

PERMANENT INSTITUTION, INTERMITTENT CONSTITUTIONAL AUTHORITY: RECONSTRUCTING THE INSTITUTIONAL IDENTITY OF INDONESIA'S PEOPLE'S CONSULTATIVE ASSEMBLY

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ABSTRACT

Indonesia's post-Reform constitutional architecture creates a persistent classificatory problem for the People's Consultative Assembly (Majelis Permusyawaratan Rakyat, MPR). The MPR is constitutionally constituted, continuously organized, and supported as a permanent state institution, yet several of its most consequential powers are exercised only when a specified constitutional event occurs. This article develops the concept of intermittent constitutional authority to explain that configuration. It asks how the MPR's institutional identity should be understood after the 1999-2002 amendments and how its authority can be reconstructed without reviving pre-Reform parliamentary supremacy. Using doctrinal legal research, the article combines constitutional, statutory, jurisprudential, historical, conceptual, and comparative approaches, with functional comparisons to France, Germany, the United States, South Africa, and India. The analysis finds that institutional permanence and operational frequency are analytically distinct: an authority may remain continuously vested while its exercise is episodic, contingent, and non-routine. The MPR therefore cannot be reduced either to a weak residual chamber or to a mere joint sitting of the DPR and DPD. Its defining role is a form of high-intensity, trigger-based constitutional stewardship involving amendment, presidential succession, inauguration, and removal. The article proposes a reconstruction based on trigger discipline, procedural readiness, agenda exclusivity, non-encroachment on ordinary government, and transparent activation protocols. This preserves the MPR as a permanent constitutional institution while confining its exceptional authority to constitutionally specified moments.

Keywords : People's Consultative Assembly; intermittent constitutional authority; constitutional identity; constitutional amendment; institutional design.

I. INTRODUCTION

The institutional status of Indonesia's People's Consultative Assembly (Majelis Permusyawaratan Rakyat, MPR) has been one of the most persistent puzzles produced by the constitutional amendments of 1999-2002. Before Reformasi, the MPR occupied the apex of the state structure and was formally associated with the full exercise of popular sovereignty. The amended Constitution displaced that vertical hierarchy with a constitutional order in which sovereignty is exercised according to the Constitution and in which state organs receive differentiated, textually bounded competences.¹ The transformation was deliberate: the MPR no longer elects the President in ordinary circumstances, no longer determines the Broad Outlines of State Policy as a superior mandate to the executive, and no longer functions as a source of generalized institutional supremacy. Yet the Constitution did not dissolve the Assembly. It retained the MPR by name, prescribed its membership, assigned it constituent and succession-related powers, required it to convene at least once every five years, and placed several of the Republic's highest-stakes constitutional decisions in its hands. The resulting structure cannot be adequately captured by the simple claim that the MPR has become 'weaker.' It is better understood as a change in the temporal pattern, legal intensity, and triggering conditions of constitutional authority.

Positive law reinforces that puzzle. The MD3 framework treats the MPR as a state institution with an organizational identity distinct from the two representative bodies whose members compose it.² Successive amendments to that framework have altered institutional arrangements without converting the Assembly into a temporary committee or an informal conference.³ The second amendment to the MD3 Law likewise preserved an autonomous legal framework for the MPR rather than absorbing its constitutional functions into the DPR or DPD.⁴ The third amendment, still referenced by the current MPR standing orders, continues this institutional architecture.⁵ Most importantly for the present constitutional term, MPR Regulation No. 1 of 2024 governs the Assembly's composition, position, powers, tasks, membership, internal groupings, decisions, procedures, support system, and standing-order amendment; it replaced the 2019 rules and confirms that the institution possesses an ongoing procedural infrastructure even when no constitutional crisis or amendment proposal is pending.⁶ Permanence, therefore, is not an inference drawn merely from political habit. It is embedded in constitutional

¹The 1945 Constitution of the Republic of Indonesia, arts. 1(2), 2, 3, 7A-7B, 8, and 37 (as amended 1999-2002).

²Law No. 17 of 2014 on the People's Consultative Assembly, House of Representatives, Regional Representative Council, and Regional People's Representative Councils (MD3 Law), arts. 2-5.

³Law No. 42 of 2014 on the Amendment to Law No. 17 of 2014 on the MPR, DPR, DPD, and DPRD.

⁴Law No. 2 of 2018 on the Second Amendment to Law No. 17 of 2014 on the MPR, DPR, DPD, and DPRD.

⁵Law No. 13 of 2019 on the Third Amendment to Law No. 17 of 2014 on the MPR, DPR, DPD, and DPRD.

⁶People's Consultative Assembly Regulation No. 1 of 2024 on the Standing Orders of the People's Consultative Assembly of the Republic of Indonesia.

text and reproduced by legislation, standing orders, personnel, procedures, and administrative continuity.

At the same time, the Assembly's history complicates any attempt to infer contemporary supremacy from institutional continuity. The residual status of older MPRS/MPR Decrees was deliberately reviewed through MPR Decree No. I/MPR/2003, which classified 139 earlier decrees according to whether they were revoked, remained operative under conditions, continued until legislation was enacted, or required no further legal action.⁷ That transitional settlement matters because the survival of particular historic decrees does not recreate a general post-amendment power to issue externally binding regulatory decrees. The Constitutional Court's Decision No. 66/PUU-XXI/2023 rejected an attempt that would have reopened a broader regulatory competence and emphasized the constitutional consequences of the shift from MPR supremacy to constitutional supremacy.⁸ Earlier, Decision No. 24/PUU-XI/2013 had already exposed the jurisdictional difficulty surrounding review of surviving MPR Decrees.⁹ These decisions show that the MPR's institutional identity must be reconstructed from the current Constitution's allocation of authority, not from the symbolic residue of its former superior status.

A second problem concerns the meaning of 'state institution' itself. Indonesian constitutional doctrine does not reduce institutional status to the amount or frequency of power actually exercised. In Decision No. 004/SKLN-IV/2006, the Constitutional Court treated constitutional competence as central to identifying a state organ for purposes of disputes over constitutionally conferred authority.¹⁰ The MPR's own official explanation similarly describes it as a state institution equal in constitutional rank to other constitutionally recognized institutions, while stressing that it no longer exercises popular sovereignty in its entirety.¹¹ The current 2024-2029 Assembly is also materially constituted rather than hypothetical: 732 members 580 members of the DPR and 152 members of the DPD were sworn in as members of the MPR for the term.¹² The core analytical question is therefore not whether the MPR 'exists' between major constitutional events. It does. The harder question is what kind of authority it possesses during periods in which its most consequential constitutional powers are not being exercised.

The existing literature supplies important but incomplete answers. Harijanti and Lindsey located the post-amendment MPR within the wider reconfiguration of electoral and constitutional institutions after Reformasi, showing how constitutional amendment redistributed authority and

⁷People's Consultative Assembly Decree No. I/MPR/2003 on the Review of the Substance and Legal Status of MPRS and MPR Decrees from 1960 to 2002.

⁸Constitutional Court of the Republic of Indonesia, Decision No. 66/PUU-XXI/2023, January 16, 2024.

⁹Constitutional Court of the Republic of Indonesia, Decision No. 24/PUU-XI/2013, September 10, 2013.

¹⁰Constitutional Court of the Republic of Indonesia, Decision No. 004/SKLN-IV/2006.

¹¹Majelis Permusyawaratan Rakyat Republik Indonesia, "Kedudukan, Tugas, dan Wewenang MPR RI," official institutional information, accessed September 14, 2026.

¹²Majelis Permusyawaratan Rakyat Republik Indonesia, "732 Anggota MPR Masa Jabatan 2024-2029 Resmi Dilantik," *Majalah MPR*, ed. 10/XVIII (October 2024).

transformed the relationship between representative organs.¹³ Efendi more directly characterizes MPR powers as periodic and incidental and argues that the mismatch between autonomous institutional infrastructure and infrequent power may justify transforming the MPR into a joint session of the DPR and DPD.¹⁴ Priyanto earlier identified precisely the ambiguity between understanding the MPR as a permanent body and understanding it as a joint session.¹⁵ Other scholarship has described the MPR as a constitutive institution because it retains authority to amend and establish the Constitution.¹⁶ These accounts identify the symptoms of the problem autonomy, infrequency, constituent power, and compositional dependence but they do not yet provide a theory explaining how an institution can be permanently constituted while its defining powers remain inactive for long intervals.

A related strand of scholarship focuses on MPR Decrees and the hierarchy of norms. Fajarwati demonstrates how the re-entry of surviving MPR Decrees into the statutory hierarchy generates questions of reviewability and legal certainty.¹⁷ Fudin examines the relationship between the MPR and Constitutional Court through checks and balances, emphasizing that both institutions possess functions tied directly to the Constitution.¹⁸ More recent research has returned to representational questions inside the Assembly, including proposals to revive functional-group representation after its abolition in the Reform amendments.¹⁹ Debate over the State Policy Outlines likewise shows that institutional uncertainty often produces calls to give the MPR a more continuous policy-setting role.²⁰ The risk in those debates is conceptual: an institution whose core constitutional functions are intermittent may appear underused when judged by the metric of daily governance. That appearance can generate pressure either to abolish its autonomy or to manufacture routine powers for it. Both responses may be

¹³Susi Dwi Harijanti and Tim Lindsey, "Indonesia: General Elections Test the Amended Constitution and the New Constitutional Court," *International Journal of Constitutional Law* 4, no. 1 (2006): 138-150, <https://doi.org/10.1093/icon/moi055>.

¹⁴A'an Efendi, "Kekuasaan Majelis Permusyawaratan Rakyat: Problematik dan Penataan," *Veritas et Justitia* 9, no. 2 (2023), <https://doi.org/10.25123/vej.v9i2.6763>.

¹⁵Anang Priyanto, "Kedudukan Majelis Permusyawaratan Rakyat dalam Struktur Ketatanegaraan Indonesia," *Jurnal Civics* 4, no. 2 (2007), <https://doi.org/10.21831/civics.v4i2.6027>.

¹⁶Della Nursari et al., "Kedudukan Majelis Permusyawaratan Rakyat (MPR) sebagai Lembaga Konstitutif di Indonesia," *Limbago: Journal of Constitutional Law* 3, no. 3 (2023): 370-380, <https://doi.org/10.22437/limbago.v3i3.25269>.

¹⁷Meirina Fajarwati, "Konstitusionalitas Ketetapan Majelis Permusyawaratan Rakyat dalam Hierarki Peraturan Perundang-undangan," *Jurnal Hukum & Pembangunan* 48, no. 1 (2018), <https://doi.org/10.21143/jhp.vol.48.no.1.1227>.

¹⁸Hanif Fudin, "Aktualisasi Checks and Balances Lembaga Negara: Antara Majelis Permusyawaratan Rakyat dan Mahkamah Konstitusi," *Jurnal Konstitusi* 19, no. 1 (2022), <https://doi.org/10.31078/jk1919>.

¹⁹Abdy Yuhana, "The Crisis of Constitutional Representation: The Urgency of Reviving and Repositioning Functional Group Delegates within the MPR," *Jurnal Konstitusi* 23 (2026), <https://doi.org/10.31078/jk2327>.

²⁰D. Nicky Fahrizal and Prajna Delfina Dwayne, "The People's Consultative Assembly (MPR) and the State Policy Outlines (PPHN) in the Post-Fourth Amendment Era of the 1945 Constitution," *Indonesian Quarterly* 50, no. 3 (2022; published online 2024).

mistaken if intermittency is itself a deliberate constitutional characteristic rather than a design defect.

Recent doctrine on regulatory MPR Decrees strengthens the need for a more precise theory. Safa'at reads Constitutional Court Decision No. 66/PUU-XXI/2023 as bringing the debate over new regulatory MPR Decrees toward closure, because the post-amendment MPR lacks the former open-ended normative authority associated with its status as the highest state organ.²¹ Proposals to involve the Constitutional Court more deeply in future constitutional amendment processes, meanwhile, demonstrate continuing concern about the concentration of amendment authority and the political character of the MPR.²² Fatlolon's Habermasian evaluation of the 1999-2002 amendment process highlights a different dimension: constitutional change requires publicity, participation, and deliberative conditions beyond formal voting.²³ Historical analysis confirms that amendment authority has repeatedly changed institutional form across Indonesia's constitutional experience, even while the MPR remains the named amendment organ under the current text.²⁴ The present article builds on these strands but shifts the unit of analysis from 'how much power' the MPR has to 'when and under what conditions' its constitutionally vested authority becomes operational.

The article's central thesis is that the MPR is a permanent constitutional institution possessing a cluster of high-intensity constitutional powers, some of which are activated only at specific moments or upon specified constitutional contingencies. This produces what the article calls intermittent constitutional authority: authority that remains legally vested in an institution continuously, but whose exercise is episodic, contingent, non-routine, and triggered by constitutionally defined events. Intermittency is not legal dormancy in the sense of desuetude; it is not an emergency power that expands ordinary competence; and it is not the temporary existence of an ad hoc body. It describes a temporal structure of competence in which the holder is permanent, the legal title is continuous, the activation condition is discontinuous, and the exercise is unusually consequential. That distinction helps explain why surviving MPR Decrees must be separated from claims of

²¹Muchamad Ali Safa'at, "The End of the Debate on MPR's Authority to Form a Regulatory Decree (Study of Constitutional Court Decision Number 66/PUU-XXI/2023)," *Jurnal Konstitusi* 22, no. 4 (2025), <https://doi.org/10.31078/jk2248>.

²²Ahmad Ahmad and Novendri M. Nggilu, "Denyut Nadi Amandemen Kelima UUD 1945 melalui Pelibatan Mahkamah Konstitusi sebagai Prinsip the Guardian of the Constitution," *Jurnal Konstitusi* 16, no. 4 (2019), <https://doi.org/10.31078/jk1646>.

²³Costantinus Fatlolon, "Evaluasi Proses Amendemen Undang-Undang Dasar Tahun 1945: Perspektif Habermasian," *Jurnal Konstitusi* 19, no. 4 (2022), <https://doi.org/10.31078/jk1944>.

²⁴Jajang Indra Fadila, "Perkembangan Kewenangan Mengubah Undang-Undang Dasar di Indonesia," *Jurnal Cita Hukum* 1, no. 1 (2013), <https://doi.org/10.15408/jch.v1i1.1458>.

new regulatory power.²⁵ It also explains why the hierarchy of norms cannot by itself determine the current scope of MPR competence.²⁶

This conceptualization responds to a contemporary institutional concern. One position favors a separate MPR institutional law or stronger statutory specification of its identity, partly because Article 2(1) expressly states that the Assembly's composition is to be regulated by law.²⁷ Another position views the Assembly's diminished ordinary role as evidence that it should be reduced to a joint sitting. Still another seeks to restore broader strategic powers. The post-amendment constitutional order, however, is organized around horizontal differentiation and functional checks rather than the former logic of mandates descending from a supreme Assembly.²⁸ Classical Indonesian scholarship on the redesigned DPR, DPD, and MPR similarly treats the representative structure as a new constitutional configuration rather than a partial restoration of the pre-amendment hierarchy.²⁹ Institutionally, the MPR therefore must be assessed by the constitutional quality of its assigned functions, not by the number of days on which it produces politically visible outputs.

Accordingly, this article asks two linked questions. First, how should the MPR's institutional identity be reconstructed when the institution is permanent but several of its core constitutional powers are exercised only episodically? Second, what legal design follows from that identity if Indonesia wishes to preserve constitutional supremacy while ensuring that the MPR is prepared to act lawfully and legitimately when a triggering event occurs? The analysis proceeds in three parts. The first reconstructs the MPR as a permanent constitutional institution after the collapse of the 'highest state organ' model. The second develops the theory of intermittent constitutional authority and tests it comparatively. The third proposes a model of triggered constitutional stewardship that strengthens readiness and procedural legitimacy without enlarging the MPR into a routine policymaking superior. The approach takes seriously the post-Reform consolidation of state institutions as differentiated constitutional organs.³⁰ It also treats

²⁵Dian Agung Wicaksono, "Implikasi Re-Eksistensi TAP MPR dalam Hierarki Peraturan Perundang-Undangan terhadap Jaminan atas Kepastian Hukum yang Adil di Indonesia," *Jurnal Konstitusi* 10, no. 1 (2013).

²⁶Rizki Rahayu Fitri, Faisal Akbar Nasution, Mirza Nasution, and Jelly Leviza, "Konstitusionalitas Ketetapan Majelis Permusyawaratan Rakyat dalam Hierarki Peraturan Perundang-Undangan di Indonesia," *Buletin Konstitusi* 2, no. 1 (2021).

²⁷Restu Gusti Monitasari, "The Constitutionality of the Establishment of the Law on the Institution of the People's Consultative Assembly (MPR) of the Republic of Indonesia as a Form of Manifestation of Article 2 Paragraph (1) of the 1945 Constitution," *Dharmawangsa: International Journal of the Social Sciences, Education and Humanities* 6, no. 2 (2025).

²⁸Maruarar Siahaan, "Uji Konstitusionalitas Peraturan Perundang-Undangan Negara Kita: Masalah dan Tantangan," *Jurnal Konstitusi* 7, no. 4 (2010), <https://doi.org/10.31078/jk742>.

²⁹Bagir Manan, *DPR, DPD, dan MPR dalam UUD 1945 Baru* (Yogyakarta: FH UII Press, 2003).

³⁰Jimly Asshiddiqie, *Perkembangan dan Konsolidasi Lembaga Negara Pasca Reformasi* (Jakarta: Sinar Grafika, 2010).

constitutionalism as a discipline of limiting and structuring power, rather than merely locating a sovereign center.³¹

II. RESEARCH METHOD

This research uses doctrinal legal methodology with statute, conceptual, historical, case-law, and comparative approaches. The primary Indonesian materials are the 1945 Constitution, the MD3 legislative framework and its amendments, MPR Regulation No. 1 of 2024, MPR Decree No. I/MPR/2003, and relevant Constitutional Court decisions. The doctrinal method is appropriate because the central problem concerns the legal character, temporal structure, and institutional allocation of constitutional powers rather than the causal measurement of political behavior. Indonesian constitutional-law scholarship is used to reconstruct doctrinal debates over institutional position, amendment authority, and presidentialism.³² The historical dimension is limited to what is necessary to distinguish the pre-amendment doctrine of MPR supremacy from the present constitutional order, while the analysis of amendment procedure draws on classic Indonesian work on constitutional change.³³

The conceptual approach treats institutional identity as a relationship among legal status, membership, competence, procedure, and time. It does not assume that a permanent institution must exercise its defining competence continuously. Comparative constitutional theory is used to identify functional analogues and counterexamples: bodies that exist only when convened, legislatures that intermittently exercise constituent authority, and permanent institutions whose special powers activate upon constitutional events. Comparative jurisdictions were selected functionally rather than genealogically. France illustrates Parliament convened in Congress for one amendment path; Germany separates ordinary amendment by Bundestag and Bundesrat from an ad hoc Federal Convention for presidential election; the United States places amendment proposal in a permanent Congress while allowing a convention alternative; South Africa integrates amendment and presidential election into permanent representative institutions; and India expressly describes Parliament's amendment authority as constituent power. The comparisons are therefore controlled by function rather than by a claim that any foreign model should be transplanted into Indonesia.³⁴

The article develops the concept of intermittent constitutional authority through an analytical synthesis of constituent-power theory, amendment design, and institutional theory. Sources are triangulated by asking whether the proposed concept fits constitutional text, explains doctrinal anomalies better than competing descriptions, and yields administrable consequences for institutional design. The research is prescriptive only after the descriptive

³¹Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia* (Jakarta: Sinar Grafika, 2010).

³²Ni'matul Huda, *Hukum Tata Negara Indonesia* (Jakarta: Rajawali Pers, 2019).

³³Sri Soemantri, *Prosedur dan Sistem Perubahan Konstitusi* (Bandung: Alumni, 1987).

³⁴Saldi Isra, *Sistem Pemerintahan Indonesia: Pergulatan Ketatanegaraan Menuju Sistem Pemerintahan Presidensial* (Depok: Rajawali Pers, 2019).

structure is established: it first identifies who holds the authority and when it can be exercised, then evaluates how standing orders and legislation should organize activation. This order guards against reconstructing the MPR merely to fill perceived institutional ‘emptiness.’ It also reflects the idea that constitutional politics may occur in moments of heightened authority that differ qualitatively from ordinary politics.³⁵ Constitutional transformations can alter the relationship between ordinary and higher-law decision making without erasing the institutions that mediate those transitions.³⁶

III. ANALYSIS AND DISCUSSION

A. From Supreme State Organ to Permanent Constitutional Institution: Reconstructing the MPR’s Institutional Identity

The starting point is to separate institutional permanence from institutional supremacy. Before the constitutional amendments, the MPR was embedded in a vertical conception of state power: popular sovereignty was understood as being exercised fully by the Assembly, and other institutions were positioned through a hierarchy of mandate and accountability. The amended Constitution changed the grammar of the system. Article 1(2) now locates sovereignty in the people and requires its exercise according to the Constitution; Article 2 defines the Assembly’s membership; Article 3 lists its constitutional powers; Articles 7A and 7B connect the Assembly to the constitutionally regulated removal of the President and/or Vice President; Article 8 assigns succession powers; and Article 37 prescribes the amendment process. The amendment function is therefore a constituted power governed by higher-law procedures rather than an unlimited continuation of original constituent sovereignty. Comparative amendment theory similarly distinguishes ordinary constitutional amendment from constitution-making that replaces the basic identity of an existing order.³⁷ The doctrine of limited amendment power further demonstrates that even institutions exercising constituent-type functions may remain legally constituted and procedurally bounded.³⁸

Institutional identity is also not exhausted by constitutional nomenclature. Jacobsohn’s account of constitutional identity emphasizes the interaction of continuity, transformation, and institutional experience rather than a static textual essence.³⁹ Rosenfeld likewise treats constitutional identity as a constructed relationship among the constitutional subject,

³⁵Bruce Ackerman, *We the People*, Volume 1: Foundations (Cambridge, MA: Belknap Press of Harvard University Press, 1991).

³⁶Bruce Ackerman, *We the People*, Volume 2: Transformations (Cambridge, MA: Belknap Press of Harvard University Press, 1998).

³⁷Richard Albert, *Constitutional Amendments: Making, Breaking, and Changing Constitutions* (Oxford: Oxford University Press, 2019), <https://doi.org/10.1093/oso/9780190640484.001.0001>.

³⁸Yaniv Roznai, *Unconstitutional Constitutional Amendments: The Limits of Amendment Powers* (Oxford: Oxford University Press, 2017).

³⁹Gary Jeffrey Jacobsohn, *Constitutional Identity* (Cambridge, MA: Harvard University Press, 2010).

institutional order, and processes of differentiation.⁴⁰ Walker's account of plural constitutionalism further underlines that constitutional identity is sustained through institutional plurality rather than a single hierarchical bearer of sovereignty.⁴¹ Applied to the MPR, this means that the institution's identity after 2002 is neither simply the old MPR with fewer powers nor a new name for a combined meeting of two houses. It is a transformed constitutional organ whose continuity is carried by text, membership, organization, and a distinctive portfolio of high-order powers. The relevant identity question is functional: what constitutional role explains why these particular powers remain bundled in the MPR after the ordinary electoral and legislative roles of the DPR and DPD have been differentiated? The answer lies in the Assembly's capacity to act at moments when the constitutional framework itself, the continuity of the presidency, or the tenure of the highest executive office requires a specially aggregated representative decision.

The MPR's constitutional amendment authority illustrates the distinction. Article 37 imposes initiation, specification, quorum, voting, and substantive-entrenchment requirements. A proposal must be supported by at least one third of all MPR members; it must identify the provisions to be amended and the reasons; at least two thirds of the total membership must be present; and adoption requires at least fifty percent plus one of the total membership. The unitary form of the Republic is unamendable. These rules do more than make amendment difficult. They constitute the MPR as the institutional site at which a legally constrained form of higher-law politics is processed. The classic paradox of constitutionalism is precisely that constituent authority must be mediated through constituted forms if it is to remain law rather than raw political fact.⁴² Public-law theory similarly shows that constitutional institutions obtain authority from the legal architecture that both enables and constrains them.⁴³ The MPR's power is therefore intense because it can alter the constitutional text, yet limited because it exists only within a specified procedural channel.

The same pattern appears in presidential removal. The MPR does not possess a standing political power to dismiss a President whenever a majority disapproves of the government. Article 7B constructs a sequenced process in which the DPR first expresses an institutional accusation, the Constitutional Court determines whether the alleged constitutional grounds are established, and only then may the MPR decide on removal under its own supermajoritarian requirements. This sequence is a paradigmatic example of distributed constitutional authority. Separation of powers is not merely a map assigning one branch one function; it is a set of structured relationships that may require several institutions to participate in a single high-stakes

⁴⁰Michel Rosenfeld, *The Identity of the Constitutional Subject: Selfhood, Citizenship, Culture, and Community* (London: Routledge, 2010).

⁴¹Neil Walker, "Rosenfeld's Plural Constitutionalism," *International Journal of Constitutional Law* 8, no. 3 (2010): 677-684, <https://doi.org/10.1093/icon/moq011>.

⁴²Martin Loughlin and Neil Walker, eds., *The Paradox of Constitutionalism: Constituent Power and Constitutional Form* (Oxford: Oxford University Press, 2007).

⁴³Martin Loughlin, *Foundations of Public Law* (Oxford: Oxford University Press, 2010).

decision.⁴⁴ Modern constitutionalism similarly depends on principles that specify institutional competence and protect against the conversion of exceptional powers into general authority.⁴⁵ The MPR is therefore powerful at the terminal stage of the removal process but legally incapable of self-activating that terminal power. Its authority is contingent on constitutionally prescribed antecedent acts.

Presidential succession reveals a different trigger. Under Article 8(2), if the office of Vice President becomes vacant, the MPR must elect a Vice President from two candidates proposed by the President within sixty days. Under Article 8(3), if both the President and Vice President simultaneously cease to hold office, specified ministers temporarily exercise presidential duties and the MPR must elect a President and Vice President from two candidate pairs nominated by the political parties or coalitions whose tickets ranked first and second in the previous presidential election, within thirty days. These are neither routine electoral powers nor emergency powers in the classical sense. The MPR cannot choose whether to create the vacancy, expand the candidate pool, or redesign the interim arrangement. The authority becomes operational because a constitutional fact has occurred. Constitutional limits are therefore internal to the competence itself a feature consistent with the precommitment logic by which constitutions channel future political action into predetermined procedures.⁴⁶ Elster's account of constitutional precommitment helps explain why such rules deliberately restrict later majorities at moments of intense political pressure.⁴⁷

Even the apparently ceremonial function of inaugurating the President and Vice President carries an institutional logic. In ordinary democratic politics, the election creates the political mandate; the MPR does not confer electoral legitimacy in the pre-amendment sense. Yet the Constitution retains the Assembly as the forum in which the transition of the national executive is formally integrated into the constitutional order. The act is not equivalent to electing the President, but neither is it institutionally meaningless. Assemblies often perform public, evidentiary, and constitutive functions that stabilize political transitions even when the decisive choice occurred elsewhere. Deliberative institutional design recognizes that assemblies can serve functions beyond legislation, including the public authentication of decisions and the articulation of collective constitutional responsibility.⁴⁸ This is particularly important in a presidential system that deliberately rejects confidence-based subordination of the executive to parliament. Comparative work on democratic erosion also cautions that constitutional institutions should be assessed by their capacity to preserve lawful transitions and

⁴⁴M. J. C. Vile, *Constitutionalism and the Separation of Powers*, 2nd ed. (Indianapolis: Liberty Fund, 1998).

⁴⁵N. W. Barber, *The Principles of Constitutionalism* (Oxford: Oxford University Press, 2018).

⁴⁶András Sajó, *Limiting Government: An Introduction to Constitutionalism* (Budapest: Central European University Press, 1999).

⁴⁷Jon Elster, *Ulysses Unbound: Studies in Rationality, Precommitment, and Constraints* (Cambridge: Cambridge University Press, 2000).

⁴⁸Jon Elster, *Securities against Misrule: Juries, Assemblies, Elections* (Cambridge: Cambridge University Press, 2013).

constrain opportunistic redesign, not only by their volume of ordinary outputs.⁴⁹

Table 1. Constitutional architecture of MPR authority

Constitutional function	Primary trigger	Frequency logic	Constitutional intensity
Amend and the establish Constitution	Valid proposal under Article 37	Non-routine; may remain unused for multiple terms	Very high: changes higher law
Inaugurate President/Vice President	Completed election and constitutional transition	Periodic, linked to presidential term or succession	High symbolic-formal transition
Decide removal of President/Vice President	DPR proposal + Constitutional Court determination under Article 7B	Contingent; exceptional	Very high: terminates highest executive tenure
Elect Vice President after vacancy	Vacancy + two presidential nominees	Contingent; event-triggered	High: restores executive continuity
Elect President/Vice President after simultaneous vacancy	Simultaneous vacancy + nominations under Article 8(3)	Highly contingent	Very high: restores national executive leadership

Source: *Analysed from constitutional, statutory, and comparative primary sources.*

The MPR's permanent character is further supported by organizational facts that would be unnecessary for a body existing only as an ad hoc meeting. The institution has leadership, factions and a DPD group, working bodies, standing procedures, an administrative support system, and a continuous legal identity across the five-year term. Its members hold MPR status by virtue of election to the DPR or DPD, but the constitutional combination is not reducible to either originating institution. The distinction resembles the difference between the source of membership and the legal capacity in which members act. When the Assembly amends the Constitution or decides presidential removal, members are not merely casting two parallel chamber votes; they are participating in an MPR decision governed by MPR quorum and voting rules. Comparative amendment scholarship shows that the identity of the decision-making body matters because thresholds, denominators, and aggregation rules shape both amendment difficulty and

⁴⁹Tom Ginsburg and Aziz Z. Huq, *How to Save a Constitutional Democracy* (Chicago: University of Chicago Press, 2018).

legitimacy.⁵⁰ The size of the decision-making denominator can itself influence the effective rigidity of amendment rules.⁵¹

This point is visible in the 2024-2029 membership structure. With 580 DPR members and 152 DPD members, the MPR aggregates national-party and territorial representation in a single constitutional forum, but it does not give the two components equal chamber votes. That asymmetry distinguishes the MPR from strongly bicameral amendment systems in which each chamber must separately consent. The design consequently creates both integrative and representational effects: all provinces are present through DPD members, yet the numerical weight of DPR members is substantially greater. Theoretical work on amendment frequency shows that formal thresholds cannot be understood apart from the size and structure of the institutions through which they operate.⁵² Empirical scholarship likewise emphasizes that amendment ‘difficulty’ depends on political culture and institutional practice, not only the literal voting formula.⁵³ For the MPR, the key point is that the constitutional denominator is the Assembly as a single body. Its institutional distinctiveness therefore has operational consequences at the precise moments when its intermittent powers are activated.

Institutional permanence also answers the objection that infrequent constitutional action necessarily entails institutional redundancy. Constitutions are designed for endurance, and durable constitutional systems often preserve mechanisms that are rarely used precisely because they are intended to operate across long time horizons.⁵⁴ Amendment rules have an expressive function: they communicate which forms of change require special political mobilization and which constitutional values deserve heightened protection.⁵⁵ The legitimacy of constitutional change similarly depends on maintaining the distinction between ordinary lawmaking and higher-law revision.⁵⁶ An institution responsible for such functions may spend most of its existence outside an activation period without becoming legally superfluous. A fire-suppression system is not institutionally pointless because it is not continuously discharging water; a constitutional analogy must be used carefully, but it captures the design logic that readiness and lawful activation can matter more than frequency.

⁵⁰Rosalind Dixon, “Constitutional Amendment Rules: A Comparative Perspective,” in *Comparative Constitutional Law*, ed. Tom Ginsburg and Rosalind Dixon (Cheltenham: Edward Elgar, 2011), 96-111.

⁵¹Rosalind Dixon and Richard Holden, “Constitutional Amendment Rules: The Denominator Problem,” in *Comparative Constitutional Design*, ed. Tom Ginsburg (Cambridge: Cambridge University Press, 2012).

⁵²Donald S. Lutz, “Toward a Theory of Constitutional Amendment,” *American Political Science Review* 88, no. 2 (1994): 355-370.

⁵³Tom Ginsburg and James Melton, “Does the Constitutional Amendment Rule Matter at All? Amendment Cultures and the Challenges of Measuring Amendment Difficulty,” *International Journal of Constitutional Law* 13, no. 3 (2015): 686-713.

⁵⁴Zachary Elkins, Tom Ginsburg, and James Melton, *The Endurance of National Constitutions* (Cambridge: Cambridge University Press, 2009).

⁵⁵Richard Albert, “The Expressive Function of Constitutional Amendment Rules,” *McGill Law Journal* 59, no. 2 (2013): 225-282.

⁵⁶Walter Dellinger, “The Legitimacy of Constitutional Change: Rethinking the Amendment Process,” *Harvard Law Review* 97, no. 2 (1983): 386-432.

That conclusion, however, cannot be used to justify the restoration of open-ended MPR supremacy. The danger of granting routine policy authority to an institution designed for high-order constitutional moments is that it can blur the separation between constituted and constituent-type functions. Contemporary comparative experience shows how constitutional forms can be used abusively to entrench political power while maintaining the appearance of legality.⁵⁷ Constitutional borrowing can likewise become abusive when institutions or procedures are transplanted in ways that undermine the surrounding democratic structure.⁵⁸ The post-Reform MPR should therefore not be strengthened by assigning it a generalized power to direct the President or to issue superior policy norms merely so that the institution appears busier. Its permanence should instead be justified by the continuing need for a legally prepared holder of high-intensity competences whose exercise is intentionally infrequent.

A temporal reading also clarifies the difference between the existence of the organ and the existence of a particular MPR session. A session is an event; the MPR is the constitutional subject to which the event belongs. The adjournment of a session does not dissolve the legal subject, extinguish its leadership, cancel its rules, or return its powers to the DPR and DPD as separate institutions. Nor does the absence of an amendment proposal or succession vacancy suspend the constitutional provisions that vest authority in the Assembly. What persists between activation moments is a legally organized capacity: membership can be identified, leadership remains accountable for institutional administration, records and precedents are maintained, procedural rules can be prepared, and the Secretariat General supports the institution. This distinction is important because constitutional law frequently separates competence from occasion. A court remains a court when no constitutionally significant case is pending; an electoral authority remains an authority between national elections; and a succession rule remains law before a vacancy arises. The MPR presents a stronger version of the same temporal structure because several of its most consequential competences are deliberately unavailable until demanding constitutional predicates are met. Describing that condition as institutional emptiness confuses low frequency with low legal status. Describing it as latent sovereignty makes the opposite mistake by converting readiness into superiority. The more precise account is continuous institutional existence coupled with conditional justiciability or exercisability of specified powers, each governed by its own constitutional trigger and decision rule.

The structure can be summarized by distinguishing status, title, trigger, and exercise. Status asks whether the institution legally persists; title asks whether the Constitution continues to vest a power in it; trigger asks which event or procedural condition makes the power exercisable; exercise asks how often and with what legal effect the power is actually used. The MPR scores 'continuous' on status and title for its constitutional competences but

⁵⁷David Landau, "Abusive Constitutionalism," *UC Davis Law Review* 47 (2013): 189-260.

⁵⁸Rosalind Dixon and David Landau, *Abusive Constitutional Borrowing: Legal Globalization and the Subversion of Liberal Democracy* (Oxford: Oxford University Press, 2021).

‘discontinuous’ on activation and exercise for several of its defining functions. This is not an anomaly once constitutional amendment rules are understood as layered structures containing foundations, frameworks, thresholds, quorums, temporal requirements, and substantive limitations.⁵⁹ Nor should long non-use be confused with the disappearance of the competence: constitutional practice recognizes that non-use and legal desuetude are separate questions, especially where the constitutional text expressly preserves a mechanism.⁶⁰ The MPR’s core identity is thus that of a permanent holder of powers whose operational availability is constitutionally intermittent.

B. The Theory of Intermittent Constitutional Authority and Comparative Constitutional Design

Intermittent constitutional authority can be defined through six cumulative elements. First, the holder is a permanent constitutional institution rather than a body created anew for each occasion. Second, the legal title to the relevant power exists continuously in the Constitution. Third, exercise depends on an activation condition such as an amendment proposal satisfying threshold requirements, a vacancy, a completed impeachment sequence, or a scheduled constitutional transition. Fourth, actual exercise is episodic and may not occur during an entire institutional term. Fifth, the consequence of exercise is constitutionally intense: it affects the constitutional text, executive continuity, or tenure of the highest offices. Sixth, the authority is bounded by agenda and procedure, so the triggering event does not create a free-standing reservoir of political supremacy. Amendment theory supports this architecture because the design of amendment rules separates ordinary governance from specially constituted processes of constitutional change.⁶¹ Comparative studies of engineered constitutional change likewise show that constitutional systems calibrate amendment through different combinations of institutions, thresholds, referendums, and temporal safeguards.⁶²

The concept is intentionally narrower than the generic proposition that every institution acts only when there is business before it. Ordinary legislative power is continuously usable: a legislature may initiate statutes across a broad field whenever constitutional and procedural conditions are satisfied. By contrast, the MPR cannot decide to exercise the Article 8(3) succession power in the absence of a simultaneous presidential and vice-presidential vacancy, and it cannot decide presidential removal without the prior constitutional sequence in Article 7B. The qualitative difference lies in event-dependence and agenda specificity. Comparative constitutional law is especially useful here because it directs attention to functionally equivalent

⁵⁹Richard Albert, “The Structure of Constitutional Amendment Rules,” *Wake Forest Law Review* 49 (2014): 913-975.

⁶⁰Richard Albert, “Constitutional Disuse or Desuetude: The Case of Article V,” *Boston University Law Review* 94 (2014): 1029-1082.

⁶¹Richard Albert, “Amending Constitutional Amendment Rules,” *International Journal of Constitutional Law* 13, no. 3 (2015): 655-685, <https://doi.org/10.1093/icon/mov040>.

⁶²Xenophon Contiades, ed., *Engineering Constitutional Change: A Comparative Perspective on Europe, Canada and the USA* (London: Routledge, 2013).

solutions rather than institutional labels.⁶³ Constitutional design scholarship similarly demonstrates that identical goals can be allocated to different combinations of legislatures, courts, executives, referendums, and special bodies.⁶⁴ ‘Intermittent authority’ therefore describes a design variable when a competence is legally activatable not a unique Indonesian label.

Intermittency must also be distinguished from original constituent power. Original constituent power is commonly associated with the authority to create a constitutional order that is not derived from the amendment rules of the existing constitution. The MPR’s amendment authority is different: it is textually conferred, procedurally limited, and subject to an explicit unamendable provision concerning the unitary form of the state. Comparative constitutional ideas can migrate across jurisdictions, but their legal meaning changes when embedded in different institutional histories.⁶⁵ A functional comparison must therefore resist the temptation to describe every amendment body as a sovereign constituent assembly.⁶⁶ The MPR is better understood as exercising constituted amendment power with constituent effects. That formulation preserves the democratic seriousness of constitutional amendment without collapsing the distinction between a legally authorized amendment and an extra-constitutional founding act.

Nor is intermittent authority simply a species of emergency power. Emergency powers usually involve temporary expansion, concentration, or modification of ordinary authority in response to a threat to public order, security, or state survival. They are normatively controversial because urgency can displace deliberation and because exceptional powers can become normalized. The MPR’s succession and removal powers do not generally enlarge its ordinary jurisdiction; rather, the Constitution already allocates a specific competence that becomes usable when a defined event occurs. Functional comparison across constitutional systems warns against treating institutions with different structural logics as interchangeable merely because they act infrequently.⁶⁷ Comparative constitutional casebooks likewise emphasize that institutional meaning depends on the surrounding separation-of-powers and democratic architecture.⁶⁸ Intermittency is thus a temporal property of pre-existing competence, whereas emergency power concerns an exceptional legal regime or intensified power justified by crisis.

⁶³Tom Ginsburg and Rosalind Dixon, eds., *Comparative Constitutional Law* (Cheltenham: Edward Elgar, 2011).

⁶⁴Tom Ginsburg, ed., *Comparative Constitutional Design* (Cambridge: Cambridge University Press, 2012).

⁶⁵Sujit Choudhry, ed., *The Migration of Constitutional Ideas* (Cambridge: Cambridge University Press, 2006).

⁶⁶Ran Hirschl, *Comparative Matters: The Renaissance of Comparative Constitutional Law* (Oxford: Oxford University Press, 2014).

⁶⁷Mark Tushnet, *Advanced Introduction to Comparative Constitutional Law* (Cheltenham: Edward Elgar, 2014).

⁶⁸Vicki C. Jackson and Mark Tushnet, *Comparative Constitutional Law*, 3rd ed. (St. Paul, MN: Foundation Press, 2014).

The distinction can be expressed through a temporal typology. Continuous-ordinary authority is broadly usable throughout a term, as with routine legislation. Periodic-routine authority recurs on a predictable schedule, as with annual budgeting. Intermittent constitutional authority is permanently vested but activates only upon a constitutionally significant event. Emergency authority is contingent on danger and may alter ordinary rules for a limited period. Ad hoc constituent authority belongs to a body that itself comes into existence for a specific constitutional task and disappears when the task ends. Institutional engineering theory shows why such classifications matter: structures create incentives and veto points that affect the production and legitimacy of public decisions.⁶⁹ Comparative democratic analysis also demonstrates that different institutional arrangements distribute consensual and majoritarian pressures differently.⁷⁰ The MPR's placement in the third category explains both why its routine output is limited and why its occasional decisions deserve unusually demanding procedures.

Table 2. Temporal typology of constitutional authority

Type	Holder	Activation	Typical example	Key risk
Continuous-ordinary	Permanent	Broadly available during term	Ordinary legislation	Majoritarian overreach
Periodic-routine	Permanent	Predictable recurring schedule	Annual budget	Routinized bargaining
Intermittent constitutional	Permanent	Defined constitutional event/threshold	MPR amendment, removal, succession	Mission expansion or trigger manipulation
Emergency	Permanent or designated emergency actor	Threat/emergency declaration	Emergency decrees/powers	Normalization of exception
Ad hoc constitutional	Temporary body	Body is convened for single task	German Federal Convention	Start-up and legitimacy uncertainty

Source: Author's conceptual synthesis from comparative constitutional design literature.

Bicameral theory adds another layer. In many systems, constitutional amendment is assigned to the two ordinary chambers acting separately, so the special quality of amendment comes from a higher voting threshold or ratification requirement rather than from a third constitutional institution. Tsebelis and Money show how bicameral structures generate distinct bargaining relationships depending on the symmetry and congruence of the

⁶⁹Giovanni Sartori, *Comparative Constitutional Engineering: An Inquiry into Structures, Incentives and Outcomes*, 2nd ed. (New York: New York University Press, 1997).

⁷⁰Arend Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*, 2nd ed. (New Haven: Yale University Press, 2012).

chambers.⁷¹ Comparative research on senates similarly demonstrates that territorial or second-chamber participation can protect regional interests without creating a separate constituent institution.⁷² Indonesia's MPR is structurally different. It draws its membership from the DPR and DPD but, for MPR business, aggregates them into an Assembly with its own constitutional name, leadership, procedures, and decision rules. The MPR is therefore neither a classic third chamber with daily legislative powers nor merely two chambers voting concurrently. Its architecture is best described as a permanent composite constitutional institution.

The normative case for this architecture rests partly on deliberation. Constitutional amendment, presidential removal, and extraordinary succession should not be treated as ordinary partisan transactions because they redefine or preserve the constitutional framework within which ordinary competition occurs. Waldron's account of legislative dignity emphasizes the importance of representative institutions as sites of reasoned disagreement rather than mere counting mechanisms.⁷³ Political constitutionalism likewise locates constitutional responsibility in political institutions provided their procedures protect equality, accountability, and contestation.⁷⁴ A collaborative understanding of constitutionalism goes further by rejecting the assumption that a single institution monopolizes constitutional guardianship; different organs can have complementary roles within a structured process.⁷⁵ The MPR's intermittent authority fits this logic when it acts as one node in a sequence particularly in impeachment rather than as a superior organ claiming final authority over all branches.

Institutional-choice theory also explains why low-frequency powers may rationally be assigned to a permanent body. The relevant comparison is not between 'active' and 'inactive' institutions but among imperfect institutional alternatives. A special ad hoc body may reduce maintenance costs but create start-up, legitimacy, membership, and procedural uncertainties at the moment of crisis. A permanent ordinary legislature may be administratively ready but may not symbolically or structurally integrate the representative components that the constitutional designer considers necessary. Institutional choice therefore depends on transaction costs, information, participation, and error risks rather than abstract institutional minimalism.⁷⁶ Mechanism-centered constitutional design similarly focuses on how

⁷¹George Tsebelis and Jeannette Money, *Bicameralism* (Cambridge: Cambridge University Press, 1997).

⁷²Samuel C. Patterson and Anthony Mughan, eds., *Senates: Bicameralism in the Contemporary World* (Columbus: Ohio State University Press, 1999).

⁷³Jeremy Waldron, *The Dignity of Legislation* (Cambridge: Cambridge University Press, 1999).

⁷⁴Richard Bellamy, *Political Constitutionalism: A Republican Defence of the Constitutionality of Democracy* (Cambridge: Cambridge University Press, 2007).

⁷⁵Aileen Kavanagh, *The Collaborative Constitution* (Cambridge: Cambridge University Press, 2023).

⁷⁶Neil K. Komesar, *Imperfect Alternatives: Choosing Institutions in Law, Economics, and Public Policy* (Chicago: University of Chicago Press, 1994).

procedural devices alter incentives and behavior at the margin.⁷⁷ In the MPR context, continuous organizational existence can be justified as a readiness mechanism for rare but constitutionally critical events.

This rationale must nonetheless be disciplined because standing institutions have incentives to seek work. Constitutional bodies can experience mission expansion: organizational resources and political leadership may generate pressure to reinterpret sparse constitutional competences broadly. Constitutional design should therefore constrain not only abuse at the moment of activation but also the gradual normalization of exceptional or high-order authority. Sunstein's account of constitutional design stresses that institutions structure democratic decision making by channeling disagreement and reducing predictable pathologies.⁷⁸ Holmes similarly describes constitutional constraints as enabling devices that can strengthen democracy by restricting short-term uses of power.⁷⁹ The appropriate response to MPR intermittency is consequently not to invent routine constitutional powers but to design a clear boundary between preparation for activation and the exercise of constitutionally consequential authority.

Institutional theory provides a vocabulary for that boundary. March and Olsen emphasize that institutions shape behavior through rules, roles, and logics of appropriateness, not only through observable outputs.⁸⁰ North defines institutions as constraints that structure interaction over time, drawing attention to the difference between formal rules and organizational actors.⁸¹ Thelen demonstrates how institutions evolve through gradual change rather than only through formal replacement.⁸² Mahoney and Thelen show how ambiguity in rules can create space for layering, conversion, drift, and displacement.⁸³ Pierson adds that political institutions are especially sensitive to timing, sequencing, and long-term path dependence.⁸⁴ Taken together, these insights explain why the MPR's post-amendment identity may remain contested decades after the formal constitutional change: the text removed supremacy, but organizational continuity, historic symbolism, residual decrees, and new statutory tasks continue to interact with the narrower constitutional competence.

⁷⁷Adrian Vermeule, *Mechanisms of Democracy: Institutional Design Writ Small* (Oxford: Oxford University Press, 2007).

⁷⁸Cass R. Sunstein, *Designing Democracy: What Constitutions Do* (Oxford: Oxford University Press, 2001).

⁷⁹Stephen Holmes, *Passions and Constraint: On the Theory of Liberal Democracy* (Chicago: University of Chicago Press, 1995).

⁸⁰James G. March and Johan P. Olsen, *Rediscovering Institutions: The Organizational Basis of Politics* (New York: Free Press, 1989).

⁸¹Douglass C. North, *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press, 1990).

⁸²Kathleen Thelen, *How Institutions Evolve: The Political Economy of Skills in Germany, Britain, the United States, and Japan* (Cambridge: Cambridge University Press, 2004).

⁸³James Mahoney and Kathleen Thelen, eds., *Explaining Institutional Change: Ambiguity, Agency, and Power* (Cambridge: Cambridge University Press, 2010).

⁸⁴Paul Pierson, *Politics in Time: History, Institutions, and Social Analysis* (Princeton: Princeton University Press, 2004).

A useful reconstruction therefore requires rule-bound differentiation among three institutional layers. The first is constitutional authority: powers that originate directly in the Constitution and whose exercise can produce constitutional change or determine executive continuity. The second is constitutional-maintenance activity: research, civic constitutional education, preservation of records, preparation of procedures, and institutional coordination that support future constitutional action but do not themselves exercise constituent-type power. The third is internal administration: leadership, budgeting, ethics, staffing, and procedural organization. Ostrom's work on institutional diversity suggests that complex governance systems function through nested rules at different levels rather than through a single undifferentiated grant of authority.⁸⁵ The advantage of the three-layer model is that it permits the MPR to remain institutionally active without pretending that every activity carries the same constitutional status as amending the Constitution or deciding presidential removal.

The emergency-powers literature sharpens the boundary. Ferejohn and Pasquino distinguish models of exceptional authority by examining who declares, controls, and terminates departures from ordinary legal arrangements.⁸⁶ Gross and Ní Aoláin show that crises create strong pressures toward normalization of exceptional power and therefore require legal mechanisms of control.⁸⁷ Scheppele's analysis of post-9/11 states of exception illustrates how emergency rationales can migrate into ordinary governance.⁸⁸ Gross's 'extra-legal measures' argument, although controversial, similarly turns on the distinction between ordinary law and exceptional action.⁸⁹ Those debates are not directly about the MPR, but they illuminate an important negative proposition: a rare constitutional trigger should not be treated as a license to suspend the normal distribution of powers. Intermittent authority remains fully inside the Constitution; its legitimacy depends on faithful activation, not on a generalized claim that exceptional circumstances revive a dormant sovereignty of the Assembly.

Classical theories of crisis government also show why terminology matters. Rossiter's 'constitutional dictatorship' concerns temporary concentrations of power justified by existential crisis, while Dyzenhaus defends legality and rule-of-law constraints even under emergency

⁸⁵Elinor Ostrom, *Understanding Institutional Diversity* (Princeton: Princeton University Press, 2005).

⁸⁶John Ferejohn and Pasquale Pasquino, "The Law of the Exception: A Typology of Emergency Powers," *International Journal of Constitutional Law* 2, no. 2 (2004): 210-239, <https://doi.org/10.1093/icon/2.2.210>.

⁸⁷Oren Gross and Fionnuala Ní Aoláin, *Law in Times of Crisis: Emergency Powers in Theory and Practice* (Cambridge: Cambridge University Press, 2006).

⁸⁸Kim Lane Scheppele, "Law in a Time of Emergency: States of Exception and the Temptations of 9/11," *University of Pennsylvania Journal of Constitutional Law* 6, no. 5 (2004): 1001-1083.

⁸⁹Oren Gross, "Chaos and Rules: Should Responses to Violent Crises Always Be Constitutional?," *Yale Law Journal* 112, no. 5 (2003): 1011-1134, <https://doi.org/10.2307/3657515>.

conditions.⁹⁰⁹¹ The MPR's constitutional succession powers may be activated during a political crisis, but the legal structure is the opposite of discretionary dictatorship: Article 8 specifies interim officeholders, nomination sources, deadlines, and the Assembly's electoral function. The constitutional text anticipates the possibility of disruption and converts it into a rule-governed succession process. Intermittent authority is therefore better understood as constitutional contingency planning. The trigger is not an invitation to improvise; it is a signal that a pre-designed legal pathway has become operative.

The comparison also reveals that intermittency is not a binary property but a combination of institutional permanence, activation design, and decisional intensity. Germany's Federal Convention demonstrates the opposite pole from the MPR: the special body is constitutionally assembled for a defined presidential-election function and has no continuing institutional life in the Indonesian sense. France's Congress illustrates a special configuration of a permanent Parliament, while the United States uses the same permanent Congress that legislates ordinarily but subjects its amendment proposal function to an exceptional supermajority. India and South Africa likewise show that constituent-effect or presidential-selection functions may be vested in permanent representative institutions without transforming those institutions into hierarchically supreme organs. Indonesia combines features differently. The MPR has no broad ordinary legislative jurisdiction, yet it has a continuous organizational identity distinct from the two representative bodies from which its membership is drawn. That combination explains why neither 'third chamber' nor 'joint sitting' is fully adequate as an analytical label. A third chamber normally participates recurrently in legislation or oversight; a joint sitting normally describes a procedural configuration of existing chambers rather than a separately named constitutional institution with its own leadership and competence. Intermittent constitutional authority captures the missing temporal dimension: the Constitution can maintain a permanent holder precisely because the relevant powers are too consequential to be improvised at the moment of need, while simultaneously withholding those powers from ordinary political use. Comparative law thus operates here as a test of conceptual coherence rather than a catalogue of models for transplantation.

The comparative amendment literature also warns that high-intensity constitutional power may be substantively limited even when the amendment text appears procedurally broad. Roznai's comparative study of unconstitutional constitutional amendments documents the migration of doctrines that distinguish amendment from constitutional destruction.⁹² Indonesia's express protection of the unitary form in Article 37(5) provides a textual instance of substantive entrenchment. The significance for

⁹⁰Clinton L. Rossiter, *Constitutional Dictatorship: Crisis Government in the Modern Democracies* (Princeton: Princeton University Press, 1948).

⁹¹David Dyzenhaus, *The Constitution of Law: Legality in a Time of Emergency* (Cambridge: Cambridge University Press, 2006).

⁹²Yaniv Roznai, "Unconstitutional Constitutional Amendments—The Migration and Success of a Constitutional Idea," *American Journal of Comparative Law* 61, no. 3 (2013): 657-720, <https://doi.org/10.5131/AJCL.2012.0027>.

institutional identity is straightforward: the MPR is not sovereign over the Constitution merely because it can amend the Constitution. The Constitution creates both the institution and the limits of its amendment competence. Intermittency therefore operates inside a hierarchy in which constitutional supremacy remains conceptually prior to MPR action.

C. Reconstructing the MPR without Restoring Parliamentary Supremacy: A Model of Triggered Constitutional Stewardship

Comparative practice clarifies the design space. France permits a government constitutional amendment bill, after passage in identical terms by both houses, to avoid referendum if the President submits it to Parliament convened in Congress, where approval requires a three-fifths majority of votes cast.⁹³ ‘Congress’ in this setting is a special configuration of the permanent Parliament for a specific constitutional task; it is not a continuously autonomous institution equivalent to the Indonesian MPR. Germany offers the opposite contrast. Article 79 assigns constitutional amendment to the permanent Bundestag and Bundesrat with two-thirds thresholds, while Article 54 creates the Federal Convention (Bundesversammlung), composed of Bundestag members and an equal number elected by Land parliaments, solely to elect the Federal President.⁹⁴ The Federal Convention is paradigmatically event-created and task-specific. Indonesia stands between these models: the MPR is organizationally permanent like an ordinary constitutional organ, but several of its core powers resemble the event-specific intensity of special constitutional assemblies.

The United States offers another contrast. Article V allows Congress, by two-thirds of both Houses, to propose constitutional amendments and requires state ratification; it also provides a convention route that has never been used for proposing amendments.⁹⁵ Congress is unquestionably permanent, but its institutional identity is not defined by amendment power because it possesses extensive continuous legislative powers. South Africa similarly assigns constitutional amendment to the National Assembly, with National Council of Provinces participation for specified amendments, and requires the National Assembly to elect the President at its first sitting and whenever a vacancy must be filled.⁹⁶ India is especially instructive because Article 368 expressly states that Parliament may, ‘in exercise of its constituent power,’ amend the Constitution according to the prescribed procedure.⁹⁷ These systems demonstrate that constituent-type authority can be housed in ordinary legislatures. Indonesia’s distinctiveness lies not in the existence of amendment power but in maintaining a separate composite Assembly whose ordinary constitutional portfolio is comparatively narrow and whose highest-intensity powers are strongly event-dependent.

⁹³Constitution of the French Fifth Republic of October 4, 1958, art. 89.

⁹⁴Basic Law for the Federal Republic of Germany, arts. 54 and 79, official English translation, as amended through March 22, 2025.

⁹⁵Constitution of the United States, art. V.

⁹⁶Constitution of the Republic of South Africa, 1996, secs. 74 and 86.

⁹⁷Constitution of India, art. 368 (official edition updated 2025).

Comparative guidance on constitutional amendment supports caution against redesign motivated solely by institutional activity. The Venice Commission emphasizes that amendment procedures should balance constitutional stability, democratic legitimacy, inclusiveness, and the possibility of necessary change.⁹⁸ International IDEA likewise treats amendment procedures as mechanisms for mediating flexibility and rigidity, often through combinations of enhanced majorities, multiple institutions, referendums, or temporal requirements.⁹⁹ These principles suggest that the MPR should be evaluated by whether its activation procedures protect legitimacy and stability, not by whether it continuously produces policy. The question is therefore how to organize a permanent institution so that rare activation is predictable, lawful, transparent, and restrained.

Table 3. Comparative placement of intermittent or special constitutional functions

Jurisdiction/institution	Permanent institution?	Special constitutional function	Activation form	Design lesson for Indonesia
Indonesia - MPR	Yes	Amendment; removal; succession; inauguration	Trigger-based within a distinct composite institution	Permanent holder can exercise episodic high-intensity powers
France - Parliament in Congress	Parliament yes; Congress is a special configuration	One route for constitutional amendment	Presidential choice after identical passage by both houses	Special configuration need not become a separate routine chamber
Germany - Federal Convention	No, convened for the event	Elect Federal President	Convened around presidential election/vacancy	Ad hoc status is constitutionally explicit when desired
United States - Congress	Yes	Propose amendments under Article V	Two-thirds of both Houses	Permanent legislature may carry intermittent amendment power alongside ordinary functions
South Africa - National Assembly/NCOP	Yes	Constitutional amendment; NA elects President	Special majorities or vacancy/first sitting	High-order functions can be embedded in permanent representative organs
India - Parliament	Yes	Amend Constitution in constituent capacity	Article 368 special majorities and, for specified matters, state ratification	Constituent effect does not necessarily imply sovereign institutional supremacy

Source: Analysed from the constitutional texts of Indonesia, France, Germany, the United States, South Africa, and India.

⁹⁸European Commission for Democracy through Law (Venice Commission), Report on Constitutional Amendment, CDL-AD(2010)001 (Strasbourg, 2010).

⁹⁹International IDEA, Constitutional Amendment Procedures, Constitution-Building Primer 10 (Stockholm: International IDEA, 2017).

The first element of reconstruction is explicit doctrinal recognition. The MD3 Law, or a dedicated MPR institutional statute if the legislature chooses that route, should define the MPR as a permanent constitutional institution exercising both continuous institutional functions and intermittent constitutional authority. The definition should make clear that ‘intermittent’ modifies the exercise, not the existence, of constitutional competence. This would prevent two opposite misreadings: that infrequency makes the institution legally ad hoc, and that permanence implies a reservoir of unspecified powers. The statute should then classify MPR functions into constitutional activation functions, constitutional-maintenance functions, and internal institutional functions. The classification would be interpretive rather than creative; it could not enlarge powers beyond the Constitution. Its purpose would be to align statutory terminology with the Constitution’s temporal structure and to reduce pressure to equate institutional relevance with routine policymaking.

The second element is a constitutional activation protocol. For each high-intensity power, the standing orders should identify: the legal trigger; who is authorized to certify that the trigger exists; documentary requirements; the maximum and minimum timing of the session; quorum and decision thresholds; the scope of permissible agenda items; the status of prior decisions by other institutions; transparency rules; and the form and legal effect of the resulting MPR decision. Amendment requires verification of the one-third proposal threshold and the written specification demanded by Article 37. Presidential removal requires a record of the DPR proposal and the Constitutional Court’s constitutionally required determination before the MPR reaches the decisional stage. Vice-presidential vacancy requires the President’s two nominees. Simultaneous vacancy requires nomination by the relevant parties or coalitions based on the previous election result. The protocol should operate as a standing constitutional checklist, not as a source of new substantive discretion.

The third element is agenda exclusivity during activation. When the MPR is convened to exercise a constitutionally triggered power, unrelated political bargaining should not be converted into additional MPR authority merely because all members are assembled. Agenda exclusivity would protect the distinction between the Assembly’s constitutional role and ordinary DPR/DPD politics. The principle can be implemented through standing orders requiring that an activation session address only the constitutionally authorized matter and directly necessary procedural questions. This is particularly important for removal and succession, where political incentives are strongest and time pressure may be severe. Constitutional entrenchment scholarship shows that procedures can function as ‘handcuffs’ on temporary majorities, preserving democratic capacity over time by making certain transformations more demanding.¹⁰⁰ The point is not to depoliticize the MPR its members are elected political actors but to constitutionalize the boundaries within which political judgment may operate.

¹⁰⁰Richard Albert, “Constitutional Handcuffs,” *Arizona State Law Journal* 42 (2010): 663-715.

The fourth element is institutional readiness without policy expansion. Between activation events, the MPR should maintain authoritative procedural manuals, simulations of succession timelines, verified membership and voting systems, accessible constitutional records, and cross-institutional liaison protocols. Its research bodies may examine constitutional implementation and collect public input, but their outputs should remain recommendations unless the Constitution or statute provides otherwise. Readiness can be measured by procedural accuracy, public accessibility, archival completeness, and the capacity to convene within constitutional deadlines. Such a model gives substantive meaning to permanence while avoiding the temptation to create new binding state-policy authority. It also reflects the institutional insight that rules retain force partly because actors sustain organizational capacity and shared understandings during periods in which the rules are not actively invoked.

The fifth element concerns MPR Decrees. The reconstruction should expressly separate (a) historically surviving MPRS/MPR Decrees whose status derives from the transitional settlement and statutory recognition, (b) internal or individual MPR decisions necessary to exercise current constitutional functions, and (c) claims to create new generally binding regulatory decrees. The third category should not be inferred from the first. Constitutional Court Decision No. 66/PUU-XXI/2023 is especially important because it reinforces that the post-amendment Assembly cannot use the continuing hierarchy of certain historical decrees as a bridge back to the former regulatory competence. Clear statutory drafting should therefore avoid phrases that imply an undefined ‘power to issue MPR Decrees’ and instead identify the legal form appropriate to each current constitutional decision. The legal instrument must follow the competence, not manufacture the competence.

The sixth element is participatory legitimacy for constitutional amendment. The Constitution specifies formal initiation, quorum, and voting thresholds, but those rules need not exhaust the democratic quality of amendment preparation. Because the MPR acts at a higher-law moment, standing orders can require public access to amendment proposals, explanatory memoranda, comparative materials, hearing records, and a reasonable deliberative period, except where the Constitution itself imposes urgency in succession matters. Public participation should be structured to inform MPR deliberation without allowing ordinary statute or standing orders to add veto points that contradict Article 37. The objective is a transparent pipeline from proposal to decision: publication, expert and public input, reason-giving, recorded deliberation, and an auditable vote. This approach strengthens the legitimacy of intermittent authority precisely because the public can see when and why the Assembly moves from maintenance mode into constitutional activation mode.

The seventh element is protection against representational distortion. The current MPR’s single-body vote means that DPR members numerically dominate DPD members. Altering constitutional voting into a double-majority of the two components would require constitutional amendment and should not be smuggled into standing orders. Nevertheless, the institutional design can recognize the MPR’s composite character through guaranteed speaking opportunities, committee representation, transparent disclosure of DPR-

fraktion and DPD-group positions, and structured consultation on proposals affecting regional constitutional interests. Such procedural safeguards do not create a second chamber veto; they improve the quality of deliberation within the existing constitutional denominator. This is consistent with the broader idea that institutional identity includes how different representative constituencies are integrated, not only the final arithmetic of the vote.

The eighth element is judicial and inter-institutional boundary clarity. The Constitutional Court cannot be casually turned into an appellate reviewer of every MPR act because its jurisdiction is constitutionally enumerated. Conversely, MPR autonomy cannot be used to disregard binding constitutional preconditions involving the Court, particularly in the Article 7B removal sequence. A sound model distinguishes review of legislation regulating MPR procedures, disputes over constitutionally conferred institutional authority where jurisdictional requirements are met, and the special constitutional acts of the MPR themselves. Where the Constitution leaves a review gap, that gap should be acknowledged rather than filled through unsupported judicial or legislative invention. The appropriate reform question is whether constitutional amendment is necessary, not whether a lower norm can silently reallocate constitutional jurisdiction.

Table 4. Triggered constitutional stewardship model for the MPR

Stage	Institutional rule	Legal purpose
1. Permanent existence	Leadership, membership, support system, constitutional records remain continuously organized	Preserve legal and operational capacity
2. Maintenance mode	Research, education, procedure review, simulation, archival and liaison functions	Build readiness without exercising high-intensity power
3. Trigger verification	Formal certification of constitutional event and documentary prerequisites	Prevent self-activation and jurisdictional expansion
4. Activation session	Agenda exclusivity; constitutional quorum, voting, time, and participation safeguards	Confine political judgment to constitutional mandate
5. Decision and publication	Reasoned record, auditable vote, correct legal form, immediate publication	Secure transparency and legal certainty
6. Return to maintenance	Termination of special agenda and restoration of ordinary institutional mode	Prevent normalization of exceptional authority

Source: *Author's reconstruction based on the doctrine of intermittent constitutional authority.*

These principles produce a model of triggered constitutional stewardship. 'Stewardship' here does not mean guardianship superior to the Constitutional Court, the President, the DPR, or the DPD. It refers to a narrower duty: preserving institutional readiness and faithfully executing the constitutional functions assigned to the MPR when their triggers occur. The model can be represented as a cycle: permanent institutional existence; maintenance and preparation; objective constitutional trigger; formal activation; agenda-confined exercise under heightened procedures; publication and archival completion; and return to maintenance mode. The cycle rejects both institutional inflation and institutional evaporation. The MPR neither needs

continuous superior policy power to justify its existence nor becomes a legal fiction between sessions.

The principal counter-argument to triggered constitutional stewardship is political rather than doctrinal. MPR members do not enter an activation session as politically neutral constitutional trustees; they remain elected DPR and DPD actors embedded in party, factional, and regional incentives. Accordingly, agenda exclusivity and trigger verification cannot be treated as self-enforcing commands. Their political feasibility depends on converting them into *ex ante*, publicly verifiable constraints that reduce the capacity of a temporary majority to manufacture a trigger or enlarge the activated mandate. The first safeguard is source-specific trigger verification. For Article 37, activation should depend on authenticated support meeting the one-third proposal threshold together with a written specification of the provisions proposed for amendment and the reasons for change. For Article 7B, the MPR should be unable to reach the decisional stage without the constitutionally required DPR proposal and Constitutional Court determination. For Article 8, the legally established vacancy and the constitutionally specified nomination process should define the permissible field of action. These documentary predicates should be recorded in a formal activation statement identifying the exact constitutional basis, denominator, timetable, and decision rule before substantive deliberation begins. The second safeguard is procedural anti-circumvention. Once activated, the agenda should be fixed to the constitutionally authorized matter and directly necessary procedural questions; an unrelated motion should be ruled out of order unless it independently satisfies a distinct constitutional trigger. Any ruling that expands or interprets the agenda should be reasoned and entered in the official record rather than left to informal bargaining. Recorded or otherwise auditable voting, publication of motions and amendments, disclosure of the legal basis of the decision, and an automatic termination of the special agenda once the constitutional task is completed would make circumvention institutionally visible. These mechanisms do not eliminate partisanship, nor should the model pretend that constitutional politics can be depoliticized. Their purpose is more modest and more realistic: to raise the legal, political, and reputational cost of strategic circumvention, prevent a crisis from becoming a gateway to open-ended MPR authority, and leave a transparent record against which other state institutions and the public can assess constitutional compliance. Political feasibility therefore rests not on expecting non-partisan actors, but on structuring partisan action so that it remains traceable, bounded, and difficult to disguise as constitutional necessity.

Table 3 translates the model into concrete legal consequences. The most important reform does not require immediate constitutional amendment: the legislature and the MPR can clarify classifications, activation procedures, transparency, and readiness through the MD3 framework and standing orders, provided they do not alter constitutional thresholds or create new constitutional powers. Constitutional amendment would be required for deeper structural changes such as converting the MPR into a pure joint sitting, creating component-based voting, adding referendum requirements, restoring a binding state-policy mandate, or expanding judicial review of amendment outcomes. This distinction between sub-constitutional optimization and

constitutional redesign is essential. It allows Indonesia to improve the operation of the existing system before reopening fundamental questions of constitutional architecture.

IV. CONCLUSION

This article finds that the post-Reform MPR is best understood as a permanent constitutional institution whose legal existence, membership, organization, and title to constitutional competence continue throughout the institutional term, while the exercise of several defining powers remains episodic and event-dependent. Constitutional amendment, the terminal stage of presidential removal under Article 7B, extraordinary succession under Article 8, and formal transition functions are therefore neither evidence of institutional redundancy nor remnants of pre-Reform supremacy. They exemplify intermittent constitutional authority: continuously vested legal competence whose exercise becomes available only when constitutionally specified conditions are satisfied. This distinction resolves the apparent tension between institutional permanence and limited day-to-day power without converting infrequency into either weakness or latent sovereignty.

The article's principal contribution is the model of triggered constitutional stewardship. Under this model, the MPR remains institutionally prepared but may exercise high-intensity authority only through source-specific trigger verification, agenda exclusivity, constitutionally fixed thresholds, transparent and auditable procedures, and a disciplined return to maintenance mode after the assigned task is completed. The model deliberately assumes that MPR members remain partisan political actors. Its safeguards are therefore designed not to eliminate political contestation, but to prevent a political majority from self-activating constitutional power, manipulating the trigger, or using a crisis to expand the Assembly's jurisdiction beyond the constitutional mandate. Intermittency thus functions as both a description of temporal authority and a normative limit on mission expansion.

The immediate legislative implication is that future revision of the MD3 Law should translate this distinction into operational rules. The MD3 framework should expressly distinguish constitutional activation functions, constitutional-maintenance functions, and internal institutional functions; require documentary and publicly reasoned trigger verification; confine activation sessions to the constitutionally authorized agenda; mandate transparent decision records and publication; and require termination of the special agenda once the constitutional task is complete. MPR Standing Orders should then operationalize these statutory principles through function-specific checklists and timelines. Neither the MD3 Law nor standing orders may alter the thresholds, sequences, candidate structures, or jurisdictional allocations fixed by Articles 7B, 8, and 37, and deeper changes to the MPR's constitutional architecture must therefore proceed through constitutional amendment rather than sub-constitutional innovation. The study remains doctrinal and comparative rather than empirical; future research should test how MPR leadership, DPR factions, the DPD group, other constitutional institutions, and the public respond to trigger verification and agenda constraints in actual constitutional controversies. Subject to that limitation,

the central proposition remains that permanence is an institutional status, whereas intermittency is a constitutionally disciplined mode of exercising authority.

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