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THE ROLE OF THE REGIONAL REPRESENTATIVE COUNCIL IN THE INDONESIAN GOVERNMENT SYSTEM

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The role of the Regional Representative Council (DPD) of the Republic of Indonesia in the 1945 Constitution is regulated by articles 22C and 22D of chapter VIIA. Paragraph (3) of article 22D contains the provision that the Regional Representative Council can carry out supervision in the fields of state revenues and expenditures, taxes, education and religion and submit the results of its supervision to the People's Representative Council (DPR) for consideration. Thus, the powers of the DPD are significantly limited compared to the DPR. This paper is a normative legal research, which examines the provisions of articles in the 1945 Constitution of the Republic of Indonesia, related to the role of the Regional Representatives Council in the government system.

Keywords: Regional Representative Council, People's Representative Council, 1945 Constitution, government system, Indonesia.

ПОЛОЖЕНИЕ СОВЕТА ПРЕДСТАВИТЕЛЕЙ РЕГИОНОВ В СИСТЕМЕ ГОСУДАРСТВЕННОЙ ВЛАСТИ ИНДОНЕЗИИ

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Положение Совета представителей регионов (СПР) Республики Индонезия в Конституции 1945 года регулируется статьями 22С и 22D главы VIIA. Пункт 3 статьи 22D содержит положение о том, что Совет представителей регионов может осуществлять надзор в области государственных доходов и расходов, налогов, образования и религии и представлять результаты своего надзора для рассмотрения в Совет народных представителей (СНП). Таким образом, полномочия СПР существенно ограничены по сравнению с СНП. Данная работа представляет собой нормативно-правовое исследование, в котором рассматриваются положения

статей Конституции Республики Индонезия 1945 года, касающиеся роли Совета представителей регионов в системе государственной власти.

Ключевые слова: Совет представителей регионов, Совет народных представителей, Конституция 1945 года, государственная система, Индонезия.

Introduction

The 1945 Constitution of the Republic of Indonesia has undergone four stages of change, namely the first amendment in 1999, the second amendment in 2000, the third amendment in 2001 and the fourth amendment in 2002. With these changes, there were also changes in the Indonesian institutions, namely before the changes to the 1945 Constitution. This Constitution's original formulation in Article 2 paragraph (1) reads: "The People's Consultative Assembly consists of members of the People's Representative Council, plus representatives from the regions and groups according to the rules stipulated by law". After the amendment to the Constitution Article 2 paragraph (1) reads: "The People's Consultative Assembly consists of members of the People's Representative Council and the Regional Representative Council who are elected through general elections and further regulated by law".

The People's Representative Council (DPR) is a state institution that has the same position as the DPR as a people's representative institution [q.v.: 4]. The Regional Representatives Council (DPD) is also a regional representative institution that is domiciled as a state institution consisting of representatives from the provinces who are elected through general elections without involving the role of political parties. The establishment of the DPD as one of the new state institutions aims to provide opportunities for local people to participate in making policies at the national level, especially those related to regional interests [1, p. 75]. In his journey as regional representative institutions, the DPD has several functions, including functions in the field of legislation, functions in the field of consideration, and functions in the field of supervision.

The DPD as a representative institution of the people from the regions at the center in channeling the aspirations of the people must have a clear function.

According to Jimly Asshiddiqie, the function of parliament can be divided into 3 kinds, namely the regulatory function (legislation), the supervisory function (control), the function of representation and representation [q.v.: 3]. The regulation regarding the function of the DPD is described in Article 22D which states that:

1. The Regional Representative Council may submit to the House of Representatives a draft law relating to regional autonomy, central and regional relations, the formation and expansion and amalgamation of regions, management of natural resources and other economic resources, as well as those relating to financial balance center and area.

2. The Regional Representative Council participates in discussing draft laws relating to regional autonomy; central and regional relations; formation, expansion, and merging of regions; management of natural resources and other economic resources, as well as central and regional financial balance; and give consideration to the House of Representatives on the draft law on the state revenue and expenditure budget and the draft law relating to taxes, education, and religion.

3. The Regional Representative Council may supervise the implementation of laws concerning; regional autonomy, establishment, expansion and merger of regions, central and regional relations, management of natural resources and other economic resources, implementation of state revenue and expenditure budgets, taxes, education, and religion and submitting the results of their supervision to the House of Representatives for consideration. to be followed.

The regulation of the DPD function is also described in Article 223 paragraph (1) of Law No 27 of 2009 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council and the Regional People's Representative Council, which stipulates that the DPD has the following functions:

1. Submission of proposals to the DPR regarding draft laws relating to regional autonomy, central and regional relations, formation and expansion and merging of regions, management of natural resources and other economic resources, as well as those relating to the balance of central and regional finance.

2. Participate in the discussion of draft laws relating to regional autonomy, central and regional relations, formation, expansion and amalgamation of regions, management of natural resources and other economic resources, as well as central and regional financial balance.

3.. Giving consideration to the DPR on the draft law on the state revenue and expenditure budget and the draft law relating to taxes, education, and religion.

4. Supervision of the implementation of laws concerning regional autonomy, the establishment, expansion and merger of regions, central and regional relations, management of natural resources and other economic resources, implementation of the State Budget, taxes, education and religion.

Methodology

The type of research used in this paper is a normative legal research type, namely research by looking at the legal provisions in the applicable laws and regulations, which are then associated with the problems discussed [5, p. 93] The type of approach used is a statutory approach invitation, historical approach and conceptual approach.

This research is a scientific activity that seeks to obtain solutions to legal problems related to the position of the Regional Representatives Council in administering the state in accordance with the provisions contained in Article 22 D paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The research method used is in the form of legal research, which is a process to find the rule of law, legal principles and legal doctrines in order to answer the legal issues found.

The research approach used in the study, in addition to the normative juridical approach, is also a sociological approach, which is to examine and discuss the problems obtained in accordance with the facts at the location which are then linked to applicable legal norms, and existing legal theories that are related to the position and authority of the Regional Representatives Council (DPD) in the administration of government in Indonesia.

Results and discussion

The purpose of establishing the Regional Representative Council in Indonesia

The enactment of amendments to the 1945 Constitution of the Republic of Indonesia has had a significant impact on the structure of state institutions in the country. The essence of these changes is to affirm the presidential system, strengthen legislative institutions, human rights and guarantee the independence of the judiciary as an independent institution [q.v.: 9]. In terms of strengthening the legislature, in the amendment to the 1945 Constitution, an institution as a representative of regional representatives, namely the Regional Representatives Council (DPD) coupled with the People's Representative Council (DPR). One of the reasons for the formation of the DPD is to create a legislation system that is responsive and takes the interests of the people in line with the demands of reform. In addition, the background for the formation of the DPD:

1. Strengthening regional ties within the Unitary State of the Republic of Indonesia and strengthening the national unity of all regions.
2. Increase accommodation and aspirations and regional interests in national policies relating to the state and regions.
3. Encouraging the acceleration of democracy, development and progress area.
4. Optimizing the function of regional delegates who were originally part or fractions of the MPR institution [8, p. 3].

Another goal related to the formation of the DPD is to realize a bicameral system in the Indonesian parliament which in fact before the amendment to the 1945 Constitution of the Republic of Indonesia still focused on the existence of the People's Consultative Assembly (MPR) as the highest state institution. Institutionally, after the amendment to the constitution and the implementation of the system of separation of powers and the principle of checks and balances, the MPR no longer has the position as the highest state institution, so that it has the same degree as other institutions together with the DPR.

Referring to the provisions of the article above, the DPD is a state institution that represents the region and is elected through general elections together with other

legislative institutions, namely the DPR and the Regional People's Representative Council (DPRD). Regarding its authority the DPD is regulated in Article 22D of the 1945 Constitution of the Republic of Indonesia:

1. The Regional Representative Council may submit to the House of Representatives a draft law relating to regional autonomy, central and regional relations, the establishment and expansion and merger of regions, management of natural resources and other economic resources, as well as those relating to financial balance center and area.

2. The Regional Representative Council participates in discussing draft laws relating to regional autonomy; central and regional relations; establishment, expansion, and merger of regions; management of natural resources and other economic resources, as well as central and regional financial balance; and consideration to the House of Representatives on the draft law on the state revenue and expenditure budget and the draft law relating to taxes, education and religion.

3. The Regional Representative Council may supervise the implementation of laws concerning: regional autonomy, the establishment, expansion and merger of regions, central and regional relations, management of natural resources and other economic resources, implementation of the state budget of revenues and expenditures, taxes, education, and religion and submit the results of their supervision to the House of Representatives for consideration for follow-up [2, p. 32].

So based on the above provisions, the legislative function involves four forms of activity as follows:

- a. Legislative initiation;
- b. Discussion of draft laws (law making process);
- c. Approval of the ratification of the bill (law enactment approval)
- d. Granting binding approval or ratification of international treaties or agreements and other international documents or agreements [q.v.: 9].

The functions mentioned above are also played by the DPD in carrying out its duties of authority. In order to clarify the position of DPD as one of the legislative institutions, the enactment of Law No 17 of 2014 concerning the People's

Consultative Assembly, the People's Representative Council, the Regional Representative Council and the Regional People's Representative Council (UU MD3). However, the continuity of authority becomes "one-sided" between the DPD and the DPR in terms of proposing and discussing a draft law. This is understood through the provisions of Article 20 Paragraph (1) of the 1945 Constitution that "the House of Representatives holds the power to form laws". This means that all the authority of the DPD in terms of submitting draft laws related to regional interests and other authorities according to the 1945 Constitution, the DPD is only as a legislative auxiliary institution whose authority is smaller than the DPR itself.

Regulation of the Regional Representative Council in Indonesian legislation

DPD is a relatively new institution in Indonesia, which was formed in November 2001 through the third amendment to the 1945 Constitution. DPD members are representatives of regions or provinces in Indonesia. They are directly elected by the people through the mechanism of the General Election (Pemilu), which takes place every five years. The DPD was formed in line with the demands of democracy to fulfill the community's sense of justice in the regions. Expand and increase the spirit and capacity of regional participation in national life in addition to strengthening the Unitary State of the Republic of Indonesia (NKRI).

So in order to reform the constitution, the People's Consultative Assembly (MPR) established a new representative institution, namely the DPD in November 2001. Since these changes, the representative and parliamentary system in Indonesia has changed from a unicameral system to a bicameral system. A unicameral system is a system of government that has only one chamber in the parliament or legislature. While the system, bicameral is a government practice that uses two legislative or parliamentary chambers. These changes went through a fairly long discussion stage in the community and the MPR. It is also to maintain a balance between regions and between the center and the regions in a fair and harmonious manner.

The basic idea of forming the DPD is the desire to better accommodate regional aspirations. Giving a greater role to the region in the political decision-making process related to regional interests. Because so far decision-making is

centralized and the impact has created inequality and a sense of injustice has emerged. Functions, duties and authorities of the DPD Referring to the provisions of Article 22 of the 1945 Constitution and the DPD RI's Regulations, that as an institution the DPD has the functions of legislation, supervision and consideration.

These include submission of proposals for draft laws discussion on regional autonomy, central and regional relations, formation, expansion and merger of regions, management of natural resources and other economic resources, central and regional financial balance. The function of consideration gives consideration to the DPR. In the supervisory function, duties and authorities, the DPD can supervise the implementation of the law and submit the results of its supervision to the DPR as consideration for follow-up. Receive the results of state financial audits conducted by the BPK, namely regional autonomy, central and regional relations, formation and expansion, as well as regional mergers. Then the management of natural resources and other economic resources, central and regional financial balance, implementation of the state revenue and expenditure budget (APBN), as well as taxes, education, and religion. The number of DPD members from each province is the same and the total number of DPD members is not more than one third of the total members of the DPR. They meet at least once a year. The functions, duties and powers of the DPD are regulated in the form of laws and regulations that form the basis for the existence of the state institution of the Regional Representative Council. Regulations per Law No 22 of 2003 as amended by Law No 27 of 2009 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council and the Regional People's Representative Council. The laws are:

1. The 1945 Constitution of the Republic of Indonesia Chapter VIIA Article 22C to Article 22D.

2. Law No 22 of 2003 as amended by Law No 27 of 2009 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council and the Regional People's Representative Council.

3. Law No 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council and the Regional People's Representative Council.

DPD authority in the field of making laws

During the two membership periods the DPD has produced 57 proposed bills. And one bill was followed up by the DPR, namely the bill on maritime affairs, which has now been passed into Law No 32 of 2014. In the dictum in view of this Law it has included Article 22D paragraph (1). Meanwhile, the remaining 56 other bills that have been submitted to the DPR have never had a written explanation or answer from the DPR to the DPD regarding the fate of the bill. There were even several draft laws from the DPD last period that were proposed by the DPR, such as the Bill on Microfinance Institutions, which was ratified as Law No 1 of 2013, and the Draft Law on ports which has been ratified into Law No 17 of 2008. The two laws mentioned in the dictum do not include Article 22D paragraph (1). In other words, the bill has "changed clothes" from its status as a proposal by the DPD to a proposal by the DPR. It should be realized that it is time for the DPR as the holder of legislative power to share roles with the DPD in planning and drafting laws considering that many laws that have been produced by the DPR and the government have been canceled by the Constitutional Court because they are considered contrary to the 1945 Constitution. This is because there is a decrease in the quality of the law. The decline in the quality of laws made by the government and the DPR is caused by several indications. The indications are the unprofessionalism of legislators and the strength of transactional politics [6, p. 207]. In such a situation, the DPR should be aware that they need partners in the planning and drafting of the bill so that this role must begin to be handed over to the DPR to the DPD to ensure the effectiveness and efficiency of legislation.

The Constitution limits the scope and authority of the DPD in the legislative function. In terms of scope the Constitution limits the legislative functions of the DPD to only regional autonomy, central and regional relations, the formation, expansion and amalgamation of regions, management of natural resources and other

economic resources, as well as those relating to the balance of central and regional finances. This policy raises the question of whether as a regional representative of the DPD cannot be given a role to also carry out the legislative function concerning other laws? For example in the Law on intelligence, the Law on the Prosecutor's Office / POLRI / KPK, KUHP / KUHAP and others. In terms of authority, the Constitution limits the DPD to only providing views and opinions as well as considerations to the DPR. This policy raises the question whether as a representative of the people whose members are also elected together with members of the DPR, the DPD cannot have the authority to reach the decision-making stage.

In addition to these problems, the DPD also faces skepticism from politicians who think that the DPD is not part of the parliament. If this is the case, is the position of the DPD as a regional representative institution not part of the parliament, even though the amendments to the 1945 Constitution stipulate that the DPD can submit to the DPR a draft law relating to regional autonomy, central and regional relations, the establishment and the expansion and incorporation of regions, the management of natural resources and other economic resources, as well as those related to the balance of central and regional finance [7, p. 287-298].

The legislative authority in Law No 17 of 2014 concerning the positional structure of the MPR, DPR, DPD and DPRD is delegated to the DPR. Article 162 paragraph (1) states that: "The DPR has the power to make laws. However, draft laws can come from the DPR, the President and the DPD". Article 163 paragraph (1) states: "A draft law can come from the DPR, the President or the DPD". Article 166 paragraphs (1-5) explains that:

(1) Draft laws may be submitted by the DPD in relation to regional autonomy, central and regional relations, formation and expansion and amalgamation of regions, management of natural resources and other economic resources, as well as those relating to the balance of central and regional finance.

(2) The above draft law along with the academic text shall be submitted in writing by the leadership of the DPD to the leadership of the DPR.

(3) The leadership of the DPR within 30 days after receiving the draft law from the DPD above sends a letter to the President to appoint a minister assigned to represent the President in the discussion of the draft law with the DPR by involving the DPD.

(4) The leadership of the DPR after receiving the draft law from the DPD sends a letter to the leadership of the DPD to appoint the DPD accessories assigned to represent the DPD to participate in the discussion of the draft law by the DPR together with the President.

(5) The DPR and the President shall begin to discuss the draft law from the DPD no later than 60 (sixty) days as of the President's receipt of the letter from the leadership of the DPR.

The position of the DPD in the implementation of the state in the future

In Law No 17 of 2014 concerning the Positional Structure of the MPR, DPR, DPD and DPRD it is stated that the DPD is a regional representative institution domiciled as a state institution (Article 247). The functions of the DPD in Article 248 are as follows:

1. Submission of draft laws relating to regional autonomy, central and regional relations, formation and expansion and merging of regions, management of natural resources and other economic resources, as well as those relating to the balance of central and regional finances to the DPR.

2. Participate in the discussion of draft laws relating to regional autonomy, central and regional relations, formation, expansion and amalgamation of regions, management of natural resources and other economic resources, as well as central and regional financial balance.

3. Giving consideration to the DPR on the draft law on the state revenue and expenditure budget and the draft law relating to taxes, education, and religion.

4. Supervision of the implementation of laws concerning regional autonomy, the establishment, expansion and amalgamation of regions, central and regional relations, management of natural resources and other economic resources,

implementation of the State Revenue and Expenditure Budget, taxes, education, and religion.

The authority and duties of the DPD in Law No 17 of 2014 concerning the positional structure of the MPR, DPR, DPD and DPRD are regulated in Article 249, namely:

a. Submitting draft laws relating to regional autonomy, central and regional relations, the formation and expansion and merging of regions, management of natural resources and other economic resources, as well as those relating to the balance of central and regional finances to the DPR;

b. Participate in discussing draft laws relating to regional autonomy, central and regional relations, the formation and expansion and merging of regions, management of natural resources and other economic resources, as well as those relating to the balance of central and regional finance to the DPR;

c. Compile and submit an inventory list of problems on draft laws originating from the DPR or the President relating to regional autonomy, central and regional relations, the formation and expansion and amalgamation of regions, management of natural resources and other economic resources, as well as those related to financial balance the center and the regions to the DPR;

d. Give consideration to the DPR on the draft law on the APBN and the draft law relating to taxes, education and religion;

e. Can supervise the implementation of laws concerning regional autonomy, the formation, expansion and merger of regions, central and regional relations, management of natural resources and other economic resources, implementation of the State Budget, taxes, education, and religion;

f. Submitting the results of supervision over the implementation of the law on regional autonomy, the establishment, expansion, and merging of regions, central and regional relations, management of natural resources and other economic resources, implementation of laws on APBN, taxes, education, and religion to the DPR as material for consideration to be followed up;

g. Formulate national legislation programs related to regional autonomy, central and regional relations, formation and expansion and amalgamation of regions, management of natural resources and other economic resources, as well as those related to the balance of central and regional finances.

Law No 17 of 2014 concerning the positional structure of the MPR, DPR, DPD and DPRD shows that the legislative authority of the DPD is still limited to: 1) the authority to submit draft laws; 2) participate in discussing draft laws; 3) drafting and submit an inventory of problems; 4) carry out supervision; 5) convey the results of supervision over the implementation of the law and 6) compile a national legislation program related to regional autonomy, central and regional relations, formation and expansion and merging of regions, management of natural resources and other economic resources, as well as those related to the balance of central and regional finance.

For the future, the DPD must be returned to its proportions as a people's representative institution from the region must have the same rights as the DPR from political elements, including the DPD to participate in making decisions on the making of laws which so far only has the right to give suggestions to the public. DPR and in the future, the DPD has the right to nominate a Presidential Candidate, which so far has only been proposed by the DPR to represent a political party in proposing presidential candidates, so that people outside of political parties will not be able to become President of the Republic of Indonesia.

Conclusion

The position and authority of the DPD in the constitutional system in Indonesia is still considered weak compared to the DPR. The root of the problem is that the 1945 Constitution as the basis on which state institutions are based has not clearly regulated the roles and functions of the DPD in the legislature and the rules in the law that still discriminate a lot against the DPD. As a result, the DPD is under the hegemony of the DPR in the formation of laws. The authority of the Regional Representative Council in the 1945 Constitution is regulated in Article 22D paragraph (1), paragraph (2) and paragraph (3) covering the legislative function,

consideration function and supervisory function. The legislative function of the DPD is a limited legislative function. The DPD does not have the authority to make decisions, it is only a proposal for consideration so that the position of the DPD is under the DPR even though they are both representatives of the people. In the future, it is necessary to amend the 1945 Constitution of the Republic of Indonesia so that the position of the DPD is in line with the position of the DPR which comes from elements of political parties.

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