



Enumerative Functions of the Regional Representative Council in the Establishment of Legislations

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ABSTRACT: The Regional Representative Council (DPD) was established to incorporate regional interests in national policy in order to preserve national cohesion. On its voyage, however, it has become apparent that the functions and authorities of the DPD as outlined in Article 22 D of the UUD Constitution of 1945, as amended, make it difficult to accomplish the DPD's goals and objectives. The mismatch between the concept of forming a DPD and the final result of the articulation of DPD authority in the 1945 Constitutional amendment demonstrates that the DPD position has become aimless. Even the Crown of the DPD was "dropped" a second time, as the authority conferred by the 1945 Constitution was further weakened by Law Number 12 of 2011 on the Establishment of Legislation. The goal of this study is to determine the function of the DPD in accordance with Article 22D of the UUD1945 Constitution and the DPD's enumerative function in the drafting of legislation. In this study, the author employs a legal research method that is conducted in a normatively-juridical fashion, namely library research. The findings of this study indicate that, per Article 22D of the UUD Constitution of 1945, the DPD has a limited role in the sphere of legislation, as well as in the creation of laws and regulations and in the conduct of debates.

KEYWORDS: Enumerative; Function; Regional Representative Council; Formation of Legislation

INTRODUCTION

The Regional Representative Council was established to incorporate regional interests into national policies in order to preserve national integration. This is due to the fact that the centralization of authority during the New Order era gave rise to inequality in the regional center, which has led in numerous disappointments and wrongdoings in the regions. Along the way, however, it became apparent that the functions and authorities outlined in Article 22 D of the Constitution of 1945, as amended, made it difficult to achieve the goals and objectives of the DPD RI's foundation. In accordance with Article 22 D paragraph 2 of the 1945 Constitution, the legislative function provisions of the DPD are subsequently weakened (Isra, 2010).

The mismatch between the concept of founding the DPD and the ultimate wording of the DPD's authority in the revision to the 1945 Constitution indicates that the Marwah DPD has lost its orientation. Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council, and the Regional People's Consultative Assembly, as well as Law Number 12 Year 2011 concerning the Establishment of Legislation, further weakened the authority granted by the 1945 Constitution (Toding, 2017).

One of DPD's functions and authorities relates to the formation of laws. In accordance with the Republic of Indonesia's Constitution of 1945, the DPD is vested with the authority to draft legislation (UUD 1945). As stated in Article 22D of the 1945 Constitution, the DPD has at least three functions in the formulation of laws: "may submit a draft legislation (RUU) to the House of Representatives (DPR)", "participate in discussing the Bill," and "give consideration to the DPR" against certain draft laws. The Constitution of 1945 contains provisions that require further clarification or regulation. Law Number 27 of 2009 pertaining to the MPR, DPR, DPD, and DPRD, and Law Number 12 of 2011 pertaining to the Establishment of Legislation now outline these requirements. The elaboration of the provisions in the two laws translates provisions regarding a number of things, such as "DPD submits a bill to the DPR," after which the bill becomes a DPR bill; "DPD participates in discussing certain bills," after which DPD's participation is limited to providing views and opinions. While "providing considerations" is defined, it is clarified that written considerations are submitted prior to the start of the debate (Hantoro, 2013).

The DPD is not a full legislative body. The 1945 Constitution Article 22D paragraph (1) describes the DPD's authority in terms of being able to submit a draft law pertaining to a region. The Constitutional Court emphasized that the word "can" is interpreted as



the DPD's subjective choice to submit or not submit Bills pertaining to regions (Yenni AS, 2014). As a result, the DPD can only propose and consider bills in the constitutionally specified instances (Manan, 2003).

The Regional Representatives Council may submit to the House of Representatives a draft law pertaining to regional autonomy, central and regional relations, formation and expansion and merger of regions, management of natural resources and other economic resources, and central and regional financial balance, as well as those pertaining to central and regional financial balance. The DPD is also given the jurisdiction to discuss certain legislation and provide input to the House of Representatives on proposed laws pertaining to taxes, education, and religion during the lawmaking process (Toding, 2017).

The formulation of laws is governed by Law No. 10 of 2004 and, more recently, Law No. 12 of 2011 on the Establishment of Legislation. Law Number 27 of 2009 covering the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council, and the Regional People's Representative Council also regulates the formation of laws. The formation of laws is governed by Articles 16 to 23, Articles 43 to 51, and Articles 65 to 74 of Law No. 12 of 2011. The formation of laws is governed by Articles 142 through 163 of Law Number 27 of 2009 (Dalimunthe, 2017).

The definition of law development is a component of the activity of regulating society, which is comprised of human beings in all their aspects. It is difficult to design and develop laws that are acceptable to the larger population. This challenge stems from the fact that lawmaking is a kind of communication between legislative power-holding organizations and a country's citizens (Reza, 2019).

Considering the restricted purpose, position, and authority of the DPD, the existence of some of its responsibilities and authorities that appear to reinforce the MPR institution, which historically would be difficult to delete from the state administration system, is also relevant. The DPD's minimal authority is plainly disproportionate to that of the other two organizations, the DPR and the MPR, but its very limited existence is a component of a highly important institution in this country, the MPR.

Typically, the status, authority, and existence of the limited DPD are under the purview of the regional government or at least in coordination with the DPRD, which has a system hierarchy ascending to the DPR. Considering Indonesia's vast area, biodiversity, and cultural wealth in the thousands, it seems inconceivable that the limited number of members in each regional representative can adequately represent the interests and demands of each region. Therefore, in order to enhance the role and function of the DPD, the synergy between the DPD and regional institutions should be the key to the DPD's existence.

According to Craig Lundberg's systems theory, the component that makes up the entire system is known as a subsystem, and each system is a subsystem of a larger unit, from subsystems that describe and attempt to identify and formulate phenomena from various disciplines (interdisciplinary) within the context of a framework of general theory. Existing subsystems interact in such a way that the conclusion of a systems-based approach is that the whole is greater than the sum of its parts (Amirin, 2003).

Craig Lundberg's system theory corresponds to the position of the DPD, whose authority resides in a subsystem that should synergize at the same subsystem or equivalent level and construct a larger system, meaning the level of a high institution in the national system, in this case the DPR and the MPR.

The reality of the position of the DPD in the structure of the constitutional system of the Republic of Indonesia after the amendment is a form of metamorphosis of the state institutional system in an effort to improve and fill the gaps between the distances built in the regional autonomy model, with the hope that each region can obtain its rights as required in the field, either due to the aspirations of the community or its location. However, the proportionality of the position and authority of the DPD must be taken into account, as well as the establishment of checks and balances within the organization, so as not to give the impression that the DPD's presence is merely a cover for the pursuit of political interests.

RESEARCH METHODS

In this work, the author employs a library-based legal research methodology that is conducted in a normative juridical manner. This study's data were collected from primary data sources. The key sources utilized by the author are the Constitution of 1945 (UUD 1945) and Law Number 12 of 2011 on the Establishment of Legislation. While secondary data, such as books, journals, documents, rules, and so on.



RESULTS AND DISCUSSION

1. History of DPD's Foundation

DPD RI was born influenced by two new institutions in the Indonesian legislature. The first stream: there are reforms, especially democratization that has been going on for a long time until the transfer of government from Suharto to B.J Habibi. Second: the existence of regional autonomy which reacts to the centralization of government in two regimes (Pieris; Putri, 2006). These two currents eventually gave birth to the formulation of a new constitution, in which the DPD RI became a new institution that was formed as a result of constitutional amendments.

Since the creation of the MPR, there have been regional delegates within the MPR. However, because the appointment process was not democratic, the regional delegates have not effectively fought for regional concerns. In addition, during the New Order regime, regional delegates were selected by the DPRD, while the DPRD itself was selected by the government in power in each district, such as the governor's wife and her family. Ineffective influence on regional representative ability (Pieris; Putri, 2006).

The largest producing regions of economic resources, natural resources, economically these areas are the poorest. Like the province of Papua, which is the richest in natural resources and mining, however, the people are the poorest. In addition, political decisions and execution processes are at the center. So it is inseparable from the development orientation that leads to the center so that remote areas and minority groups are still eliminated.

It is inevitable that there is a conception of increasing and empowering regional representation that needs to be supplied in the legislature. Then there is the idea of increasing and empowering regional representation in the legislature. Such as the Golkar Party, PPP and regional representatives. Finally, an agreement emerged to implement the bicameral system even though it was soft bicameral, on the grounds that the DPD RI was a form of embodiment of the passion for regional autonomy (Simabura, 2011).

Great attention to the legislative and supervisory functions of the DPD RI doubts that this state institution can carry out both functions properly and successfully. In the new legislative power structure in Indonesia, the DPD RI was born as a consequence of the legislative power reform process. With the strong and great legitimacy of their constituents, it is only natural that their hopes for the members of the DPD RI are also very high. Mainly in fighting for their aspirations at the national level. DPD RI as space/district representative is not a group or party representative such as DPR RI (Yusuf, 2013).

Indonesia is undergoing a two-chamber representation system. There are DPR RI and DPD RI, both of which are members of the MPR. Similar to the system in the United States, there is a House of Representatives and a Senate who are members of Congress. If other countries between the House of Representatives and the senate already have a clear arrangement of rights and obligations in order to strengthen the breath of democracy and representation, then in Indonesia the Regional Representative Council is an institution that is still looking for a format for its existence.

In the case of the birth of the Regional Representative Council (DPD) Mahfud MD in his book entitled "Legal Politics in Indonesia" that law is a political product (Mahfud, 2014). This reason was born marked by the determination between politics and law, the politics of legal determination and vice versa the law of political determination. This is a logical consequence because the constitutional amendment process was carried out by the old legislative council which was dominated by political parties which had not yet been reformed, without involving the Regional Representative Council (DPD), which at that time had not yet been formed. The fall of the Suharto regime on May 21 was a turning point for reforming all aspects of national life, from the economic, political, legal, socio-cultural and military aspects. The reform must begin by amending the 1945 Constitution because de facto the 1945 Constitution has not been able to present a democratic government. The 1945 Constitution has not been concrete enough in regulating the limitations of presidential powers, a system of checks and balances and guarantees of human rights (Subekti, 2008). The study on the formation of the Regional Representative Council (DPD) began with the amendment to the 1945 Constitution which gave birth to a new constitution. It is of special interest because: first, in the history of Indonesia, it is the first time to amend the 1945 Constitution. Second, it is an attempt to reformat Indonesia's democracy. Third, the occurrence of pros and cons between factions in the MPR RI. Fourth, there is a debate as to the extent to which the amendment was carried out. Fifth, there are dynamics involving civil society such as NGOs, a team of constitutional experts, academics and others. Seeing that there are two groups in the MPR RI, it can be classified into: first, progressive reformers, who want broad amendments, and second, moderate reformers, who want limited amendments (Yusuf, 2013).

The bicameral system is an institutional form of a representative institution or parliament of a country consisting of two chambers (the Assembly). An assembly whose members are elected and represent the people based on population is generically called the



first assembly or lower house, and is also known as a representative institution. The assembly whose members are elected or appointed on other grounds (not the number of population) is referred to as the second house or upper house, and in most countries it is referred to as the Senate (Kartasasmita, 2009).

According to the results of an IDEA (Institute for Democracy and Electoral Assistance) study, out of 54 democratic countries, 32 select bicameral government and 22 prefer unicameral government. This demonstrates that in the majority of democratic nations, a bicameral system is deemed more suitable. Twenty of the 32 countries with bicameral systems are unitary states. Therefore, the bicameral system is not exclusive to federal states. Generally, democracies with large populations have two assemblies.

The spectrum of ASEAN nations follows. It is documented that of the ten ASEAN member states, seven adhere to a democratic system while three (Brunei, Myanmar, and Vietnam) subscribe to alternative perspectives. Five of the seven countries that adhere to the democratic system have bicameral parliamentary systems: Malaysia, the Philippines, Cambodia, Thailand (before to the military takeover), and Indonesia. Although Indonesia's bicameral system was the subject of lengthy discussion during the previous MPR sessions, it is inevitable that a second chamber in Indonesia's legislative body, the Regional Representatives Council (DPD), will emerge, making Indonesia one of five countries with a bicameral system (Kartasasmita, 2009).

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 and to strengthen the Unitary State of the Republic of Indonesia, in the context of constitutional reform, the MPR RI established a new representative institution, namely the Regional Representative Council.

Apart from the objective need for constitutional amendments, the initial idea and birth of the Regional Representatives Council (DPD) itself was actually not easy. The only agreement that all political forces in the MPR could reach without compromise at the beginning of the constitutional amendment process in 1999 was the need for regional representation as the development of a group of regional delegates in the MPR who were elected directly through general elections. The rest, both the existence of the Regional Representative Council (DPD) as a separate institution from the DPR and MPR, as well as the scope of authority possessed by the Regional Representative Council (DPD), are the result of a compromise between the political forces in the Assembly. The PDI-P faction and the TNI/Polri faction in the MPR initially rejected the establishment of a separate representative institution representing the regions because they were seen as inclined towards federalism (Yusuf, 2013).

On the other hand, the Golkar Party faction proposed the establishment of a separate regional representative institution with the same authority as the DPR, so that a strong bicameral representation system was formed (strong bicameralism) marked by the institutionalization of the principle of checks and balances in the relationship between the two. Meanwhile, other factions tend to have a political stance in the middle, namely between the conservative PDIP plus TNI/Polri camp and the relatively progressive Golkar camp (Subekti, 2008).

A political compromise between the factions in Ad-Hoc Committee 1 of the MPR was not reached until the third amendment process in 2001, notably an agreement to construct a Regional Representative Council (DPD) whose members would be directly elected by the public. Each province is represented by four individuals, the total number of members does not exceed one-third of the DPR, and legislative ability is limited. Through Articles 22C and 22D of the 1945 Constitution's third amendment, the Regional Representative Council (DPD) structure was established. It is not surprising that some academics, such as Denny Indrayana and Saldi Isra, believe that the structure of the national parliament as a result of the constitutional amendment resembles that of a parliament with a "tricameral" system, comprised of the MPR, DPR, and DPD, each of which is independent.

Each province in each of Indonesia's 32 regions is represented by four members of the Regional Representative Council (DPD), for a total of 128 members. This indicates that the membership of the Regional Representatives Council (DPD) is not dependent on the number of province inhabitants (population). This ensures that population-dense provinces do not dominate the DPD. Gorontalo (Sulawesi), a small province with a population of over one million, has the same number of delegates in the Regional Representatives Council (DPD) as West Java, a region with a population of 40 million.

In the discussion of the modifications to the Constitution of 1945 in 1999-2002, significant intellectual advances developed. The first amendment to the 1945 Constitution was passed at the 1999 MPR General Session, held from 14-21 October 1999, while the second amendment was made at the 2000 MPR Annual Session, held from 7-18 August 2000. After the second amendment, the MPR still considers the third amendment to the 1945 Constitution required. In this third amendment, the notion to construct a parliament with a bicameral system was introduced, giving rise to the legal formality of the existing DPD (Yusuf, 2013). So that becomes a big question in this context, namely will bicameralism encourage federalism and then political balkanization? of course



not like a weather forecast that can be predicted with accuracy. However, one important factor that needs to be seen is the changing pattern of relations between the center and the regions themselves since 1999. This change was initiated with the issuance of Law No. 22/1999, which was then amended through Law No. 32/2004 on Regional Government. Then the second Amendment to the 1945 Constitution in 2000 confirmed this change by stating in the 1945 Constitution of the Republic of Indonesia that "regional governments exercise the widest possible autonomy, except for government affairs which are determined by law to be the affairs of the Central Government" (UUD NRI 1945).

This statement regarding broad autonomy contains the idea of regional political and economic empowerment. There is an implicit statement that local government should play more roles, and at the same time the central government should facilitate it. The facilitation of regional interests by the central government is carried out by the presence of matters identified as national issues, or six "central government affairs" as outlined in Law Number 32 of 2004.

To optimally address these six factors, the central government should prioritize regional requirements by incorporating them into the formulation of national policy. Not in the framework of formulating technical policies and overseeing the execution of regional autonomy, as the executive does via the Ministry of the Interior. However, in the framework of national policy formulation within a legislative body. The diverse powers of various regions to carry out their autonomy, disparities in regional character, and differences in the level of regional economic capacity necessitate a macro-level national strategy that can accommodate these differences.

2. Functions of the Regional Representative Council (DPD) in Article 22D of the 1945 Constitution

The function of legislation is actually seen in its entirety, starting from the submission process to approving a draft law. The legislative function of the Regional Representative Council (DPD) is regulated in Article 22D paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states, "The Regional Representative Council may submit to the House of Representatives a draft law relating to regional autonomy, central and regional relations..." In practice, the Regional Representative Council (DPD) has an imbalance with the DPR, where in Article 20 paragraph (1) of the 1945 Constitution it is stated, "The power to form laws is in the hands of the DPR." In Article 20 paragraph (1) it appears that the legislative function is only owned by the DPR. Not only in the constitution, the legislative process for the Regional Representatives Council (DPD) is also distorted in Law Number 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 has now been changed to Law No. 17 of 2014 and Law Number 12 of 2011 concerning the Establishment of Legislations (Wijaya; Subawa, Griadhi, 2016).

The Regional Representative Council (DPD) thereafter presented a judicial evaluation of the two statutes. As a result, the Supreme Court (MK) confirmed several things, including the Regional Representative Council's (DPD) participation in the National Legislation Program (Prolegnas), the Regional Representative Council's (DPD) right to submit a Draft Law (RUU) pursuant to Article 22D of the 1945 Constitution, and the Regional Representative Council's (DPD) participation in the National Legislation Program (Prolegnas). In accordance with Article 22D of the 1945 Constitution, the Regional Representatives Council (DPD) has the right to thoroughly discuss the Draft Law (RUU) with the DPR and the President. The discussion of the Law is trilateral, involving the DPR, the DPD, and the President.

Stephen Sherlock made a fascinating appraisal in light of the authority granted by Article 22D of the 1945 Constitution. According to this Australian National University scholar, the Regional Representatives Council is a unique example of people's representative institutions with a bicameral system since it is a combination of institutions with extremely limited jurisdiction and high legitimacy (represents the odd combination of limited powers and high legitimacy). This combination, according to Stephen Sherlock, is an unusual example in the practice of any bicameral system in the world. Stephen Sherlock said: "But the DPD does not pass legislation, it can only introduce or give advice on a certain range of Bills in the DPR...Its role in law making is limited to certain areas of policy, its powers are only advisory and no bill is actually required to pass through it in order to be passed, yet at the same time it has the strong legitimacy that comes from being a fully elected chamber."

The limitation on the authority of the Regional Representatives Council (DPD) is the result of a compromise of various opinions that developed in the 1945 Constitution amendment process, ranging from those who want strong bicameralism to those who do not approve of the existence of the Regional Representative Council (DPD). The process of formulating the Regional Representative Council (DPD) is indeed filled with various ideas. The choices between bicameral or unicameral are related to the discourse between a unitary state and a federal state, and between parliament or the presidency has indeed become a dynamic discussion. In the end,



political compromise and the choice of the Regional Representative Council (DPD) design showed that the legislative system that was built was not a bicameral system which was feared to strengthen the centrifugal force that pushed the region further away from the center (Ayus, 2021).

Saldi Isra believes that the words "engaging in the discussion" in Article 22D of the 1945 Constitution still permits the Regional Representative Council (DPD) to play a greater role in the legislative function. However, this is not possible because Law Number 22 of 2003 addressing the composition and position of the MPR, DPR, DPD, and DPRD further restricts the legislative function of the Regional Representatives Council (DPD). Because "participation in the conversation" was reduced to a Level 1 discussion, a restriction was imposed. In reality, the participation of the Regional Representatives Council (DPD) can be optimized prior to the stage of mutual agreement between the DPR and the President for draft legislation that fall under the jurisdiction of the Regional Representatives Council (DPD). To optimize the role of the Regional Representatives Council (DPD) in the legislative function, a law may be enacted, so long as it does not eliminate the provisions of Article 20 paragraph (2) of the 1945 Constitution, which stipulate that the DPR and the President conduct joint discussions and approvals. (www.saldiisra.web.id)

The limited authority of the Regional Representatives Council (DPD) in the legislative function in Article 22D paragraphs (1) and (2) of the 1945 Constitution, is further limited by Law No. 22 of 2003 and the 2005-2006 House Orders. Not only that, in practice, the DPR has never followed up on draft laws from the Regional Representatives Council (DPD). Therefore, the role of the Regional Representative Council (DPD) is increasingly invisible in the legislative function. Observing the limitations of this authority, strengthening the legislative function of the Regional Representatives Council (DPD) is a necessity. Legally, this can be accomplished by continuing to change the Constitution of 1945; however, it becomes increasingly difficult to strengthen the legislative function of the Regional Representatives Council (DPD) without disturbing the Constitution of 1945. According to Saldi Isra and Zainal Arifin Mochtar in their paper "Examining Models" The Chamber of Parliament, improving the legislative function in the Indonesian government system requires a fundamental reorganization of the legislative function. According to Kevin Evans, it is possible that the Regional Representatives Council (DPD) is not as involved in the discussion of the draft law as the DPR; however, in order to establish checks and balances, the Regional Representatives Council (DPD) should have the ability to amend or reject draft laws that have been approved by the DPR. (www.saldiisra.web.id)

On the other hand, the involvement of the Regional Representative Council (DPD) only occurs in the initial process. At that stage, the legislative function takes place in a process carried out by the DPR, the President, and the DPD. However, when the process entered further discussion and collective approval, the Regional Representative Council (DPD) was no longer involved because the legislative process returned to the DPR and the President as stated in Article 20 paragraph (2) of the 1945 Constitution. Thus, the Regional Representative Council (DPD) who are expected to be able to make a political contribution in voicing regional interests even though their role in parliament is not as desired by the regions because the role given by the constitution is too small (Setio, 2013).

The presence of the Regional Representative Council (DPD) should provide a solution to the centralized political system over the last five decades. However, the existence of the Regional Representative Council (DPD) does not have the function as expected because it is nothing more than an accessory to democracy in the representation system. This can be seen from the articles that regulate the authority of the Regional Representative Council (DPD). In the authority of the Regional Representatives Council (DPD) there is a very discriminatory element, especially with people's expectations to participate widely and competitively (Purnomowati, 2005).

The function of legislation relates to the authority to determine regulations that bind citizens with binding and limiting legal norms (www.saldiisra.web.id). In the process of forming a law or legislation, the Regional Representative Council (DPD) does not have the power to decide or play a role in the decision-making process at all. In this regard, several reasons can be put forward. First, the Regional Representative Council (DPD) basically does not hold the power to form laws. Second, the Regional Representative Council (DPD) is only authorized to draft certain laws relating to regional government. Third, the Regional Representatives Council (DPD) is not independent in forming laws, because the phrase "participate in discussing the draft law", indicates that it is the DPR who has the power to form laws. In reality, the requirements for support to become a member of the Regional Representatives Council (DPD) are significantly more stringent than the requirements for support to become a member of the DPR, indicating that the legitimacy of members of the Regional Representatives Council (DPD) is not at all proportional to their authority as regional people's representatives. Regional Representatives (DPD) also have legislative, supervisory, and budgetary functions, as stated in



Article 22D of the Constitution, which states that the Regional Representative Council (DPD) can propose and then participate in the discussion of a proposed law, including in terms of conducting oversight, "subject to certain limitations relating to the duties and powers of the Regional Representatives Council (DPD)."

The DPR has the authority to legislate laws, while the Regional Representatives Council (DPD) is only given the opportunity to be able to propose or discuss several types of draft laws without participating in the decision-making process. Its position is only supporting or auxiliary to the function of the Regional Representatives Council (DPD) in the field of legislation, so that the DPD is only a co-legislator in addition to the DPR. The nature of its duties in the field of legislation only supports (auxiliary agency) the constitutional duties of the DPR. With such limited authority, the DPD cannot be said to have a legislative function (Isra, 2022). Given the power as contained in the current Indonesian constitution, the DPD as an institution that represents the local people in voicing the aspirations of their interests has not fulfilled the purpose of the establishment of this institution.

3. Functions of the Regional Representative Council in Formation of Legislation

In accordance with Article 1 point 1 of Law No. 12 of 2011 on the Establishment of Legislations, the development of laws and regulations is the process of developing, discussing, ratifying or determining, and enacting laws and regulations. The Regional Representative Council was only involved in the drafting and discussion phases of the legislation's development.

In the construction of legislation according to the 1945 Constitution, in fact there has been a domination of the legislative process, starting from planning, discussing up to making decisions on draft laws into laws. At least, this is felt by the Regional Representatives Council (DPD) and then the DPD as an institution that is formed and mandated by the constitution cannot be optimal in carrying out its legislative functions. The authority of the Regional Representatives Council (DPD), especially in the field of legislation, is closely related to the existence of Law Number 12 of 2011 concerning the Establishment of Legislation. The existence of several provisions in the law reduces, and even eliminates the authority of the Regional Representatives Council (DPD) in terms of the legislative process. As shown below:

Planning and Submission of Draft Law

During the phases of planning and submission for the Draft Law (RUU). In general, restrictions, reductions, and eliminations of the Regional Representatives Council's (DPD) authority to submit draft laws (RUU) both within and outside the National Legislation Program pose problems (Prolegnas). Several provisions demonstrate this, including Article 20 paragraph (1) and Article 22 paragraph (1) of Law No. 12 of 2011. Paragraph 1 of Article 20 of Law No. 12 of 2011: Preparation of the National Legislation Program (Prolegnas) by the DPR and the Government. Article 22 paragraph (1) of Law No. 12 of 2011: The results of the preparation of the National Legislation Program (Prolegnas) between the DPR and the Government pursuant to Article 21 paragraph (1) are agreed to become Prolegnas and are stipulated in the DPR plenary meeting.

Based on these provisions, it can be seen that only the DPR and the President are involved in the preparation of PROLEGNAS. The involvement of the Regional Representatives Council (DPD) is only limited to giving consideration to the preparation within the DPR. In fact, it is very clear, in the preparation of the National Legislation Program, the authority of the DPD is not institutionally constructed, but the DPD is occupied on a par with the factions, commissions and members of the DPR (Ayus, 2021).

In fact, the 1945 Constitution has provided a construction that in terms of legislation, the DPD institutionally has an equal or equal position with the DPR and the President. However, Law Number 27 of 2009 concerning the MPR, DPR, DPD, DPRD stipulates that the position of the DPD is equivalent to the equipment of the DPR and only functions as a consideration body in legislation. This is certainly not in accordance with the spirit and spirit of the amendment to the 1945 Constitution which intends to create a process of checks and balances in the formation of laws through a bicameral system.

In addition to the provisions of Article 43 paragraphs (1) and (2) as well as Article 46 paragraph (1) of Law No. 12 of 2011, the institution of the Regional Representative Council (DPD) has been weakened. This article has been discussed by the Regional Representative Council (DPD). become a subordinate institution of the DPR, including legislative authority of the DPD on par with "factions, commissions, and even DPR members."

Article 43 paragraph (1) and paragraph (2) of Law Number 12 of 2011: Draft Laws may originate from the DPR and the President; The draft law originating from the DPR as referred to in paragraph (1) may come from the Regional Representative Council (DPD). Article 46 paragraph (1) of Law Number 12 of 2011: Draft Laws from the DPR are submitted by members of the DPR, the Commission, a combination of commissions or the DPR's equipment that specifically handles the field of legislation or the DPD.



Article 22D, paragraph 1, of the 1945 Constitution stipulates that the Regional Representatives Council (DPD) is a state organization with constitutional capacity to offer bills in specified subjects. This authority is distinct from the authority members of the DPR, joint commissions, and DPR Equipment possess. In addition to harming the constitutional system to be built by the 1945 Constitution, the provisions of Article 43 paragraphs (1) and (2) and Article 46 paragraph (1) of Law Number 12 of 2011 have also harmed the spirit of democracy and the realization of the bicameral representative system in Indonesia.

As a result of the authority of the Regional Representatives Council (DPD) to compile the National Legislation Program not granted by Law Number 12 of 2011, the DPD has difficulty in entering the aspirations of the community regarding legislation. Likewise, people's aspirations for the issue of draft laws that are being discussed by the DPR and the President related to the authority of the DPD cannot be channeled (Ayus, 2021). Supposedly, based on Article 22D paragraph (1) of the 1945 Constitution, the DPD should be given a full role and function in the National Legislation Program as the forerunner to the formation of laws in accordance with regional aspirations.

The various problems faced by the DPD will have implications for how to measure the performance of the DPD in carrying out its legislative functions. In addition, the size of the DPD's accountability to the regions will be increasingly difficult to carry out. In fact, the absorption of regional aspirations and interests must be realized in the form of policies at the national level or in the form of legal products. This then resulted in the performance of the DPD to be pseudo. The community, region, nation and state will never know what the DPD has fought for and will fight for in exercising its authority based on Article 22D paragraph (1) of the 1945 Constitution, because every bill proposed by the DPD has been converted into a bill from the DPR.

Stage of Discussion of the Draft Law

The Constitutional Review has shown that Article 20 paragraph (2) and Article 22D paragraph (2) of the 1945 Constitution give constitutional authority to the DPD to participate in discussing the Bill. However, problems occurred when Law No. 12 of 2011. This could be seen in the regulation of Article 65 paragraph (3) and paragraph (4) of Law No. 12 of 2011 which did not involve the DPD in the entire process of discussing the bill.

Article 65 paragraph (3) and (4) of Law Number 12 of 2011: Paragraph (3): The participation of DPD in the discussion of the Draft Law as referred to in paragraph (2) is carried out only at level 1 discussions. Paragraph (4): The participation of the DPD in the discussion of the Draft Law as referred to in paragraphs 2 and 3 is represented by equipment in charge of the content of the Draft Law being discussed.

The provisions in Article 65 paragraph (3) and paragraph (4) of Law Number 12 of 2011 have translated the phrase "participating in the discussion" by only involving the DPD at level 1 discussions. In fact, the phrase "participating in discussing the bill" in Article 22D paragraph (2) of the 1945 Constitution must mean that the DPD participates in the entire process of discussing a bill that is within the scope of its authority.

Likewise in Article 68 paragraph (3) of Law Number 12 of 2011 which excludes DPD from the process of submitting and discussing the Problem Inventory List (DIM) which is actually the "core" of the discussion of the bill. Article 68 paragraph (3) of Law Number 12 of 2011: The list of inventory problems as referred to in paragraph (1) letter b is submitted by: the President if the Draft Law comes from the DPR; or DPR if the Draft Law comes from the President by considering the proposal from the DPD as long as it is related to the DPD authority as referred to in Article 65 paragraph (2).

Based on these provisions, it seems that it is not enough to limit the involvement of the Regional Representatives Council (DPD) in the level 1 discussion process, the involvement of the DPD is increasingly limited by only being involved in two stages of the three stages of the level 1 discussion process, namely the introductory deliberation stage and the mini opinion stage. The two stages are the first and third stages of the level 1 discussion, while the core activities of the discussion are in the second stage, namely the submission and discussion of the Problem Inventory List (DIM). This is where the obvious oddity occurs. Article 68 paragraph (3) of Law Number 12 of 2011 has excluded DPD from submitting and discussing the Problem Inventory List (DIM) which is precisely the "core" of the discussion of a bill and determines the legal politics of a bill.

In fact, the presence of the Regional Representatives Council (DPD) will become more real by being given space to express their views as long as the bill is related to the authority of the DPD. If the level 1 discussion stage is an affirmation of the discussion of the bill, then the DPD must participate in all stages of the level 1 discussion, namely the introduction to the deliberation, discussion of the Problem Inventory List (DIM), and mini views (UU No. 12/2011). In fact, the provisions of Law Number 12 of 2011 have



negated the authority of the DPD to be fully involved in Level 1 discussions, especially in participating in submitting and discussing the Problem Inventory List (DIM), which is actually the "core" of the discussion of the bill.

It becomes illogical when the DPD's constitutional authority in the discussion of the Problem Inventory List (DIM) is removed, but at the end of the first level discussion, the DPD has the authority to express mini opinions. Whereas the submission of mini opinions after the discussion of the Problem Inventory List (DIM) confirms the agreement or notes on the results of the discussion of the Problem Inventory List (DIM).

Likewise, the regulation contained in Article 68 paragraph (3) of Law Number 12 of 2011 which states, "The Problem Inventory List as referred to in paragraph (1) letter b is submitted by: a. the President if the Draft Law comes from the DPR; or b. DPR if the Draft Law comes from the President by considering the proposal from the DPD as long as it is related to the authority of the DPD as referred to in Article 65 paragraph (2)". These provisions still provide room for DPD to be able to participate in the discussion of the Problem Inventory List (DIM). However, the participation of the DPD in the discussion of the Problem Inventory List (DIM) as stated in Article 68 paragraph 3 of Law Number 12 of 2011 is merely "taking into account the proposal from the DPD".

The phrase "taking into account the proposal from the DPD" in Article 68 paragraph (3) letter b of Law Number 12 of 2011 is still gray because in practice the discussion of the Problem Inventory List (DIM) is often not considered by the DPR. Especially if the discussion model is carried out in a tripartite manner (DPR, Government, and DPD). The provisions in Article 68 paragraph (3) letter b of Law Number 12 of 2011 which do not involve the DPD in the discussion of the bill in accordance with its authority clearly indicate that the authority of the DPD to "participate in discussing the bill" is interpreted only as a passive relationship between the DPR and the DPD. This further strengthens the institutional construction of the subordinate DPD as a co-legislator of the DPR. Because the DPD has never had the space to actively participate in discussions in the sense of meeting face to face, either with the DPR alone, the government alone, or with the DPR and the Government at the same time (tripartite) (Ayus, 2021).

Stage of Approval of Draft Law

The position of the Regional Representative Council (DPD) in the process of discussing the draft law is only up to Level 1 Discussion. In the legislative process, the Regional Representative Council (DPD) also does not have the authority to participate in the decision-making process. Article 70 paragraph (1) and paragraph (2) of Law Number 12 of 2011. However, as is well known, granting approval is an integral part of the entire process of discussing a bill. This can be seen in Article 20 paragraph (2) of the 1945 Constitution which states, "Every draft law is discussed by the House of Representatives and the President for mutual approval."

Based on the provisions of Article 20 paragraph (2) of the 1945 Constitution, it can be interpreted that discussion is a process of discussing activities carried out by the DPR and the President while mutual agreement is the result of discussion activities. Thus, the approval of the bill is not a partial activity, which can be separated from the process of discussing the bill. This is understandable because it is impossible for an official session or meeting to discuss a bill to be conducted without the aim of agreeing or disagreeing with something being discussed. This kind of interpretation is also adopted by Article 1 number 1 of Law Number 12 of 2011 which reads, "Formation of Legislation is the making of laws and regulations that include the stages of planning, drafting, discussing, ratifying, or stipulating, and enacting." (Law No.12/2011)

Article 1 point 1 of Law No. 12 of 2011 makes it clear that approval is not a separate stage in the drafting of laws and regulations; rather, it is incorporated into or becomes an integral component of one of the current phases, namely the debate stage. With the provisions of Article 22D paragraph 2 of the 1945 Constitution, which gives the Regional Representatives Council (DPD) constitutional authority to participate in discussing the Bill, it can be interpreted that participating in discussing what is referred to in Article 22D paragraph 2 of the 1945 Constitution constitutes participation in the process. Article 20 paragraph 2 of the Constitution of 1945 refers to the conversation between the DPR and the President. Article 20 paragraph (2) of the 1945 Constitution cannot be read or interpreted independently so long as there is a discussion of a bill that falls under the authority of the Regional Representatives Council (DPD), but must also refer to Article 22D paragraph 2 of the 1945 Constitution, which states that the Regional Representative Council must also be involved in approving bills that fall within the scope of their authority.

In the event that the Draft Law does not get mutual approval between the DPR and the President, the Draft Law may not be submitted again in the DPR session at that time. Likewise, the formulations in Article 70 paragraph (1) and paragraph (2) of the P3 Law are as follows: (1) The draft law can be withdrawn before it is jointly discussed by the DPR and the President. (2) The Draft Law that is being discussed can only be withdrawn based on the mutual consent of the DPR and the President.



An odd thing also happened in the regulation of Article 68 paragraph 2 letter c and letter d, and paragraph 4 letter a and Article 69 paragraph 1 letter a and letter b, as well as paragraph 3 of Law No. 12 of 2011 (Law No.12/2011) .

Article 68 paragraph (2) letter c and letter d, and paragraph (4) letter a of Law Number 12 of 2011: Paragraph (2) In the introduction to deliberation as referred to in paragraph (1) letter a: a. The President provides explanations and the factions provide their views if the Draft Law comes from the President; or b. The President provides an explanation and the factions and the DPD convey their views if the Draft Law relating to the authority of the DPD as referred to in Article 65 paragraph (2) originates from the President. Paragraph (4) The submission of this opinion as referred to in paragraph (1) letter c is submitted at the end of the level I discussion by the faction.

Article 69 paragraph 1 letters a and b, as well as paragraph 3 of Law Number 12 of 2011: Paragraph (1) Level II discussions are decision making in plenary meetings with the following activities: a). submission of reports containing the process, mini-faction opinions, mini-DPD opinions, and results of level I discussions; b). a verbal statement of approval or rejection from each faction and member requested by the chairman of the plenary meeting; and Paragraph (3) In the event that the Draft Law does not obtain mutual approval between the DPR and the President, the Draft Law may not be submitted again in the session of the DPR at that time.

The anomaly occurs because every bill should be discussed by the DPR, the President, and the DPD as long as it relates to the bill on the authority of the DPD, not by the faction and the President. In fact, the presence of factions was never mentioned in the 1945 Constitution. Each bill was discussed by the DPR and the President for mutual approval, not by the factions and the President.

CONCLUSION

In accordance with Article 22D of the Constitution of 1945, the Regional Representative Council's (DPD) legislative function is limited. Budget, monitoring, and due diligence. It can submit to the Regional Representatives Council draft laws concerning regional autonomy, central and regional relations, formation and expansion as well as regional mergers, natural resource management and other economic resources, and central and regional financial balance. The DPD is also given the jurisdiction to discuss certain legislation and provide input to the House of Representatives on proposed laws pertaining to taxes, education, and religion during the lawmaking process. The DPD's enumerative role in the Formation of Legislation According to Law No. 12 of 2011 on the Establishment of Legislation, the development of laws and regulations is the process of developing, discussing, ratifying or stipulating, and implementing laws and regulations. The Regional Representative Council was only involved in the drafting and discussion phases of the legislation's development.

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