

Comparative Analysis of United States Agency and Representative Council of Indonesia

1st Agus Trilaksana

*Education History Departement,
Universitas Negeri Surabaya
Surabaya, Indonesia
agustrilaksana@unesa.ac.id*

2nd Artono

*History Education Departement,
Universitas Negeri Surabaya
Surabaya, Indonesia
artono@unesa.ac.id*

3rd Thomas Nugroho Aji

*History Education Departement,
Universitas Negeri Surabaya
Surabaya, Indonesia
thomasnugroho@unesa.ac.id*

Abstract – The People's Consultative Assembly is a representative institution in the democratic country of Indonesia. The People's Consultative Assembly in accordance with the 1945 Constitution result of Amendment I of 2000 consists of members of the People's Representatives Council and Members of the Regional Representative Council. In the pre-reform era, the representative body of the people consisted of members of the House of Representatives plus regional representatives and groups appointed by the President, in accordance with the political interests of the New Order. After the order of reform of this institution, its members are all elected through general elections, as representatives of political parties and representatives of each province.

Since then the Indonesian Representative Body has adopted a bicameral system as it exists in the United States. In the United States, the House of Representatives is a Congress consisting of Senates representing the interests of the state and the House of Representatives representing the interests of political parties. The purpose of this study is to analyze the differences between the Senate and the local parliaments together as one of the pillars of representative institutions of the people in the democracies of the United States and Indonesia. There are many differences between Senate and regional councils in Indonesia, both in terms of length of tenure and most urgent are about very different authorities even though they are both the pillars of the people's representative institution.

Keywords: Analysis Comparative, Senate in the United State of America, DPD in Indonesia state.

I. INTRODUCTION

The implementation of a people's sovereign state requires the involvement of the people in programming and participating in overseeing the running of the government. Through a system of representation, the mandate of power given to the authorities will truly reflect the general will to achieve common prosperity[1]. Thus the representation system is a pillar of a modern democratic state. This is because with a very large population does not allow to run again the direct system of democracy as in ancient Greece. The concept of representation considers that a person or a group has the ability or obligation to speak or act on behalf

of a larger group. The representation of the people is then manifested in the representative body called parliament or congress which is a legislative institution in the whole system of modern government in addition to the executive and judiciary.

In relation to the people's sovereignty, the representative is elected through elections whose candidates are determined by political parties. Thus the representative to be formed is a political representation that will represent ideological views in society reflected in existing political parties [2] but in the development of such a representative model contains many weaknesses, because it will give birth to majority rule and may be elected are people who are only concerned with the interests of his party only. In addition, the majority will be able to suppress the interests of minorities who are not represented by their interests[3].

Given the weakness of the concept, the concept of representation in functionalism representation whose members are derived from certain people based on their expertise, function or position in the society and the concept of a regional based election where representatives of the regions are appointed to representatives. In the context of modern democracies, it usually uses the two representative conceptions. In system Reform Order Indonesian State before using the conception of politics and representation by representation based on a functional concept. After the Reform Order came the process of democratization that was so strong and then the Amendment of the Constitution changed the conception of representation into the concept of representation based on politics and regionalism. Therefore, it gives birth to the Regional Representative Council representing each province in representative bodies based on regionalism.

In the representation conception is also known division of two rooms (bicameral), that is there are two separate bodies within the representative body, called the upper house and the lower house. The division of the two chambers is the purpose of ensuring that all law products will be better because they have to go through two discussions at two different agencies. In Indonesia, the institution of the High Council is the Regional Representative Council, while in the United States known as the Senate.

Agency representatives who embrace the bicameral system are generally divided into two, namely pure bicameral (Strong Bicameral) and bicameral simple (Soft Bicameral). In pure bicameral systems, the Upper House and

the lower house have equally strong authority, whereas, in a simple bicameral system, one room has stronger and dominant authority in terms of legislation products[4].

This study will discuss the circumstances of system representative in Indonesia, especially the institution of the Regional Representative Council and how to position and authority when compared with institutions in the United States Senate.

II. RESEARCH METHODS

The method used in this study is a method of the research analytical using a legal approach. This is because the sources used in this study are in the form of applicable legislation and also the opinions of the experts of constitutional law[5]. The normative juridical legal approach is research based on the rules the existing law of law and also sees the realities that exist in the practice of state administration. The Juridical Approach is an approach that refers to applicable laws and regulations[6]. Based on the sources obtained through the review of the legislation it is the-scripted analytically. Analytical data is the last step in a research, which is an analytical explanation process from the data that have been obtained[7]. This qualitative analysis is to obtain an objective picture of representative bodies in Indonesia and the United States and then conduct a comparative analysis between the Senate representatives in the United States and the Regional Representatives Council in Indonesia. Through objective analysis, it can describe how the position and authority between the two institutions.

III. RESULT AND DISCUSSION

A. DPD Council (Senate In Indonesia)

Based on the 1945 Constitution Article 2 Paragraph 1 states that "*The People's Consultative Assembly shall consist of members of the People's Legislative Assembly and members of the Regional Representatives Council elected by the general election and further stipulated by law*". Referring to the 1945 Constitution, implicitly the Indonesian state embraces bicameral representation system, in which the People's Consultative Assembly consists of two representative bodies, namely the People's Legislative Assembly which deals with the concept of political representation and the Regional Representative Council relating to the concept of regional or regional representation[8].

The Regional Representative Council of the Republic of Indonesia (DPD RI) is a state institution that is acknowledged constitutionally representing aspirations and regional interests, especially in political decision-making at the national level. The Regional Representatives Council (DPD) was formed to further develop democratization in Indonesia. This Council was formed to accommodate the aspirations of the regions in order to have a container in voicing their interests in the constitutional system in Indonesia. The filling of DPD members is done through a process of a general election conducted directly. Based on Article 30.31 and 32 of Law Number 8[9]. In 2012, DPD members consist of representatives of provincial areas

elected by general election, each province has four members. Under the provisions of the Act, DPD members are representatives of each province, in which each province has equal representation of four persons, not the representative of the district or municipality. Members who sit in DPD institutions representing each of these provinces are not appointed but elected by the people directly through elections held every five years simultaneously with the election of representatives of the people who sit in the House of Representatives. Members of the Regional Representatives Council shall be elected by general election with the same amount of each province and the total number of DPD members shall not be more than half the number of members of the People's Legislative Assembly.

Regarding the Membership of the Regional Representative Council has been regulated in Article 227 of Law Number 27 the Year 2009. In the Act stated that Membership of Regional Representatives Council is as follows[10]:

1. DPD Members of each Province are set by 4 (four) persons.
2. The number of DPD members shall be no more than 1/3 (one third) of the number of members of the People's Legislative Assembly.
3. Membership of DPD was inaugurated by Presidential Decree.
4. DPD members in carrying out their duties are domiciled in their electoral districts and have offices in the provincial capital of their election.
5. The term of office of DPD members is 5 (five) years and concurrently ends at the time the new DPD members make an oath or promise.

Based on the Regulation of the Regional Representative Council of the Republic of Indonesia Number 01 / DPD RI / I / 2009-2010 on the Standing Orders, the DPD completeness tools are mentioned consisting of:

- a. Chairman;
- b. The Deliberation Committee;
- c. Committee;
- d. The Designing Committee of the Act;
- e. Household Affairs Committee;
- f. Honorary Board;
- g. Special Committee;
- h. Public Accountability Committee; and
- i. Inter-Agency Relations Committee.

Regarding the authority of the Regional Representative Council has been regulated in Article 224 of Law Number 27 Year 2009 concerning the People's Consultative Assembly, the People's Legislative Assembly, the Regional Representatives Council, and the Regional People's Legislative Assembly (Senate)[10]. The article states that the duties and authorities of the Regional Representatives Council are as follows:

1. Submitting the Draft Law (RUU) related to regional autonomy, central and regional relations, establishment and division as well as regional integration, management of natural resources and resources of other economies. and also related to fiscal and regional equilibrium.

2. To discuss the Draft Law related to regional autonomy, central and regional relations, management of natural resources and other economic resources, as well as central and local government financing, whether proposed by the DPR or the executive.
3. Providing consideration to the DPR in the selection of members of the Financial Supervisory Board (BPK).
4. Providing consideration to the House of Representatives on the Draft State Budget (RAPBN) and Draft Law (RUU) related to taxes, education, and religion.
5. Conduct oversight of the law on regional autonomy, the formation, division and integration of regions, central and local relations, the management of natural resources and other economic resources. Implementation of the state budget, taxes, education, and religion as well as implementing the delivery of the results of its supervision to the Parliament as a matter of consideration to be followed up.
6. Delivering results of supervision on the implementation of the Law on regional autonomy, the formation, division and merging of regions, central and local relations, management of natural resources and other economic resources, the implementation of the state budget, tax, education and religious laws.
7. Receive the results of state financial audits from BPK to make a consideration for the DPR on the Draft Law (Bill) relating to the state budget.
8. Give consideration to the DPR in the election of members of BPK.
9. Participated in the formulation of national legislation programs related to regional autonomy, central and provincial relations, establishment and division as well as regional integration, management of natural resources and other economic resources, as well as those related to central and regional financial balances.

B. US Senate

Under the US constitution, the Federal government of America is divided into three parts, namely the executive branch, legislative and judiciary. As the holder of the legislative branch of power is a Congress consisting of *Senate* and *House of Representative* (DPR). The legislative power is run by the bicameral system, which consists of two rooms consisting of Senate and parliament of people's representation. Members of the House of Representatives in the United States are elected every two years on even years, and they represent the existing political parties. Thus, the term of office of members of the House of Representatives in the United States is only two years and thereafter can be re-elected. The requirement to be nominated as a member of the People's Legislative Assembly in the United States is that it must be at least 25 years of age and an American citizen for seven years. Members of the Senate in the United States are elected by general election with a term of six years and thereafter can be re-elected at least twice the term of office. The requirement to become a member of the Senate is that it must be 30 years old and has been an American citizen for at least nine years and is a registered resident of the electoral district. Each state is represented by

two Senators, regardless of the size of the state and its population.

The Senate has some exclusive powers not granted to the House of Representatives of the United States, other legislative bodies that constitute Congress. It has the authority to examine and discuss draft laws made by Parliament, ratify foreign treaties, confirm the appointment of cabinet members, judges of the Supreme Court, military officers from the United States Armed Forces and other high-ranking federal officials. In addition, the Senate is authorized to prosecute federal officials impeached by the House of Representatives. The Senate is regarded as a more consultative and prestigious institution than the House of Representatives primarily because of longer tenure, fewer members, and constituencies covering the states, thus historically embodying a more deliberative and less partisan atmosphere.

C. Comparative Analysis of the US Senate and the Indonesian Regional Representative Council

Although both as a representative body between the Senate and the Regional Representative Council have many differences, both from the aspect of tenure, the terms of membership, and the most urgent is the authority. When viewed from the term of office of Senate members in the United States has a long term of 6 years and also the age requirement to run for 30 years and must be citizens of America for 9 years. A member of the Indonesian Regional Representative Council whose term of office is 5 years, the requirement to run for office must be 21 years old and there is no time requirement for how long to be an Indonesian citizen.

Judging from its authority, the American Senate has a much stronger function in the context of state administration, even in some ways the Senate is much stronger than the House of Representatives. This is because the Senate can act like a judiciary because it can prosecute federal officials in cases of special political crimes as well as special cases of civil crimes. As a legislative body, the Senate also has equally strong authority with the House of Representatives in drafting, filing and passing the Law. In the American constitutional system, each Law must obtain a consensus from the two assemblies of Congress, the House of Representatives and the Senate. Each of these chambers has a veto right to disapprove of a law they are proposing[11]. Under the US constitution, the Senate has the sole authority to indict the dismissal of the President. The President of the United States can be fired if convicted by two-thirds of the Senate members present. The Senate also has the authority to approve agreements with overseas, approving the appointment of ambassadors, consuls, ministers sitting in the Cabinet and also approving the appointment of Federal judges.

The Regional Representative Council in Indonesia has very limited authority, not as large as the Senate in the United States. In Indonesia a very strong authority is actually owned by the House of Representatives, what is the authority of the Senate in the United States in Indonesia taken by the Parliament. For example, approving the appointment of members of state institutions, such as the

appointment of Supreme Court Justices, members of the Supreme Audit Board, the appointment of leaders of the Police and the TNI, approving the appointment of the Ambassador etc. The Regional Representative Council only has the authority to propose a Draft Law which is limited only to the issue of regional autonomy but does not have the right to decide to become a Constitution. The DPD also has no right to examine and discuss the State Finance Plan but the United States Senate has full authority to do so. In the case of impeachment or dismissal of the President, the Regional Representative Council of Indonesia shall have no authority at all, since the authority to impeach the President or the vice-president is fully authorized by the House of Representatives (DPR)

IV. CONCLUSION

Based on the 1945 Constitution of the 3rd amendment adopted on November 10, 2001, the representative body in Indonesia adopted the bicameral system. It is marked by the existence of the Regional Representative Council which is a form of regional representation. The presence of DPD is a form of separation of two rooms in the People's Consultative Assembly. The bicameral system in Indonesia is a simple bicameral where there is one institution that is more dominant in its authority to design and make laws, namely the DPR and the weak authority of the DPD. DPD can only submit draft laws relating to regional autonomy, regional center relations, regional divisions which will be submitted to the DPR for approval. Thus the position of DPD as a regional representative institution is very weak. In fact, the DPD is only a complementary to the DPR in the legislative body, which has only consultative and considerate authority, proposes and discusses the draft law alone without the

authority to decide to become a law. Even worse, the authority of the DPD is limited to matters relating to the regions only.

Therefore, many jurisprudence lawyers and some political figures who suggested that the authority of the DPD is strengthened by way of amendment to the 1945 Constitution. Even Muhamimin Iskandar, chairman of Partai Kebangkitan Bangsa has proposed that the DPD be dissolved only if the authority is not strengthened in Jawa Pos, 3 November 2016. It is certainly a very rational, with the very limited authority, supposing that DPD minimal but very big performance state expense to be incurred for paying salaries. There is a good concept Indonesian state representative institution criticized heading towards improvement by strengthening the authority of the DPD institution as powerful DPR.

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