

REFORMULATION OF THE AUTHORITY OF THE REGIONAL REPRESENTATIVE COUNCIL IN MONITORING AND EVALUATING DRAFT REGIONAL REGULATIONS AND REGIONAL HEAD REGULATIONS

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Abstract

This study is a normative legal research aimed at analyzing and discovering the reformulation of the authority of the Regional Representative Council in monitoring and evaluating Draft Regional Regulations and Regional Head Regulations using various approaches: Philosophical Approach, Comparative Approach, Statute Approach, Conceptual Approach, and Historical Approach. The research finds that the reformulation of the Regional Representative Council's authority in monitoring and evaluating Draft Regional Regulations and Regional Head Regulations can be carried out through the following means: a) Reformulating the Institutional Representation of the Regional Representative Council; b) Reformulating the Regional Representative Council as an Active and Effective Bicameral System; c) Reformulating the Legislative Authority of the Regional Representative Council; and d) Reformulating the Regional Representative Council within the Indonesian Constitutional System.

Keywords: Reformulation; Authority, Regional Representative Council, Regional Regulations.

INTRODUCTION

The constitutional framework of Indonesia has evolved dynamically since the amendment of the 1945 Constitution. One of the significant developments involves the status and authority of the Regional Representative Council (DPD). For instance, any enhancement of the DPD's authority must be justified by empirical evidence that the current authority has been utilized to its fullest extent yet remains insufficient to fulfill the DPD's foundational objectives. To perform its duties effectively, the DPD requires adequate infrastructure and mechanisms to ensure its success as a regional representative body.

The existence of the DPD represents a convergence of two ideas: democratization and the accommodation of regional interests to maintain national integration. Therefore, the establishment of the DPD is driven by two key factors. First, the demand for democratization in the selection of members of representative bodies to ensure voter participation, which led to the replacement of Regional Representatives and Functional Group Representatives in the MPR with the DPD. Second, the need to manage regional autonomy, which, if not properly controlled, could lead to separatist demands. The DPD was established as a representation of the interests of the people in the regions.¹

The establishment of the DPD was intended to accommodate regional interests within national policies to maintain national integration. The centralization of power during the New Order era created imbalances between the central government and the regions, leading to widespread dissatisfaction and injustice toward regional areas.² This issue is compounded by the threat of national disintegration, exemplified by certain regions' calls for secession from the Unitary State of the Republic of Indonesia.³ This issue has since shifted towards discussions about federalism, culminating in the grant of broad, substantive, and responsible autonomy through Law No. 22 of 1999.⁴

Another effort to maintain national integration is to provide regions with a role in shaping national policies that affect regional issues, through the establishment of the Regional Representative Council (DPD) as an independent institution. Therefore, the DPD can be regarded as an institutional effort to represent territorial interests and regional representation.⁵

The establishment of the Regional Representative Council (DPD) with its allocated powers serves as a constitutional effort to provide a channel and role for regional entities to participate in political decision-making regarding regional matters. The underlying assumption is that if regions feel considered and involved in important political decisions affecting their interests, the rationale for secession will lose its argument.

The limitations on the DPD's authority result from a compromise between those advocating for strong bicameralism and those opposed to the existence of the DPD. The DPD's powers are regulated under Articles 22D (1), (2), and (3) of the 1945 Constitution. The DPD has three functions, but these are limited to consultative and subordinate roles relative to similar functions performed by the DPR. All functions of the DPD ultimately converge with the DPR. The functions of the DPD are as follows:

1) Legislative Function

- a) Proposing draft laws to the DPR related to regional autonomy, central-regional relations, the creation and division of regions, natural resource management, and financial balance between the central and regional governments.
- b) Participating in the first level of discussions on draft laws concerning regional autonomy, central-regional relations, the creation and division of regions, natural resource management, and financial balance between the central and regional governments.
- c) Providing advice to the DPR on draft laws related to the national budget, taxation, education, and religion.

2) Oversight Function, Overseeing the implementation of laws related to regional autonomy, central-regional relations, the creation and division of regions, natural resource management, the national budget, taxation, education, and religion, based on reports from the Audit Board (BPK), public aspirations and complaints, written statements from the government, and field monitoring findings. The results of this oversight are submitted to the DPR for consideration and follow-up.

3) Nomination Function, Providing advice to the DPR in the selection of members of the Audit Board (BPK) chosen by the DPR.

Despite its limited powers, the DPD must continue to perform its functions in line with its original purpose, which is to provide a channel for regions in the national decision-making process concerning regional interests. As a regional representative body, the primary duty of the DPD is to absorb and articulate regional aspirations. Therefore, there must be a clear and close relationship between DPD members and the regions they represent.

To determine how to effectively absorb these aspirations, it must align with the scope of the DPD's authority, independent of the extent of its reach. Based on this scope, it is necessary to establish connections with relevant parties to facilitate the absorption of aspirations.

The constitutional authority of the DPD encompasses issues related to regional autonomy, central-regional relations, the creation and division of regions, natural resource management, and financial balance between central and regional governments. Additionally, the DPD's scope includes matters concerning the national budget, taxation, education, and religion.

The aspirations collected must be channeled and advocated by DPD members in the national policy-making process. Consequently, DPD members should be present both in the represented regions and at the national center. It is therefore essential and appropriate for DPD members to be mobile between the regions and the center. It is not accurate to say that DPD members should spend more time in the regions or in Jakarta.

To effectively absorb regional aspirations, DPD members cannot do it alone. The constituents of DPD members are far broader and more numerous than those of DPR members. Demographically, DPD constituents include the entire population of a province, much larger than the constituents of DPR members who represent specific electoral districts. Moreover, DPD constituents include not only people but also the environment, community organizations, and local governments.

Given this situation, DPD members need not only to reside in the relevant province but also to have the necessary organs and mechanisms to facilitate the process of aspiration absorption. In short, DPD members must have operational offices in the regions. These offices would gather, process, communicate, systematize aspirations and information, and prepare them as material for policy formulation and advocacy by DPD members at the national level. Only with such infrastructure can DPD members maximize their function of channeling regional aspirations without neglecting the task of absorbing them.

Article 91(2)(d) of Law No. 23 of 2014 on Regional Government states that the Governor's duties include "evaluating draft Regional Regulations of districts/cities regarding RPJD, RPJMD, APBD, amendments to APBD, accountability for APBD implementation, regional spatial planning, regional taxes, and regional levies." This article indicates that the Governor has executive preview authority over regional regulations, and problematic regulations that conflict with higher regulations require intensive and continuous oversight.

With the enactment of Law No. 2 of 2018, which adds new powers to the DPD, as outlined in Article 249(1)(j), the DPD is granted the authority to "monitor and evaluate draft Regional Regulations and Regional Head Regulations." However, this addition raises concerns about potential normative conflicts, as several laws govern the oversight of draft regional regulations and regional head regulations, including the Law on Regional Government, the Law on the Supreme Court, and the Law on the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council.

METHOD

This research employs normative legal research methods, utilizing a Philosophical Approach, Comparative Approach, Statute Approach, Conceptual Approach, and Historical Approach. The legal materials required for this research are sourced from primary, secondary, and tertiary legal materials. The technique for gathering legal materials involves documentation studies, which will then be analyzed deductively by constructing arguments based on logical reasoning and interpreting various legal materials.⁶ Thus, accurate and comprehensive answers to the issues regarding the reformulation of the DPD's authority in monitoring and evaluating regional regulations and regional head regulations, following the enactment of the MD3 Law, can be obtained.

RESULTS AND DISCUSSION

1) Reformulation of the Regional Representative Council's Authority in Monitoring and Evaluating Draft Regional Regulations and Regional Head Regulations.

The reform of Indonesia's constitutional system began with the amendment of the 1945 Constitution following the New Order era. The reform spirit that surged since 1999 has created a conducive climate for reorganizing state institutions, which during the New Order period were seen as less responsive to changing times. Additionally, from the outset, the 1945 Constitution was recognized as a provisional constitution, intended to be refined in subsequent periods.⁷

The 1945 Constitution was a product of the revolution and thus was considered very provisional. As positive law, the 1945 Constitution and its explanatory notes have been in effect since July 5, 1959. However, in terms of content and the process of its formulation, there are many inconsistencies, and it even fails to align with the spirit of democracy.⁸ From a constitutional law perspective, the amendment of the 1945 Constitution is a condition sine qua non for the reorganization of Indonesia's constitutional life. This reorganization aims to design a democracy or people's sovereignty oriented towards the rule of law, power control, civil society, and checks and balances.⁹

The amendment of the 1945 Constitution was necessary because historical experience has shown that, throughout its enforcement, the pre-amendment 1945 Constitution led to authoritarian governments during both the Old Order and the New Order periods. In other

words, the 1945 Constitution had never produced a democratic system because it allowed for the accumulation of power by those in authority. This occurred due to several weaknesses in the pre-amendment 1945 Constitution, including its executive-heavy character, which granted extensive powers to the executive branch.¹⁰

The essence of both political and legal goals is the same, namely, "to achieve peace in communal life." The fundamental difference between politics and law lies in their nature: politics is the process of achieving goals, while law is the (temporary) final product of that process. In other words, all political actions are directed towards creating positive law. The 1945 Constitution is a product of this legal-political process and should serve as the foundation for all forms of legislation in national life.

The authority of the Regional Representative Council (DPD) is fundamentally enshrined in Article 22D of the 1945 Constitution, which states:

1. The Regional Representative Council may propose to the House of Representatives draft laws related to regional autonomy, central-regional relations, the creation, expansion, and merging of regions, the management of natural and other economic resources, and financial balance between the central and regional governments.
2. The Regional Representative Council participates in the discussion of draft laws related to regional autonomy, central-regional relations, the creation, expansion, and merging of regions, the management of natural and other economic resources, and financial balance between the central and regional governments, and provides considerations to the House of Representatives on draft laws concerning taxes, education, and religion.
3. The Regional Representative Council may supervise the implementation of laws concerning regional autonomy, the creation, expansion, and merging of regions, central-regional relations, the management of natural and other economic resources, the implementation of the state budget, taxes, education, and religion, and convey its findings to the House of Representatives as considerations for follow-up actions.

In brief, it can be said that the DPD has the authority to propose certain bills, participate in the discussion of certain bills, and supervise the implementation of specific laws. This authority should serve as the basis for the formation of general norms in legislation.

The weaknesses of the DPD's authority in the 1945 Constitution are undeniable. This is because the DPD lacks the power to issue binding decisions. The DPD is only given the authority to participate in the discussion of certain bills and does not have the authority to approve bills into laws. Thus, even if the DPR and the President, in forming laws related to the DPD's authority, use the natural position of law (philosophical legal reasoning) without interference from any political interests, the result will still be a weak DPD authority. Moreover, if the natural position of law is caught between philosophical reasoning and the practical needs of political parties, this will undoubtedly be a major factor in the impediment to the purification of the DPD's authority in the national life.

Article 22C paragraph (1)¹¹ paragraph (2)¹² The 1945 Constitution, as the constitutional foundation, highlights the challenges of becoming a member of the DPD. In terms of legitimacy, the legitimacy of DPD members is of higher quality compared to that of DPR members.¹³ Stephen Sherlock, an expert on Indonesian politics, has argued that the legitimacy of an institution should correspond proportionally with the authority granted to it by the Constitution. However, this legal logic is inversely reflected in the provisions of the 1945 Constitution, which is a product of the political dynamics of its time. According to Sherlock, the DPD's role and legitimacy have not been matched by corresponding powers, thereby limiting its effectiveness in the legislative process despite its members being directly elected and representing the regions.¹⁴ In reality, the Indonesian Regional Representative Council (DPD) represents a highly unusual comparison that Stephen Sherlock has not encountered in any other part of the world, where the DPD is a combination of high public legitimacy due to direct election and low quality of authority. From a different perspective, Irman Putra Sidin argues that¹⁵ From a different perspective, Irman Putra Sidin argues that the President, the House of Representatives (DPR), and the Regional Representative Council (DPD) are essentially part of the historical legacy of the elements that constitute a state. The President is viewed as the heir to the sovereign elements of governance in the formation of a state, holding executive power. The DPR originates from the people's right to govern themselves, creating a system of *demos* and *kratein*.

Where does the DPD come from? The origins of the DPD lie in the territorial subjects that, historically, experienced fragmentation into independent and autonomous organizations for self-management. This process transformed regions into clusters known as “living fictions,” which gave rise to representative entities with aspirations that need to be heard and accommodated.

This context underscores the importance of the DPD within Indonesia's constitutional system. Therefore, the dignity of the DPD as a state institution should be elevated through authority that is on par with other state institutions (the President and the DPR). Equality does not mean identical functions but rather ensuring that each institution operates within its specific role, rather than as an auxiliary to another institution.

Laica Marzuki argues that the purification of the parliamentary structure towards a bicameral system is indeed necessary. In large and complex countries, a bicameral parliament requires a two-chamber structure. According to Marzuki, the establishment of a bicameral parliament places the two houses in an equal and harmonious institutional position, specifically in the following aspects.¹⁶ Marzuki asserts that in a bicameral system, one chamber serves to balance and constrain the supremacy of the other chamber, and vice versa. This arrangement strengthens and empowers the role of regional entities in constructing a unitary state system.

Historically, the development of parliamentary structures in various countries shows that experiments with unicameral systems, which were sometimes attempted during revolutionary reconstruction periods, often end with the re-establishment of a second chamber in subsequent reactionary periods or even when revolutionary regimes persist for an extended duration.¹⁷

If the decisions of the Regional Representative Council (DPD) are to address the enhancement of the parliamentary structure within Indonesia's constitutional system, then the quality of parliamentary authority must be elevated. It is true that the bicameral concept is widely applied in federal countries, but given the vast and complex nature of nation-building and the sovereignty of the people as the constitutional foundation, the need for a second chamber becomes fundamental to realizing the principle of "all must be represented." As Jimly Asshiddiqie noted¹⁸ that while most unitary states tend to adopt a unicameral system, all federal states have a bicameral parliamentary structure. However, there are also large unitary states with bicameral parliaments, albeit with unequal status between the two chambers. Jimly Asshiddiqie further explains that the bicameral system is generally classified by some experts into (a) strong bicameralism and (b) soft bicameralism. This is similar to Giovanni Sartori's classification of bicameral models, which he divides into three types: 1). Asymmetric Bicameralism (Weak Bicameralism / Soft Bicameralism): One chamber holds more dominant power over the other; 2). Symmetric Bicameralism (Strong Bicameralism): Both chambers have nearly equal power; 3). Perfect Bicameralism: Both chambers have completely balanced power.¹⁹

Regarding the three bicameral models proposed by Sartori, Denny Indrayana²⁰ argues that weak bicameralism should be avoided as it undermines the very purpose of a bicameral system, which is to ensure mutual checks between chambers. Dominance by one chamber reduces weak bicameralism to merely another form of unicameral parliament. On the other hand, perfect bicameralism is not an ideal choice either, as the excessively balanced power between the Lower and Upper Houses, intended to facilitate inter-chamber control, could potentially lead to legislative deadlock. Therefore, the preferred option is strong bicameralism.

Therefore, the future structure of our parliament should ideally move towards strong bicameralism (through an amendment to the 1945 Constitution). The current practice of soft bicameralism is already evident in our existing parliamentary system. The current scope of DPD's powers shows that although the DPD possesses significant legitimacy, it is "poor" in terms of authority. It is not surprising that many view the DPD as merely an auxiliary body to the DPR. The establishment of strong bicameralism is expected to be a crucial support for realizing the nation's goals concerning regional autonomy.

The essence of strengthening the legislative body lies in enhancing legislative authority. In other words, to improve the quality of the DPD, its legislative powers need to be reinforced, including granting the DPD authority to participate in the joint decision-making process. Currently, the DPD's involvement is limited to discussing bills related to regional autonomy, central-regional relations, the formation and division of regions, the management of natural resources and other economic resources, and the financial balance between central and regional governments. Additionally, the DPD provides recommendations to the DPR on bills related to taxation, education, and religion.²¹ The analysis of the provisions in the 1945 Constitution reveals that the authority to approve bills as laws is exclusively granted to the President and the DPR.

Saldi Isra²² argues that concerns about inefficiency in the legislative process involving both chambers (DPR and DPD) and the government should not be overstated. While inefficiencies can arise, they can be mitigated through careful design to prevent delays, such as filibustering in the U.S. Furthermore, the current legislative process in the DPR needs improvement, particularly regarding the integration of the Problem Inventory List (DIM). Currently, DIM discussions involve individual factions rather than the DPR as an institution, which is inconsistent with the joint discussion process mandated by Article 20, paragraphs (2) and (3) of the 1945 Constitution. This misalignment contributes to legislative delays.

Developing a comprehensive legislative process involving DPR, DPD, and the President could enhance the quality of laws in Indonesia. Therefore, DPD should be empowered not just to participate in discussions but to make binding decisions. This empowerment could lead to two main options: (1) granting DPD authority over specific types of legislation, or (2) giving DPD authority over all legislative matters.

Each option would require different legal frameworks and impact the relationship between DPD and DPR within Indonesia's constitutional system. Regardless of the approach, the current constitutional foundation of DPD—where it cannot issue binding decisions—leads to inherent weaknesses in its authority. The original intent behind the establishment of DPD was to create a high-quality parliament with a balancing mechanism. However, the idea of bicameralism faced significant opposition during the constitutional amendments of 1999-2002.

Strengthening DPD's role in Indonesia's constitutional system necessitates purifying the parliamentary structure to reflect strong bicameralism. This change would result in a harmonious and high-quality legislative process involving DPR, DPD, and the President. Such reforms are expected to enhance the role of DPD in supporting the nation's objectives related to regional autonomy and national unity.

Therefore, the author concludes that the reformulation of DPD's authority post-Enactment of Law No. 2 of 2018 on MD3 is essential and should focus on:

1. Reformulating the Institutional Structure of DPD
2. Reformulating DPD as an Active and Effective Bicameral System
3. Reformulating DPD's Legislative Authority
4. Reformulating DPD within Indonesia's Constitutional System

2) Reformulation of the Institutional Representation of the Regional Representative Council (DPD)

Amendment of the 1945 Constitution has reformed state institutions at the legislative, executive, and judicial levels. The Constitutional Court, the Judicial Commission, and the Regional Representative Council (DPD) are newly introduced institutions in the 1945 Constitution (post-amendment). The positions and functions of the Constitutional Court, the Judicial Commission, and the Regional Representative Council are crucial elements in the reform of Indonesia's state governance.

The establishment of the Regional Representative Council in Indonesia's state governance was conceived to enhance regional representation in the political decision-making process of state administration, with the hope of fostering strong national integration within the framework of the Unitary State of the Republic of Indonesia. The presence of the DPD cannot be separated from the ongoing tensions between the central and regional governments since Indonesia's independence. With the formation of the DPD, regional interests can be better accommodated.²³ Despite regional representation being accommodated in the 1945 Constitution of the Republic of Indonesia, the position and function of the Regional Representative Council (DPD) still lack full strength compared to the House of Representatives (DPR). The authority of the DPD in the constitution remains "half-hearted." This condition makes it difficult for the DPD to carry out its functions, duties, and powers as one of the state institutions.

Initially, Indonesia's constitution, as contained in the 1945 Constitution of the Republic of Indonesia, adhered to a unicameral system, with variations linked to the theory of popular sovereignty organized within the People's Consultative Assembly (MPR). The MPR was viewed as the embodiment of the entire populace, ultimately becoming the highest state institution. Since most MPR members were also members of the DPR, these two institutions could not be referred to as bicameral. Indonesia's parliamentary structure became bicameral under the 1949 Constitution of the Republic of the United States of Indonesia (RIS). Under the RIS Constitution, besides the DPR, which was regulated in Chapter III, Articles 98-121, there was also a Senate regulated in Chapter II, Articles 80-97, representing the constituent regions.²⁴

The bicameral system was later adopted in the 1945 Constitution (post-amendment). The 1945 Constitution embraces a bicameral representation system consisting of the DPR chamber and the DPD chamber. The DPR represents the people in general with a national interest orientation, while the DPD represents the people in a regional context with a regional interest orientation.²⁵ In exercising their functions and authorities, both bodies can operate independently but can also convene together to discuss issues deemed important. Joint sessions between the DPR and DPD form a forum known as the People's Consultative Assembly (MPR). However, this bicameral system does not possess equal authority. The two representative chambers are not endowed with equally strong powers. The authority of the DPR in the 1945 Constitution is stronger compared to that of the DPD.

According to the 1945 Constitution, the DPR holds the legislative power. Article 20, paragraphs 1-2 of the 1945 Constitution state that the House of Representatives holds the power to form laws. Every draft law is discussed by the House of Representatives and the President to gain mutual approval. Additionally, the DPR has three functions: legislative, budgetary, and oversight functions. Article 20A emphasizes that the House of Representatives has legislative, budgetary, and oversight functions. In carrying out its functions, the House of Representatives has the right to interpellation, the right to inquiry, and the right to express opinions. In contrast, the authority of the Regional Representative Council is very limited compared to the significantly stronger authority of the DPR. The functions of the DPD are outlined in Article 22D, which states that the DPD has three functions: legislative, advisory, and oversight

functions.²⁶ These three functions of the DPD are performed in a limited manner, unlike the typical bicameral system of governance.

First, the legislative function. As stipulated in Article 22D, paragraphs 1-2 of the 1945 Constitution, the DPD can propose and participate in discussions with the DPR on draft laws related to regional autonomy, central and regional relations, the formation, expansion, and merging of regions, the management of natural resources and other economic resources, and the financial balance between the central and regional governments. This legislative function clearly places the DPD in a subordinate position to the DPR. This means the DPD's authority is ineffective in carrying out its mandate to gather regional interests because it still depends on the DPR.

Second, the advisory function. As stipulated in Article 22D, paragraph 2 of the 1945 Constitution, the DPD provides advice to the DPR on draft laws related to taxes, education, and religion. This advisory function also includes the DPD's authority to provide advice to the DPR in the selection of members of the Audit Board of Indonesia (BPK), as stipulated in Article 23, paragraph 1 of the 1945 Constitution. The issue here is whether the DPD's advice is binding on the DPR. As advisory input, it is naturally non-binding, making this function highly dependent on the DPR's interests in accepting or rejecting the DPD's advice on draft laws related to taxes, education, and religion.

Third, the oversight function. As stipulated in Article 22D, paragraph 3 of the 1945 Constitution, the DPD can oversee the implementation of laws regarding regional autonomy, the formation, expansion, and merging of regions, central and regional relations, the management of natural resources and other economic resources, the implementation of the state budget, taxes, education, and religion, and present its findings to the DPR as a basis for further action.

From what is formulated in Articles 22C and 22D of the 1945 Constitution, it is evident how weak the role and function of the DPD are compared to the DPR. The weak role of the DPD as a local representative obscures the paradigm of popular sovereignty and the check-and-balance system in Indonesia's constitutional and state governance. In a pure bicameral system (strong bicameralism), both chambers are given the task and authority to enact laws. Examining the articles in the 1945 Constitution that regulate the DPD, it is clear that this institution does not have the authority to jointly form laws with the DPR and the President. The DPD's authority is limited and narrow because it can only propose draft laws and provide advice to the DPR.²⁷

The establishment of this bicameral system is fundamentally intended to ensure a double-check mechanism in the process of law-making, budgeting, and oversight. However, this has not yet been realized. In the 1945 Constitution, the principle of double-check is primarily manifested in relation to regional interests and the implementation of regional autonomy through the DPD's authority to propose draft laws, participate in discussions, and oversee the implementation of certain laws related to regional matters and local government administration.²⁸ The DPD truly becomes an institution without decisive power. It can propose draft laws, but it is highly dependent on the DPR. The DPD can provide advice or discuss a

draft law, but whether it is used or not depends on the DPR. The DPD can oversee the implementation of laws, but the outcomes of its oversight depend on the DPR. Therefore, strengthening the DPD becomes a condition sine qua non.²⁹

The weak role of the DPD in Indonesia's state governance system has led to numerous proposals for a fifth amendment to the 1945 Constitution. This amendment aims to strengthen the functions and powers of the DPD within the bicameral representation system. The 1945 Constitution, which adopts a bicameral representation system, currently follows a soft bicameralism model.³⁰ This results in the DPD's role being less than optimal in safeguarding regional interests. Therefore, it is necessary to precisely regulate and define the division of tasks and powers between these representative institutions, both of which are legislative bodies. The House of Representatives (DPR) and the Regional Representative Council (DPD) are both parliaments with primary functions of oversight and legislation, along with the budget function as an important instrument for parliamentary oversight of the government. Since both are parliamentary institutions, all parliamentary functions are present in these two bodies. Consequently, the division of tasks between them can be arranged concerning specific aspects related to legislative, oversight, and budgetary functions. For example, matters related to regional interests should be handled by the DPD rather than the DPR.³¹

CONCLUSION

The reformulation of the Regional Representative Council's (DPD) authority in monitoring and evaluating regional regulation drafts and regional head regulations can be achieved through: a) Reformulating the Institutional Representation of the DPD; b) Reformulating the DPD as an Active and Effective Bicameral System; c) Reformulating the Legislative Authority of the DPD; and d) Reformulating the DPD within the Indonesian State Governance System.

Footnotes

- 1) Sri Soemantri Martosoewignjo dan Mochamad Isnaeni Ramdhan, Perihal Dewan Perwakilan Daerah Dalam Perspektif Ketatanegaraan, dalam Janedjri M. Gaffar et al. (ed.), Dewan Perwakilan Daerah Dalam Sistem Ketatanegaraan Republik Indonesia, (Jakarta: Sekretariat Jenderal MPR RI dan UNDP, 2003), hal. 32.
- 2) The MPR Decree No. V/MPR/2000 on Strengthening Unity and Integration, in Chapter II on Problem Identification, point 9 states: "Centralized governance has caused disparities and injustices between the central government and regional governments, leading to vertical conflicts and demands for secession from the Unitary State of the Republic of Indonesia."
- 3) On the other hand, there remains a strong desire to preserve the Unitary State of the Republic of Indonesia (NKRI). Therefore, a system is needed to channel regional aspirations while simultaneously working to uphold the integrity of the NKRI. Sri Soemantri Martosoewignjo, Susunan dan Kedudukan Dewan Perwakilan Daerah, dalam Janedjri M. Gaffar et al. (ed.), Dewan Perwakilan Daerah Dalam Sistem Ketatanegaraan Republik Indonesia, (Jakarta: Kerjasama Sekretariat Jenderal MPR dengan UNDP, 2003), hal. 23.
- 4) Consideration letter b of Law No. 22 of 1999 on Regional Government states: "In the implementation of regional autonomy, it is deemed necessary to place greater emphasis on the principles of democracy, community participation, equity and justice, as well as to pay attention to the potential and diversity of regions."

- 5) Mohammad Fajrul Falaakh, Susunan dan Kedudukan Dewan Perwakilan Daerah, dalam Gaffar et al. (ed.), *Op cit.*, hal. 54.
- 6) Nasution, S., *Metode Penelitian Naturalistik Kualitatif*, Tarsito, Bandung, 1992, hal. 126.
- 7) Khamami Zada, Kewenangan Legislasi Dewan Perwakilan Daerah Dalam Reformasi Kelembagaan Perwakilan Pasca Putusan Mahkamah Konstitusi *Jurnal Cita Hukum*. Vol. II No. 1 Juni 2015. ISSN: 2356-1440.
- 8) Jimly Asshiddiqie, *Format Kelembagaan Negara dan Pergeseran Kekuasaan dalam UUD 1945*, cetakan kedua, (Yogyakarta: UII Press, 2005), hal. 2.
- 9) Dahlan Thaib, *Ketatanegaraan Indonesia Perspektif Konstitusional*, (Jakarta: Total Media, 2009), hal. 227.
- 10) Moh. Mahfud MD, "Implementasi Ketatanegaraan Saat Ini dan Implikasinya terhadap Masa Depan Bangsa" Makalah disampaikan dalam Pekan Konstitusi UUD "1945, Amandemen, dan Masa Depan Bangsa" yang diselenggarakan DPD bekerjasama dengan ICIS, Jumat, 3 Pebruari 2012 di Jakarta.
- 11) Members of the Regional Representative Council (DPD) are elected from each province through general elections.
- 12) Members of the Regional Representative Council (DPD) from each province are equal in number, and the total number of DPD members does not exceed one-third of the total number of members of the House of Representatives (DPR).
- 13) Members of the DPD are elected directly, with four members from each province. This arrangement indicates that the political legitimacy of the DPD is indeed strong, surpassing that of DPR members who are elected from specific electoral districts within provinces.
- 14) This is what Stephen Sherlock refers to when he states that he has not found anywhere in the world a type of Regional Representative Council (DPD) that combines a very high degree of representation or electoral legitimacy with very low authority. (Constitutional Court Decision No. 79/PUU-XII/2014, pp. 79-80).
- 15) All these grounds form the basis for the argument that the DPD holds equal proportionality and status, even though its authority differs, but its importance is comparable to that of the President and the DPR when discussing who has the right to regulate and manage the state appropriately. These three entities must come together with equal honor. This is further discussed in Constitutional Court Decision No. 79/PUU-XII/2014, pp. 92-101.
- 16) Putusan MK No. 92/PUU-X/2012, hal. 53-54.
- 17) C.F. Strong (Penj: Derta Sri Widowatie), *Konstitusi-Konstitusi Politik Moder: Studi Perbandingan tentang Sejarah dan Bentuk*, (Bandung: Nusa Media), hal. 266.
- 18) Jimly Asshiddiqie, *The Constitutional Law of Indonesia –A Comprehensive Overview*, Malaysia: Sweet & Maxwell Asia, 2009, hal. 127.
- 19) Unlike Sartori, Arend Lijphart (1999) identifies three aspects that determine the strength or weakness of inter-chamber relationships (strong versus weak bicameralism). First, the formal constitutional power of the two chambers is crucial. Second, the actual political importance of the second chamber depends not only on its formal power but also on its method of selection. Third, a critical difference between the two chambers in a bicameral legislature is that second chambers may be elected through different methods or designed to over-represent certain minorities. Further details can be found in the expert opinion of Saldi Isra in Constitutional Court Decision No. 79/PUU-XII/2014, pp. 66-76. See also Constitutional Court Decision No. 92/PUU-X/2012, pp. 101-109.
- 20) Putusan MK No. 79/PUU-XII/2014 hal. 69; Putusan MK No. 92/PUU-X/2012, hal. 101-102.
- 21) Article 22D, paragraph (2) of the 1945 Constitution of the Republic of Indonesia states.

- 22) Putusan MK No. 79/PUU-XII/2014, hal. 75-76.
- 23) Dahlan Thaib, *Ketatanegaraan Indonesia Perspektif Konstitusional*, hal. 157.
- 24) Jimly Asshiddiqie, *Format Kelembagaan Negara dan Pergeseran Kekuasaan dalam UUD 1945*, hal. 159-160.
- 25) The difference between the two councils lies in the nature of the interests they represent. The House of Representatives (DPR) is intended to represent the general populace, while the Regional Representative Council (DPD) is intended to represent regional interests. This distinction is crucial to avoid the notion of 'double-representation,' where the functions of the two councils might overlap. For instance, citizens living in regions who have already participated in general elections to elect DPR members are considered to be represented by their elected DPR representatives, whether at the district/city level, the provincial level, or at the national level in the DPR. Therefore, although DPD members are also elected through general elections, their recruitment process should be distinct from the system used to elect DPR members. This differentiation helps to prevent the issue of double-representation. Jimly Asshiddiqie, *Format Kelembagaan Negara dan Pergeseran Kekuasaan dalam UUD 1945*, hal. 50.
- 26) Article 22D states: (1) The Regional Representative Council (DPD) may propose to the House of Representatives (DPR) draft laws related to regional autonomy, central-regional relations, the formation and division of regions, the management of natural resources and other economic resources, as well as the balance of central and regional finances. (2) The DPD participates in discussions on draft laws concerning regional autonomy; central-regional relations; the formation, division, and merging of regions; the management of natural resources and other economic resources; and the balance of central and regional finances. Additionally, the DPD provides recommendations to the DPR on draft laws related to taxation, education, and religion. (3) The DPD may oversee the implementation of laws regarding regional autonomy, the formation, division, and merging of regions, central-regional relations, the management of natural resources and other economic resources, the execution of the state budget, taxation, education, and religion, and report the results of this oversight to the DPR for further consideration and action.
- 27) Dahlan Thaib, *Ketatanegaraan Indonesia Perspektif Konstitusional*, hal. 153.
- 28) Moh. Mahfud MD, "Implementasi Ketatanegaraan Saat Ini dan Implikasinya terhadap Masa Depan Bangsa" Makalah disampaikan dalam Pekan Konstitusi UUD "1945, Amandemen, dan Masa Depan Bangsa" yang diselenggarakan DPD bekerjasama dengan ICIS, Jumat, 3 Pebruari 2012 di Jakarta.
- 29) Refly Harun, "Membangkitkan (Lagi) Eenergi Perubahan Konstitusi", Makalah disampaikan dalam Pekan Konstitusi UUD "1945, Amandemen, dan Masa Depan Bangsa" yang diselenggarakan DPD bekerjasama dengan ICIS, Kamis, 2 Pebruari 2012 di Jakarta.
- 30) Jimly Asshiddiqie, *Format Kelembagaan Negara dan Pergeseran Kekuasaan dalam UUD 1945*, hal. 52-53.
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