

Upcoming Deliberative Waves and the Needs to Redesign Indonesian People's Consultative Assembly

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Abstract

This study shows the urgency of strengthening the function of deliberative institutions that should be able to guard the interests of the community and the constitutionality of the law. The amendment to the 1945 Constitution shows how legal issues began to emerge when the People's Consultative Assembly was no longer authorized to determine the General Outline of State Policy and how the Constitutional Court failed to be the sole guardian of the Constitutionality of National Policy. This study continues the research that discusses how democracy affects the performance of public institutions. The study results show that changes in the characteristics of the People's Consultative Assembly have changed the institution's function so that the legislative process to determine the entire direction of policy comes purely from officials elected through the general election system. Institutionalization to formulate alternative representation models and strengthen institutions for deliberative institutions is needed to improve the performance of the Indonesian system, society, and democracy. This study offers a redesigned scheme for MPR membership by restoring the representation of community groups to strengthen democracy and ensure proportionality of community representation. The results of this study are an essential consideration for maintaining the suitability of democratic values with the goals of the Indonesian nation.

Keywords: *Consultative Assembly, Democracy, Functionalism, Institutionalism.*

Introduction

This study is a form of analysis of the instability of the condition of Indonesian democracy that has arisen due to the rampant unconstitutionality of legal products. Changes in the government system after the reformation have brought new challenges in ensuring democracy can run under the Constitution in Indonesia (Aspinall et al., 2020). Although the amendment to the 1945 Constitution has allowed for a judicial review process to ensure the Constitutionality of the Law, ironically, the judge who decided on the application was sanctioned for violating the code of ethics. In addition, the public was also shocked by the Decision on the unconstitutionality of the Job Creation Law that had been issued by the Constitutional Court but was then greeted with the re-enactment of a similar product through a Government Regulation in Lieu of Law (Mahy, 2022). This phenomenon has indirectly reduced public trust in the government, so demonstrations have become one way to show their disappointment. Due to the emergence of these problems, this study offers a form of analysis to see the function of state institutions that can be an alternative to guarding the Constitutionality of legal products in Indonesia. The theory of functionalism will be the basis for philosophical studies to improve deliberative democracy in Indonesia through redesigning the function and membership of the People's Consultative Assembly.

The reforms that resulted in amendments to the Constitution should have brought democracy in a better direction (Diprose et al., 2019), especially when citizens could elect the president and people's representatives directly (Diprose & Azca, 2019). The direct democracy model became the primary choice during the reform era to prevent collusion, corruption, and nepotism that had developed during the New Order government (Aspinall, 2014). Over time, several constitutional problems have emerged. The problem is the presence of several state institutions that need to be supervised directly by the same-level institutions or the people (Andi Muhammad Asrun, Zainal Arifin Hossein, 2023). The institutions are the Supreme Court, the Constitutional Court, and the Judicial Committee. It should be noted that the Judicial Committee was originally an institution that was given the authority to supervise the behavior of judges (the Supreme Court and the Constitutional Court). However, since the Constitutional Court granted the

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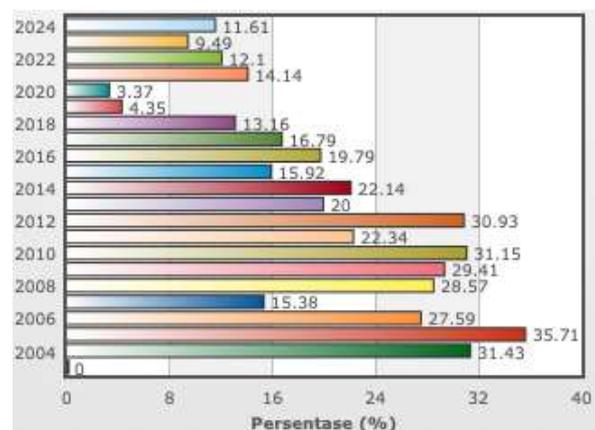
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decision, the authority is declared 'unconstitutional and no longer valid.' Thus, there is a legal vacuum to monitor the behavior of judges externally. In contrast, the Judicial Committee is not only an institution that maintains and upholds the honor, dignity, and behavior of judges but also an institution that institutions have not supervised at the same level or by the people directly (Saptomo, 2019).

Based on data released by the Constitutional Court, since its establishment in 2003, this institution has tried 1,857 judicial review applications against Indonesian laws (Mahkamah Konstitusi, 2024) and the Constitutional Court has granted 322 applications. Figure 1 shows the percentage of applications granted by the Constitutional Court each year. Applications that the Constitutional Court ultimately granted indicate that the legislative institution has created legal products that (wholly or partially) have violated a person's citizenship rights (Aditya & Al-Fatih, 2021). On the other hand, the total number of applications also indicates a phenomenon in which the public feels that legislators have violated their constitutional rights when creating a law. An interesting thing to note then arises when the public is more accessible to voice their opinions and considerations regarding the material and process of forming a law to the Constitutional Court compared to their representatives in the legislative institution (Butt & Lindsey, 2008, p. 33)

Figure 1. Percentage of Judicial Review Requests Granted (Mahkamah Konstitusi, 2024)



This problem can be one of the indicators of the problem of the People's Consultative Assembly membership, which can no longer genuinely represent all groups. The change in membership makes the People's Consultative Assembly no longer truly an "embodiment of the people." Suppose we are consistent with the spirit of the establishment of the People's Consultative Assembly, which was deliberately formed to be able to become the "people's house." In that case, the composition of its membership should reflect or represent all the people of Indonesia.

The second issue is the "absence" of institutions that have the authority to resolve conflicts that occur among state institutions, between state institutions and state commissions, or among state commissions that are not included in the qualifications of disputes over the authority of state institutions. So, it should be noted that based on the provisions of Article 24C of the 1945 Constitution of the Republic of Indonesia, the Constitutional Court is only authorized to decide disputes over the authority of state institutions whose authority is regulated in the 1945 Constitution of the Republic of Indonesia (Sherlock, 2022). However, the decision was not implemented by the implementers of the law, including the Supreme Court, the Police, the Attorney General, and the Corruption Eradication Commission.

Third, as the sole guardian of the constitutionality of the Law, the Constitutional Court still has weaknesses. This problem can be seen in the Constitutional Court Decision Number 90/PUU-XXI/2023, which changes the age limit for Presidential and Vice Presidential Candidate pairs ahead of the 2024 election. As a result of this decision, Anwar Usman, as Chief Justice of the Constitutional Court, must be reprimanded for violating the code of ethics of Constitutional Judges (Thomas B. Pepinsky, 2024). Although the public regrets the violation of ethics in the judicial review process, which should test the

unconstitutionality of the Law, this phenomenon cannot change the legal facts that ensure that the judge's decision must be respected and that the Constitutional Court's Decision is final and binding.

Due to these problems, this study aims to strengthen the institutionalization process of the People's Consultative Assembly in exercising its authority to form legal products to increase government stability. The study was conducted using the legal epistemology research method. Pettit's view (Jackson & Pettit, 1988) of the logic of legal functionalism will provide an overview of the role of the People's Consultative Assembly based on the characteristics seen in the legal structure that forms it. Furthermore, the influence of the institutionalization process on this state institution will be used to show the urgency and form of strengthening the function and resilience of the People's Consultative Assembly in the national legal political system.

This study will complement Geissel's research on the impact of different types of participatory democracy on the performance of the government system. This research has initiated a new chapter on the impact of the combination of direct and deliberative democracy that runs side by side. As expressed by Geissel (Geissel et al., 2023), similar research is urgently needed because few studies can show in depth the direct practice of the two models and analyze their impact on the performance of democracy, systems, and society. For this reason, this study will provide a review of the comparative results of assessing the performance aspects of the People's Consultative Assembly before and after the amendment to the 1945 Constitution.

Functionalism logic will lead the analysis in this study to describe how the amendment to the 1945 Constitution will be a factor that brings changes (C) to the system of determining policy direction and the formation of laws. Then, the study will be carried out by analyzing the main characteristics of the People's Consultative Assembly (X), which should be able to maintain its function even though changes (C) occur in the legal system in Indonesia (L). The results of the analysis are expected to show how the main characteristics of the People's Consultative Assembly (X) should be formulated to ensure that the direction of national policy continues to meet its constitutionality. By adopting innovation models in community representation that have developed in countries that support deliberative waves, the institutional redesign of the Indonesian Consultative Assembly will be made in this study.

This study will be divided into several parts. First, the introduction will provide an overview of what marks the decline of direct democracy in Indonesia. The second part of this study will contain the research methods used to build arguments in this study. The third part of this study will contain the results. This part will specifically discuss the theoretical framework used, the function of the People's Consultative Assembly that has developed over time, the impact of the weak institutionalization of state institutions that can be seen from praetorianism in Bangladesh, innovation of representation in the era of deliberative waves, reflections on the function of the People's Consultative Assembly and the redesign of deliberative institutions in Indonesia.

Methodology

This research was conducted using the doctrinal legal study method (Geoffrey Samuel, 2003). This normative study is based on a legal epistemology study model using functionalism and institutionalization theories. The philosophical approach in this method will show the actual position and role of the People's Consultative Assembly in forming legal products under laws and regulations. Legal materials are sourced from laws and regulations that regulate the authority and position of the People's Consultative Assembly both before and after the amendment to the 1945 Constitution. A comparative approach illustrates the urgency of the institutionalization process and the role of the Consultative Assembly and deliberative institutions in countries that have experienced deliberative waves

Result and Discussion

Functionalism's View on the Importance of the Institutionalization Process of State Institutions

Functionalism as a form of knowledge is often related to analogies originating from the biology branch (Neuhouser, 2022). As stated by Durkheim, humans are considered part of living things because they are functionally organized (Mishra, 1977). Functionalists will question the characteristics or traits possessed by an organism and what the use of these traits is in its life. However, in this case, the premise does not limit the fact that trait X must have a specific function. (Neuhouser, 2022) Furthermore, for Durkheim, all facts can emerge without having to have a specific purpose when the facts do emerge unplanned. (Schulz, 2022) Not all actions are carried out to produce a significant achievement. Some facts lose meaning after all activities are completed or their goals are achieved. It is not uncommon for a fact to no longer be meaningful when the habits carried out have changed (Christopher A. Whytock, 2009).

The functionalist view is also not used to examine why or how a trait with a specific function originated. For Durkheim, there must be a keen eye in distinguishing cause and effect from origin in a social phenomenon. By understanding this concept, we can explain an institution's dysfunction' and how to overcome it. When a doctor wants to treat a specific disease, he must be able to find the cause of the diagnosis he made. When trait (X) produces effect (Y), then (Y) will be used to meet vital social needs. In the legal world, an institution will be known for its function from its creator's original intent.

As part of the legal epistemology approach, legal functionalism will explain what functionalists actually explain. The function of law, for example, in this case, has limited functions that appear in Western society's view as a narrow meaning because the law is only designed to end or prevent conflict. Authoritative decision-making in ending or preventing conflict does not mean that law can solve the real problem. However, not all conflicts become legal problems, even though minor conflicts can disrupt the social system. (Hindriks, 2022)

Studying the complexity of sociological conditions in a society will lead us to find the function of a particular institution. Pettit express the tendency of nature (X) to carry out mechanism (M) will explain why effect (Y) can appear (Phillip Pettit, 1996). A legal system (L) that has nature (X₁, X₂, X₃) will still produce an effect (Y) even though mechanism (M) brings changes (C₁, C₂, C₃). It is not uncommon for change (C) not to occur, but nature (X) remains as a guard so that legal system L can run well and produce effect (Y). Likewise, the state system in a country is different. The function of each state institution can be found in its creator's original intent, which is then expressed through certain legal products. Various conditions can affect the existence and function of a state institution. However, in the view of legal epistemology, functionalism will show the nature and characteristics of an institution so that the analysis results show the primary purpose of establishing the institution. The process of institutionalizing state institutions is essential to ensure that the institutional characteristics can become 'the nature' (X) and supporting pillars to the legal system so that any changes (C) that occur in the mechanism (M) do not change the ideal conditions to be achieved with the institution's existence.

Based on this understanding, the logic brought by Durkheim and Pettit can be a conceptual basis for understanding the influence of public participation models on the quality of system performance, democratic performance, and social performance. Studies conducted by Geissel show that participatory democracy develops along with integrating the concepts of deliberative democracy and direct democracy. Several countries are beginning to realize the importance of the public deliberation process in improving policy responsiveness and citizen competence in understanding the direction of government policy. Using the diagram he developed, Geissel tries to show the possibility of combining deliberative democracy and direct democracy at several levels, as seen in Table 1. The difference in the combination of levels of direct democracy and deliberative democracy can sometimes provide differences in performance quality. In this case, Geissel did not realize that in some countries, changes in the direction of democracy can have a positive impact, but some also have a negative impact. Whether or not there is a change in the democratic

model applied to restructure an agency will be part of C. The initial characteristic conditions of the institution will be X_1 , and the characteristics after C will be X_2 .

Table 1. Variety of Levels of Participatory Democracy

		Deliberative Democracy	
		Strong	Weak
Direct Democracy	Strong	Strong Deliberative Democracy, Strong Direct Democracy	Weak Deliberative Democracy, Strong Direct Democracy
	Weak	Strong Deliberative Democracy, Weak Direct Democracy	Weak deliberative democracy, weak direct democracy

The examination of conditions X_1 and X_2 will then determine whether function (Y) can still be maintained if the mechanism (M) that brings about changes (C) may affect the existence of X_1 . As stated by Pettit, X_1 , as the main characteristic of an institution, should be able to maintain function (Y) even though there is a change (C) in mechanism (M). However, the legal system (L) expects that a 'healthy' institution will have characteristics (X) in order to produce function (Y). The analysis carried out on these conditions will show whether or not an institution is malfunctioning when the performance results (Y) that should be the institution's function cannot be fulfilled. Moreover, this equation will also provide an overview of how changes (C) affect condition X, which should be used to maintain performance and achieve function (Y). In ideal conditions, mechanism (M) should bring about changes (C) in order to strengthen X_1 so that function (Y) can run more optimally.

In the context of this study, this logic will be used as an analytical tool to see how changes (C) occur in the characteristics of the People's Consultative Assembly (X_1) so that the institution can then carry out its function as a representation of all Indonesian people under the essential nature of the existence of the institution. This study will provide an overview of the changes (C) in the mechanism (M) in the form of amendments to the 1945 Constitution and the legal basis that grants authority and forms the structure of the People's Consultative Assembly. With this analysis, the actual function (Y) of the People's Consultative Assembly will be seen from its essential characteristics (X_1). Then, this study will bring coherence to see opportunities to improve the characteristics of the current People's Consultative Assembly (X_n) to restore the institution's function (Y). This analysis is an essential study in providing an overview of the existence of an institution that has the opportunity to participate in maintaining the constitutionality of legal products in the legal system (L) that applies in Indonesia.

Author MPR in the Context and Changes in the Structure to Guard the Constitutionality of Legal Products in Indonesia

The Indonesian state that would be born should be formed based on "deliberative decisions" and always embody the spirit of deliberation, representation, and wisdom (Junaenah, 2015). Furthermore, he stated that the principle underlying the deliberation system was the fairy of democracy, which consisted of deliberation, representation, and wisdom. MPR's function, as the highest state institution at that time, was based on Article 1 paragraph (2) of the original 1945 Constitution and the Explanation in the State Government System section III, which outlined that "The highest state power is in the hands of the MPR," which was later also included in MPRS Decree XX/MPRS/1966 (Sati, 2020). The 1945 Constitution and its amendments have formed new democratic institutions so that institutional reform can create order for the nation and state (Benda, 1964), following the community's expectations to encourage the consolidation of democracy adopted by the 1945 Constitution and its amendments (Mietzner, 2024).

This study will specifically review the various agendas (M) that cause changes (C) in the legal basis underlying the main characteristics (X) of the People's Consultative Assembly. The results of this study will also show how each change (C) to the characteristics of the People's Consultative Assembly (X) expects a function (Y) from the institution. From the characteristics formed at each stage of the enactment of a Law that establishes the People's Consultative Assembly, it will also be seen what type and level of

democracy applies so that the analysis can place these conditions as part of the characteristics (X) of the People's Consultative Assembly and its suitability with the actual performance of the function (Y). Thus, this study will provide a diagnosis showing pathology in the body of the People's Consultative Assembly when the function (Y) of the institution cannot run properly.

Based on the historical approach, there have been at least eight changes (C) to the legal basis to form the characteristics of the People's Consultative Assembly (X) since Indonesia's independence. A mechanism (M) has changed the applicable legal system (L) by amending the 1945 Constitution. The reform in 1998 brought about changes (C) through amendments (M) from 1999 to 2022. These changes will later bring about fundamental changes (C) to the main characteristics (X) of the People's Consultative Assembly. Table 2 will show more clearly how each change (C) occurs and how it affects the conditions of the main characteristics of the People's Consultative Assembly (X), as well as the functions inherent in it (Y). Specifically, the analysis in Table 2 will show the suitability of (Y) as a function of (X), which is characteristic of the People's Consultative Assembly, and how changes (C) have an impact on (X) and (Y) of the People's Consultative Assembly. The function (Y) of the People's Consultative Assembly, which will be analyzed in this study, is closely related to the character of people's representation in the deliberative institution.

Table 2. Analysis of Changes in the Characteristics and Functions of the People's Consultative Assembly

Legal basis	Types of Changes	Remarks
The 1945 Constitution, Law Number 10/1966 and TAP MPRS XX/MPRS/1966	Characteristics (X ₁)	Membership Structure: <ul style="list-style-type: none"> • Member of the People's Representative Council - Gotong Royong (Political Group and Functional Group) • Regional Representative
	Function (Y ₁)	Member Election Model: <ul style="list-style-type: none"> • the House of Representatives member (Election and appointed) • Regional representatives are elected by the Provincial People's Representative Council <ul style="list-style-type: none"> • Implement the UUD by forming a Decree containing outlines in the executive and legislative fields • Amending the 1945 Constitution
Law Number 2/1985 (C₁)	Characteristics (X ₂)	Membership Structure (the number is twice the number of the House of Representatives): <ul style="list-style-type: none"> • Regional Representative • Representatives of the Social and Political Power Organizations participating in the election (a total of at least five representatives are guaranteed) • Delegates of the groups Member Selection Model through election and appointment: <ul style="list-style-type: none"> • Regional representatives are elected by the Provincial People's Representative Council • Representatives of election participating organizations • The delegates of the Armed Forces (ABRI) functional group are appointed by the president upon the recommendation of the ABRI Commander.

		<ul style="list-style-type: none"> The President appoints group representatives, either at the suggestion of the group organization or on the President's own initiative.
	Function (Y ₂)	<ul style="list-style-type: none"> Implement the UUD by forming a Decree containing outlines in the executive and legislative fields. Amending the 1945 Constitution Electing the President and Vice President
Law Number 5/1995 (C₂)	Characteristics (X ₃)	Membership Structure consists of 500 people: <ul style="list-style-type: none"> Regional representatives are elected by the Provincial People's Representative Council Representatives of election participating organizations The delegates of the Armed Forces (ABRI) functional group are appointed by the president upon the recommendation of the ABRI Commander. The President appoints group representatives, either at the suggestion of the group organization or on the President's own initiative.
		Member Election Model: <ul style="list-style-type: none"> 425 people through general elections 75 people through appointment (armed forces work group determined by the president on the recommendation of the ABRI commander)
	Function (Y ₃)	<ul style="list-style-type: none"> Implement the UUD 1945 by forming a Decree containing outlines in the executive and legislative fields. Amending the 1945 Constitution
Amendment to the 1945 Constitution (C₃)	Characteristics (X ₄)	Membership Structure: <ul style="list-style-type: none"> House of Representatives Regional Representative Council <p>The model for electing members is entirely through general elections.</p>
	Function (Y ₄)	<ul style="list-style-type: none"> Amending the 1945 Constitution Elect the president and vice president only when there is a change in their term of office.
Law Number 4/1999 (C₄)	Characteristics (X ₅)	Membership Structure: <ul style="list-style-type: none"> No change <p>Members by election</p>
	Function (Y ₅)	<ul style="list-style-type: none"> No change
Law Number 22/2003 (C₅)	Characteristics (X ₆)	Membership Structure: <ul style="list-style-type: none"> No change <p>Members by election</p>
	Function (Y ₆)	<ul style="list-style-type: none"> No change
Law Number 27/2009 (C₆)	Characteristics (X ₇)	Membership Structure: <ul style="list-style-type: none"> No change

		Members by election
	Function (Y ₇)	• No change
Law Number 17/2014 (C₇)	Characteristics (X ₈)	Membership Structure: • No change
		Members by election
	Function (Y ₈)	• No change

Table 2 shows explicitly how the People's Consultative Assembly was created with characteristics (X₁) that indicate the representation of each social group. The two membership filling systems in the People's Consultative Assembly function to ensure that these characteristics can be realized. The position-filling system is a proportional combination of members who come from the results of general elections and members appointed by appointment. The proportionality of representation of groups in a pluralistic society that forms the social structure of the Indonesian Nation is a form of effort to make the People's Consultative Assembly an institution with a 'mini Indonesia' character. As explained in the concept of functionalism, the characteristics of a cell will show the uniqueness of the cell. Later, these characteristics will become a marker of the function of the cell in question. Likewise, the first characteristic that forms the People's Consultative Assembly has brought with it the function of the highest state institution as part of its authority.

Based on the analysis conducted on the 1945 Constitution (before the amendment), Law Number 10/1966, and TAP MPRS XX/MPRS/1966, it is seen that the unique characteristics of the People's Consultative Assembly are needed to support its function in implementing the Constitution by forming a Decree containing outlines in the executive and legislative fields and amending the 1945 Constitution. With the representation of each group and the certainty that all political forces will have representatives in the People's Consultative Assembly, the decree of the People's Consultative Assembly containing the outline of the state's policy as the implementing regulation of the 1945 Constitution is expected to be able to represent the interests of all levels of society without exception. This characteristic (X₁) is under the mandate of the 1945 Constitution, which states that the People's Consultative Assembly is the incarnation of all Indonesian people (*Vertretung sorgan des Willens des Staatsvolkes*). Based on the existence of characteristics (X₁), the People's Consultative Assembly is considered worthy of holding the function as the highest state institution with the authority to determine, change, and implement the 1945 Constitution (Indonesian Constitution) and appoint the president and vice president.

Since the formation of the People's Consultative Assembly until before the amendment, the government has made two changes (C₁ and C₂). Although the changes (C₁ and C₂) have an impact on the proportionality of the composition of the People's Consultative Assembly members (X₂ and X₃), these changes do not change the essential characteristics that are the spirit of the institution that reflects 'mini Indonesia' (X₁). So it can be seen that when the mechanism (M) of the revision of the legal basis of the People's Consultative Assembly occurs, the characteristics (X) of the People's Consultative Assembly can still maintain the function (Y) of the institution so that it can represent all the interests of the community as stated in various provisions of the People's Consultative Assembly. The provisions of the People's Consultative Assembly have become guidelines in making all legal products issued by legislative and executive institutions so that the Constitutionality and direction of national policy can genuinely align with the interests of all Indonesian people.

The changes (C₃) that occurred due to the mechanism (M) of the amendment to the 1945 Constitution then had a significant impact on the characteristics (X₄ to X₈) of the People's Consultative Assembly. As explained by Pettit, an institution's characteristics will show its functions. The changes during the amendment to the 1945 Constitution (C₃) have made the People's Consultative Assembly a high state institution whose position is equal to other high state institutions, such as the President, Supreme Court, Constitutional Court, and so on. The amendment also changed the essential characteristics of the People's Consultative Assembly (X₄), whose members now only come from the results of general elections. Until now (X₈), the People's Consultative Assembly only consists of the People's Representative Council and the Regional Representative Council. The Regional Representative Council is present to replace regional

representatives whom the Provincial People's Representative Council previously elected. This change changes the proportionality of representation of each social group in Indonesia.

In general, it can be said that the amendment to the 1945 Constitution has made direct democracy the only way to get the opportunity to become a member of the People's Consultative Assembly. The change in the characteristics of the People's Consultative Assembly also changes its function (Y_4 to Y_8). The loss of proportionality of the People's Consultative Assembly membership is a form of change that can be functionally understood because this institution is no longer the primary representation of the people's sovereignty. After becoming a high state institution, the People's Consultative Assembly can no longer issue regulatory Decrees. Although some of the People's Consultative Assembly Decrees are still in effect, these provisions can no longer be made. As a result, the President and the People's Representative Council will jointly determine the direction of national policy as stated in the Law.

The General Guidelines of State Policy, which used to be a guideline in implementing the 1945 Constitution, has now transformed into the Law on the National Long-Term Plan. Without any guidelines to bridge the Constitutional mandate and the Laws that the House of Representatives must make, currently, there are more and more judicial review processes that the Constitutional Court must complete because the legislative products produced have violated the Constitutional rights of citizens. The 1,852 judicial review applications received by the Constitutional Court certainly imply a problem and the need to direct legislators to be able to carry out their duties and functions better.

Referring to Table 1, which categorizes the level of participatory democracy in Indonesia, it can be said that Indonesia generally experienced two phases. In the first stage, namely before the amendment of the 1945 Constitution (X_1 to X_3), Indonesian democracy tended to be in the column indicating weak direct democracy and deliberative solid democracy. In this condition, the people can contest to fill the People's Consultative Assembly position through the general election mechanism. The government also guarantees several seats in the People's Consultative Assembly to accommodate the strength of certain groups that cannot contest so that they can continue to voice the aspirations of their groups. In this model, the People's Consultative Assembly functions as the highest state institution that can control the entire course of the government system in Indonesia so that the legislative and executive institutions must adjust the laws they make with the Decrees issued by the People's Consultative Assembly.

In the second phase (X_4 to X_8), the level of participatory democracy in Indonesia is in a solid direct democracy space, but its deliberative democracy is still weak. This condition causes changes in the position and interaction between high-state institutions. The People's Consultative Assembly no longer has the characteristics according to the initial spirit of its formation. Changes then also occur in the institutional functions it carries. At this stage, the freedom of legislative and executive institutions to determine the direction of national policy is more significant compared to the previous period. However, problems arise when the community's aspirations are often ignored in the legislative process. In the end, the request for judicial review becomes one of the methods used by community groups whose rights are ignored.

Reflection on the Development of Deliberative Waves and Innovation in Community Representation in Supporting the Strengthening of Democracy in Indonesia

The development of the deliberative wave has occurred in various parts of the world (Goldberg & Bächtiger, 2023). This trend is also supported by innovation in constructing the structure and function of deliberative institutions (Curato et al., 2022). As previously explained, the institution's characteristics will bring with them the institution's function. Therefore, it can be said that the main characteristics of deliberative institutions will be distinct from the proportionality of representation from each group of society and the ability of these representatives to fight for the aspirations they bring (Galligan, 2013). Several countries have different examples in implementing the concept and function of people's representation (Arnesen & Peters, 2018). This difference in characteristics is a form of adjustment that occurs with each country's sociological, economic, cultural, and political conditions. The ability to see the needs and readiness of supporting factors for achieving good democracy is the key so that the formulation of the governance system that has been made can function correctly (Hamilton et al., 2024).

Germany is one of the countries that has a deliberative institution by conceptualizing the Bürgerrat Demokratie (Dean et al., 2024). As a form of mini-public, the deliberative institution can produce input in the form of aspirations and considerations of citizens more inclusively. This institution was specifically formed so that even people alienated from politics could still provide input to the government in formulating responsive policies (Niessen & Reuchamps, 2022). The development of this institutional structure appears as one of the potentials that can be used to overcome the dysfunction of representative institutions. In this institution, citizens will have space to study and explore critical political issues with the help of civil society groups so that they can provide mature assessments until they can finally produce recommendations for the government. In this model, policy formulation remains the responsibility of the authorized institution (Kersting, 2021).

The openness of participation space in Germany, in particular, has provided more comprehensive opportunities for the community to be directly involved in gathering aspirations at the local and national levels. Since the population and the variety of interests are not too broad, selecting people who will be part of the Bürgerrat Demokratie can be done randomly. This mechanism is believed to be able to increase the responsiveness of policies taken by the government, especially on issues that are directly important to the lives of the community (Pinelli, 2013). In addition, the openness of participation space and education provided to the community in the Bürgerrat Demokratie can also reduce public distrust and dissatisfaction with the democratic system that has developed.

The development of the Citizens' Assembly then also began to emerge in Ireland (Walsh & Elkink, 2021). This assembly was formed to unite citizens and place them on an equal footing to create a citizen report that would be given to politicians as a recommendation (Loughnane et al., 2023). In 2016-2018, this assembly was formed to resolve political and social divisions that occurred due to differences in views in responding to regulations on same-sex marriage and abortion (Müller et al., 2023). In the Irish deliberative model, citizens were also randomly selected to discuss the possibility of amending the 8th Constitution and legalizing abortion. In addition, this assembly also discussed recommendations on issues regarding the aging population, the referendum process, the parliamentary term, and strategies for dealing with climate change. Based on these issues, the Citizens' Assembly recommended that Parliament hold a referendum on amending the Constitution and declaring a climate emergency (Garry et al., 2022).

Figure 1. Citizens' Assembly Model (OECD, 2020)



The OECD generally describes the model of filling deliberative members in various countries and the function of the institution in Figure 1. The graph shows that the innovation of deliberative institutions has the main characteristic (X) that can represent citizen representatives. The representatives are then gathered within a certain period to run a mechanism (M) to produce policy recommendations as the final result (Y). Innovation will then lie in formulating X to have proportionality with the interests of community groups

in a country. Deliberation as a mechanism to collect inclusive aspirations is an alternative model built to strengthen participatory democracy that is anti-discrimination. Ultimately, this mechanism will bring a form of government that is more responsive and follows the community's needs.

The development of participatory democracy that combines direct and deliberative democracy in the Indonesian government system model can be strengthened by redesigning the membership structure and functions of the People's Consultative Assembly. Referring to the examples that have been applied in the government systems in Germany and Ireland, the Consultative Assembly is a forum for citizens to be directly involved, and it only provides recommendations to the legislative institution. However, this institution has significant power to ensure legislators make policies following the people's aspirations. This concept has long been incarnate in the body of the People's Consultative Assembly. The institution that was born as the highest state institution formed to hold the people's sovereignty has been designed with proportional membership that can represent the interests of all levels of society, both those affiliated with political parties and those not affiliated with political parties.

In fact, in the first construction of the People's Consultative Assembly, it was also explained that the armed forces were one of the groups with a portion of the institution, and their representation was guaranteed through appointment. The method of appointment and appointment was chosen to ensure that ABRI could carry out its duties to maintain the Constitutionality of the direction of national policy without having to divide public support by openly contesting. The direct appointment model would not divide the public into specific groups. However, general contestation could still be carried out so that the public could support representatives affiliated with political or functional groups. The government had also designed it so that every organization that had become an election participant would still have representation in the People's Consultative Assembly even though it did not pass the election threshold. This concept reflects respect for every political force so that they could aspire to their interests even though they were a minority group in this country.

The first proportional representation model of the People's Consultative Assembly was also supported by the presence of regional representatives who could reflect the views of local figures. Although not directly elected by the community, when someone has become a local figure, most of the community has certainly recognized the person's ability. The direct appointment and promotion of some members of the People's Consultative Assembly is a characteristic (X1) that marks the power of people's sovereignty in determining the direction and policies of the state. Unlike the concept of a citizen's assembly or Bürgerrat Demokratie that developed in Ireland and Germany, the People's Consultative Assembly was even designed to be able to create a guideline for the running of the government system directly. The position of the General Guidelines of State Policy, ratified by the Decree of the People's Consultative Assembly, is above the Law produced by the legislative institution. So, in this case, the deliberation results are not only in the form of recommendations but even have the power to ensure that legislators must comply with these provisions.

Based on these considerations, the structure (X) and function (Y) of the People's Consultative Assembly should refer to the concept of characteristics that were formed before the amendment to the 1945 Constitution. As stated by Pettit, in the functionalist view, the essential characteristics of an institution (X) are the pillars of protection that can ensure that the organ can carry out its function (Y) even though there are changes (C). Furthermore, the functionalist view also specifically indicates that an institution is born with its characteristics so that the ideals of the establishment of the institution can be realized. When the main characteristics of the institution have changed, its function will also change. In the view of pathology, when a cell does not function properly, it can be said that there is damage to the cell. The repairs made should be used to restore the function of the cell so that it can work more optimally. For this reason, the redesign of the membership and authority of the People's Consultative Assembly should be carried out to strengthen the role of the institution as the holder of people's sovereignty. This concept then needs to be developed to support strengthening democracy in Indonesia.

Conclusion

Direct and deliberative democracy can be exciting combinations for developing a participatory democracy model. Redesigning the People's Consultative Assembly must be done to restore the primary function of the institution's birth. Without proportionality in ensuring the representation of every group of society, whether majority, minority, or alienated from political activities, every decision taken will not be able to represent the interests of citizens as a whole. A membership structure that represents every group of Indonesian society is very much needed to help determine the direction of national policy by the mandate of the Constitution. For this reason, an amendment is needed to restore the sovereignty of the people and the structure of the People's Consultative Assembly so that the constitutionality of legal products produced by legislative and executive institutions can be maintained again. This concept can be an alternative to guard and support the strengthening of democracy in Indonesia.

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