

Reformulation of the House of Regional Representative based on the State System of Indonesia

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Abstract— This study was examine the authority of the DPD in the state system in Indonesia and reformulation authority and the recruitment of DPD in the state system in Indonesia. The problem is analyzed using Post-positivist paradigm with a different approach, namely legislation, conceptual, and comparative study of the existing literature. Mechanical checking the accuracy of the data in the study used the method of triangulation is. The study found: Authority of DPD in the state system is limited by regulation, after comparing with the Republic of Indonesia (RIS) and the constitutions of other countries; and the DPD function is as a partner {Parliament and Local Government Regional Head and the Provincial Parliament (Legislative Council, or parliament)}. DPD ideal authority is affected by the system of recruitment. So it is necessary to recruit membership of the Council through Parliament and the Union DPD maintained by the authority, and does not eliminate other state agencies {People's Consultative Assembly (MPR or MPR)}

Keywords—Recruitment; House of Regional Representatives; Constitutional System of Indonesia.

I. INTRODUCTION

One of the state agencies in Indonesia prior to the constitutional amendment of Indonesia (UUD 1945) was accommodated by the People's Consultative Assembly (*Majelis Permusyawaratan Rakyat*, or MPR). According to the rules established by law, the members of MPR consist of the member of the House of Representatives (*Dewan Perwakilan Rakyat*, or DPR), the delegations from *Utusan Daerah* or UD (the regional/territorial representatives) and *Utusan Golongan* or UG (the factions). The membership of UD and UG had not derived by elections. Therefore, the regional aspirations represented by UD in MPR were less effective in accommodating the regional aspirations and interests which were often not delivered to the national level. The position of regional representative, existing as UD, as part of MPR, has the authority to decide The Guidelines of State Policy (*Garis-Garis Besar Haluan Negara*, or GBHN), select the president and vice president, and decide constitution. Therefore, it is clear that UD has greater authority than the House of Regional Representative (*Dewan Perwakilan Daerah*, or DPD).

The history of the formation of DPD was related to the amendment of the 1945 Constitution on the third amendment. In addition, according to *TAP MPR* (decree the People's Consultative Assembly) No. 2/MPR/1999 on the Assembly Rules of Procedure, it is indicated that the membership of

MPR that reflects the configuration of the political party as results of the elections, military/police and Group Representative and each member is required to be included in UD. According to Article 13 Paragraph (1) of that Act, the elimination of the UD had been resolved in the MPR's General Session on October 14 to 21, 1999, so that, the members of the UD could join political factions in the party which, then, nominated them in the election at regional level. On June 2001 in Bandung, members of UD of MPR held a meeting and formed F-UD (The Regional Representatives Fraction) in the MPR, and accommodated in the membership of the Assembly at the MPR's Annual Session on November 1 to 9, 2001. When formed, however, only 55 of the 135 members of the MPR derived from Regional Representatives joined in F-UD.

The result of the amendment of the 1945 Constitution is the formulation of the DPD members by general election. This makes DPD has higher legitimacy and greater authority. The discussion about DPD is arranged in Section VIIA, Article 22C and Article 22D after constitutional amendment of Indonesian (UUD NRI of 1945). The DPD has broad powers "to submit laws to the DPR and to participate in the discussion of bills related to regional autonomy, central-region relations, the formation, expansion and merger of regions, the management of natural resources and other economic resources, and deal with financial balance between the center and the regions.

As a regional representative institution, DPD authority deals with territorial interests. Activities of absorbing, collecting, holding, and following people's aspirations within the scope of duties and the authority of DPD are the most important activity for the members of DPD. Therefore, the preferred interest carried out by the DPD as regional representative is the interest of whole region, regardless of the individual interests of the people in the region. This means that when absorbing regional aspirations, which then becoming the basis for the bill-making process, it should be really as the aspirations of the region, not just for specific area, profession, and community in the region.

Yet, if the legislative function of DPD is enlarged, because of the same recruitment process with DPR, whether in accordance with the concept of the Unitary State, it will raise problems in the democratic system in Indonesia which is based on The Five Pillars (Pancasila). These problems are based on the amendments of UUD 1945 from 1999 to 2002

which make Indonesian Constitution has all features of a Western-style liberal constitutional democracy.[1]

Based on these conditions, so, it encourages the researcher to conduct research about "Reformulation of The House of Regional Representative: How to Recruit and Authorize based on the State System of Indonesia". There are two problems raised in this research: (1) What are the DPD authority in the constitutional system in Indonesia? And (2) How is reformulation authority and recruitment of the DPD in the constitutional system in Indonesia?

II. METHODOLOGY

This research is descriptive qualitative research method is based on the post-positivism. The problems are analyzed by using Post-positivism paradigm with several approaches, namely legislation, conceptual, and comparative as study of the existing literature. The data use secondary data, with interview techniques to support the validation.

III. RESEARCH FINDINGS & DISCUSSION

The authority of DPD may be submitted to DPR and participate to discuss a bill related to local (regional autonomy, the relationship between the central and the regional, establishment, expansion and merging region, management of natural resources and other economic resources and financial balance between central and regional); the function of considerations to DPR and the function of monitoring whose results are given to DPR relating to the regional, state budget, tax, education, and religion. However, to maintain internal coherence in which the law-making power has been given to DPR, DPD is not given same powers with DPR as law-maker. Therefore, DPD has the functions as limited representative institution. This authority is based on Article 22D paragraph (1), (2) and (3) of The 1945 Constitution of the Republic of Indonesia or UUD NRI 1945 (Constitution after amendment).

Therefore, when viewed from the Representative Theory, the function of Representative Institution includes legislative function, judgment, and control.[2] The role of representative assemblies in balancing the relations between public authorities and civil society.[3]

Function DPD as regional representative inserted in the Article 22D UUD NRI 1945 (Constitution Indonesia after amendment). Meanwhile, the authority of DPD as a regional representative institution includes three main functions but limited, and only relates to the regional autonomy, the relationship between the central and the regional, the establishment, expansion and merger of region, management of natural resources and other economic resources, and the balance of central and local finances.

Based on Election Theory, the authority of DPD today does not reflect as the institution which is chosen by election. Although selected by election, based on article 22C UUD NRI 1945, DPD cannot order, create, and implement political decisions as the House of Representatives does. In other

countries, when both of Representative Institutions are equally selected through election, they have same authority although in a different scope.

In the other hand, the limited authority of DPD is appropriate with the concept of a unitary state. Thus, the limited authority of DPD caused by DPR is the holder of power to make laws (Article 20 paragraph (1) UUD NRI 1945).

Although the authority of DPD is not balanced by the DPR, the function of DPD is as a partner of DPR. The power of limitation through the power of separation and division gives more description on the clarity of position of each branch of the state authority in performing its constitutional functions. Meanwhile, the *checks and balances* give more emphasis on efforts to establish balanced mechanisms for mutual control among branches of state power. Thus, the *checks and balances* are among the branches of power, namely legislative, executive and judicial. The relations between the three branches: legislative, executive and judicial, are relations of cooperation that literature calls *checks and balances*, meaning, their mutual supervision to rebalance the relationship between them.[4]

If *checks and balances* are described in equal degree/position, so they are equal and mutual control, based on theoretical considerations of DPD formation that creates control mechanism and balance between the branches of state power and the legislative Institution. However, the authority of DPD at this time does not reflect the *checks and balances* due to an imbalanced authority with DPR. Nonetheless, the authority of DPD currently is appropriate with the concept of a unitary state.

The unitary state is a form of the state in which the highest legislative authority/concentrated is at the national legislative/central. Pursuant to the Article 20 paragraph (1) of the 1945 Constitution of The Republic of Indonesia, the DPR as the holder of the power can make laws. However, the DPR, in matters related to the regional, needs DPD. Therefore, The DPR is a partner of The DPD in matters related to the regional. This is because the basis of political considerations of DPD establishment is to strengthen the regional bond or territorial representative in the Republic of Indonesia and to increase regional aspirations in the formulation of national policy.

In the other hand, if the DPD is in equal degree/position with the DPR, it will eliminate other state agencies (MPR). It is because in the other countries if the House of Representatives and Senate (like DPD, but I disagree if DPD is like Senate, because the compositions of MPR are the member of DPR and DPD not DPR and DPD overall), make a deadlock happen, then, there will be a Congress. If MPR arranges a Congress, it is only because of the deadlock. In other word, it means that MPR is eliminated from state agencies in Indonesia.

If a particular institution or practice has always been part of the democratic arrangements of that country, or has been for a long time, one natural inference may be because of the importance of the relevant institution or arrangement to democracy. However, this does not have to be true.

Institutional arrangements may be endured in some cases as a matter of pure chance, or political contingency.[5] This is also linked with DPD. The DPD can be regarded either as a democratic institution or not, depending on political conditions in Indonesia. It's because that political satisfaction depend on contextual condition.[6]

The Ideal Authority of DPD in the state system of Indonesia is influenced by its recruitment system. Thus, it is necessary to recruit the member of DPD through DPRD, so that, The Unitary State is maintained based on the authority. If the authority of the DPD is like today, the recruitment process needs to be modified. Yet, if the recruitment process is through general election, the Authority of DPD will be equal with DPR. However, it must be remembered that DPD reflects the condition of regions.

The DPD authority deals with the regional interests. That is because in substance that the DPD represents the interests of local communities. Talking about the concept of representative, Hanna Pitkin argues type of representation, one of which is substantive representation. Substantive representation defined as acting for or acting in the interest of the represented, in a manner responsive to them as the most important.[7]

Therefore, the preferred interest of regional representative is the interest of whole region, it is seen as the aspirations of the region. So that, DPD must be in cooperation with Local Government. Local Government consist of governor and DPRD. They are elected through general election. Local Government knows the state of local community. Multilevel governance has played an important part in mediating relations that civil society.[8] Based on these ideas, DPD can be selected by the Local Government, especially DPRD.

Besides that, in order to make Indonesia constant as Unitary State, the recruitment model should be customized, i.e., through DPRD. Moreover, it must be remembered that the political equality principle among the citizen is the characteristic of democratic state.[9] Indonesia based on *Pancasila* (The Five Pillars) democracy, the system of decision-making in the implementation of democracy is stressed by the concept of deliberation and consensus which is derived from the original order of Indonesia.

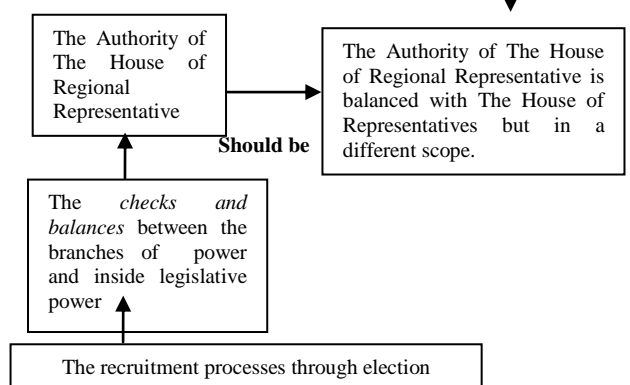
Many opinions about the concept of democracy, but similar in essence, that determine how the highest will in the country, is managed and will be brought to an extent, depends entirely on the will of the people. For Indonesia, the people will be carried out by the inner wisdom (*Pancasila*, The Five Pillars). Bagir Manan says if *Pancasila* has a wisdom, and something that is guided by wisdom, wants to get everything done peacefully, which is also a universal characteristic of the democracy. A democracy, which emphasizes all the people and their interests, becomes the activator of state administration; not a majority-minority[10], but a whole people. Democracy not only talk about winners and loser voting but also satisfied with democracy.[11]

Therefore, DPD can be selected not through general election. No matter how good we make the scheme of

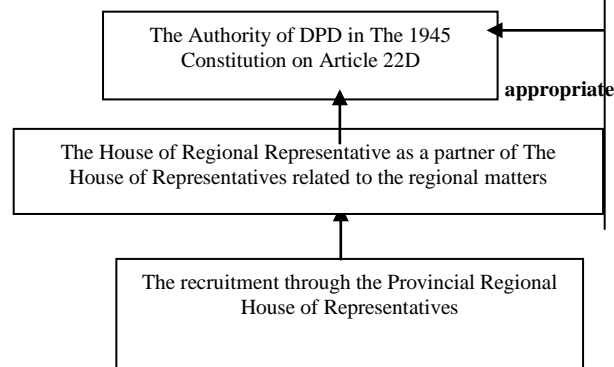
representation in a given chamber, no matter how many of our good thoughts about election, representation, and deliberation we have already taken on board, it is always possible to improve things by complementing that scheme of representation with another.[12] If the recruitment and authorize of DPD is different with other country, it is because Indonesia has philosophy which is based on *Pancasila*. So the sovereignty of the people based on *Pancasila* (The Five Pillars) and the sovereignty system describe that Democracy is guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives.

Frame work: The Formulation of Ideal Authority of The House of Regional Representative in the previous

The Concept of a Unitary State



The New Formulation of Authority of The House of Regional Representative



IV. CONCLUSION

This study provides conclusions based on data findings, including: The authority of DPD in the state system is limited by Regulations, after comparing it with Republic of the United States of Indonesia (RIS) and the constitution of other countries; and The function of DPD is as a partner of DPR. So that, the ideal authority of DPD is influenced by the recruitment system. Therefore, it is necessary to recruit DPD membership through The Provincial Regional House of representatives (DPRD) and the Unity is maintained based on

the authority of DPD and it does not eliminate other state agencies.

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