Although in the 1945 Constitution explicitly stated the existence of a type of legislation, but a clear relationship between these laws and regulations was only formed with the existence of MPR Decree Number XX / MPRS / 1966 concerning the DPR-GR Memorandum concerning the Source of Legal Order in the Republic of Indonesia and Order of Regulations of the Republic of Indonesia.

Based on the search history of the existence of the hierarchy of laws and regulations starting from the Old Order, the New Order and the Reformation Order are as follows:

a. Decree of MPRs Number XX / MPRS / 1966

1. The 1945 Constitution;
2. MPR Decree;
3. Substitute Government Laws / Regulations;
4. Government Regulation;
5. Presidential Decree;
6. Other implementing regulations;

- Ministerial Regulation
- Minister's instructions, and so on

b. MPR Decree Number III / MPR / 2000

1. The 1945 Constitution;
2. MPR Decree;
3. Law;
4. SubstituteGovernment Regulations;
5. Government Regulations;

6. Presidential Decree;
7. Regional Regulations

c. Law Number 10 of 2004

1. 1945 Constitution of the Republic of Indonesia;
2. SubstituteGovernment Laws/ Regulations;
3. Government Regulation;
4. Presidential Regulation;;
5. Provincial Regulation
6. Regency / City Regional Regulations;
7. Village Regulations

d. Law Number 12 of 2011

1. 1945 Constitution of the Republic of Indonesia;
2. MPR Decree;
3. Substitute Government Laws / Regulations;
4. Government Regulation;
5. Presidential Regulation;
6. Provincial Regulation;
7. Regency / City Regional Regulations

The most interesting thing to examine is the re-entry of the MPR Decree to be part of the type and hierarchy of laws and regulations, even though in Law Number 10 of 2004 the MPR stipulation has not been part of the type and hierarchy of legislation and MPR provisions also is a legal product of the past that has been limited from the amount and content of the material that is regulating, because the MPR has no authority to make regulating Decrees along with the position of the MPR to become a high-state Institution parallel to other high-level Institutions.

3. Contradiction to the contents of the MPR Decree with the 1945 Constitution of the Republic of Indonesia

The existence of a hierarchy of laws and regulations is a form of choice for legislators, each choice certainly has consequences. The consequences of the placement of the MPR Decree to be part of the laws and regulations under the 1945 Constitution of the Republic of Indonesia and above the law also have consequences, the consequences of which are the opportunities for potential contradiction with the 1945 Constitution of the Republic of Indonesia:

1. Article 22A of the 1945 Constitution of the Republic of Indonesia, mandates to establish a law on procedures for the formation of laws, which is then realized by Law Number 10 of 2004,39 or the latest by Law Number 12 of 2011,40 which regulates the same that the material on the content of the law constitutes further regulation regarding the provisions of the 1945 Constitution of the Republic of Indonesia. With this norm approach, the position of the MPR Tap under the Constitution is derogated from organic norms as mandated by the constitution, because those who can further define constitutional norms are not Laws. MPR.

2. The decree of the MPR on the one hand cannot further elaborate the provisions contained in the constitution, but allows the material content of the Decree of the MPR to be further elaborated by the laws and regulations below, as a consequence of the existence of the MPR Decree which has a position in over the law. Even though in accordance with the concept of hierarchical / stufentheory theory there should be no conflict between lower regulations and higher regulations up to the highest regulations.

3. In accordance with the provisions of Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia, that which can only limit human rights is law. But in fact in the MPR Decree Number XXV / MPRS / 1966 concerning the Dissolution of the Indonesian Communist Party, the Declaration of Being an Forbidden Organization in the entire territory of the Republic of Indonesia for the Indonesian Communist Party and the prohibition of any activities to cross or develop communist ideas, clearly imposed restrictions on human rights. In addition, in one Decree the MPr above contains two norms, namely norms that are regulative and norms that are in the form of decisions. Norms that specifically dissolve the Indonesian Communist party and all organizations which are under its auspices and norms about limiting the spread of communist / Marxist / Leninist teachings in society. By including these two norms, the MPR Tap can be said to be a legal product commonly referred to as pseudo legislation (beleidsregels or pseudo-wetgeving).[1]

4. The unavailability of legal efforts against the MPR's presidency when the material contention is in conflict with the 1945 Constitution of the Republic of Indonesia, is a major inequality as a rule of law, because in a state of law it has been conceived that all laws and regulations must be tested as a means of controlling cargo material legislation so that it is always coherent between lower laws and regulations with the laws and regulations in it. The absence of a testing mechanism for a statutory regulation is often referred to as terra incognita.[2]

Because there has been a vacuum in this testing mechanism, several alternatives have emerged from the experts, including the following:

a. MPR provisions do not need to be tested;

This view emphasizes the perspective that the MPR Decree has in fact been tested by the MPR itself where the results of its testing are then set forth in the MPR Nomro I/MPR/2003 Decree, and the MPR Decree is still declared valid. Thus all MPR Decrees that are declared still valid, must be interpreted that the material content of the MPR Decree has been in accordance with the contents of the 1945 Constitution of the Republic of Indonesia and therefore no longer need to be questioned. Because the MPR Decree was tested by the MPR itself.

b. MPR provisions cannot be tested;

This opinion is based on the principle of a contrario actus, this principle considers that the one who can cancel a legal product is the body that makes the legal product itself with the same legal product. This opinion is based on almost the same as the first

[1] Maria Farida IndratiSoeprapto, IlmuPerundang-Undangan: Dasar-Dasar Pembentukannya (Yogyakarta: Kanisius, 1998), 101.

[2] Michael Kirby, "Strengthening the Judicial Role in the Protection of Human Rights Action Plans", Inter-Regional Conference on Justice Systems.

opinion. Basing on this legal concept, those who have the authority to test the MPR's Decree are only the MPR itself as the same Institution, namely the Institution that makes MPR Decrees, not other Institutions. The MPR Institution does not have the authority to make regulating MPR Decrees along with the shift in the position of the MPR which is no longer the highest state institution. Therefore this group argues that the MPR Decree cannot be tested by any state institution.

c. The MPR determination can only be tested through the Legislative review mechanism;

In essence this opinion both excludes the existence of other institutions that can test the MPR Decree. As an explanation of the concept or principle of a contrario actus, so that this view is also fixed that the MPR Decree if there is a conflict with the 1945 Constitution of the Republic of Indonesia, then the MPR can revoke it itself and there is no other testing mechanism. Revocation mechanism can use the decision of the MPR session, as when the MPR ratified the results of the amendments to the 1945 Constitution of the Republic of Indonesia. However, this view also contradicted the 1945 Constitution of the Republic of Indonesia which explicitly or implicitly did not authorize the MPR.

d. The MPR's decision was tested by the Constitutional Court;

Although this authority is a unilateral claim of the Constitutional Court which is not implicitly mandated by the 1945 Constitution of the Republic of Indonesia and the Law Number 24 of 2003 concerning the Constitutional Court. Although the Constitutional Court once preceded the case for the request for testing the Government Regulation in substitute of the law, even though the verdict of the test stated Net onvankelijkverklaard (NO), but in principle the Constitutional Court claims to have the authority to examine government regulations in substitute of laws against the 1945 Constitution of the Republic of Indonesia. Because the Constitutional Court states: (a) the Court has the authority to examine, hear and decide upon the a quo petition, (b) petition has no legal status (legal stunding) to submit an a quo test application, (c) the subject matter of the request is not considered. So with a contrario argument, for example the applicant has a legal standing at that time, the Constitutional Court has the authority to conduct Perppu testing of the 1945 Constitution of the Republic of Indonesia. Based on argumentum per analogium, then if the Perppu MK can conduct a judicial review. Regarding the Decree of the MPR, the Constitutional Court also has the authority to test it, even though it is not mandated by the 1945 Constitution of the Republic of Indonesia, with the reason to fill the legal vacuum. Thus the implications of terra incognita due to the existence of MPR provisions on the type and hierarchy of legislation can be overcome.

The existence of the MPR Decree is part of the type and legislation hierarchy, as stipulated in Law Number 12 of 2011 concerning the Establishment of Legislation, which is considered to have injured some citizens' constitutional rights to the demand for legal certainty. The placement of the MPR Decree which was under the 1945 Constitution of the Republic of Indonesia and above the law also caused legal certainty to be far from expectations. This is based on the possibility of the content of the MPR Decree that is contrary to the substance and values contained in the 1945 Constitution of the Republic of Indonesia. In addition, there is no testing mechanism by the Judicial Institution on the MPR Decree making protection of citizens' constitutional rights reduced. In fact, it is the guarantee of

the constitutional rights of citizens that makes it one of the main characteristics of the conception of the state of law.

Conclusions

After the amendments to the 1945 Constitution of the Republic of Indonesia, the position of the MPR was no longer the highest institution of the state, so the function of the MPR was no longer the executor of popular sovereignty. The shift in the position of the People's Consultative Assembly also has implications for the authority of the MPR in forming regulating Stances. Thus the position of the MPR Decree which is no longer part of the type and hierarchy of legislation that is reinforced by Law Number 10 of 2004 concerning the Establishment of Legislation is appropriate. Problems arise when Law Number 12 of 2011 concerning the Establishment of Legislation Regulates the return of the MPR Obedience to be part of the type and hierarchy of laws and regulations, and its position is under the 1945 Constitution of the Republic of Indonesia and is above laws and regulations - other invitation.

Position The MPR decree in the legislative hierarchy in Indonesia has implications: (1) The role of the MPR Decree is not clear because the 1945 NRI Law states that those who can further define constitutional norms only invite law. (2) Position The MPR decree is part of the type and hierarchy of laws and regulations has a logical consequence that the contents of the MPR Decree are open to further elaboration by the laws and regulations below. (3) There is a Decree of the People's Consultative Assembly which imposes restrictions on human rights which violate the constitution for taking over the role of law. (4) the absence of a judicial institution that has been given the authority to carry out testing of the MPR Decree has given rise to terra incognita. (5) The existence of the MPR Decree in the hierarchy of laws and regulations has injured the constitutional rights of citizens to obtain fair legal certainty in the conception of the state of law.

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