

Duties and Functions of the Complementary Organs as Performance Support of the Regional Representative Council

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Abstract. The representative system that Indonesia had established was distinct. The system was manifested as a response of Indonesia's interests and necessities against global challenges. The 1945 Constitution asserted Regional Representative Council, or DPD, as; 1) Strengthening connection between regions, 2) Accommodating regions aspirations and interests, and 3) Improving acceleration of democracy and regional development. DPD has limited roles in legislative system such as legislative, budgeting, advising and supervision. This paper is based on research using normative method. The paper concluded that even though the DPD has limited legislative role, its performance had been supported by the complementary organs such as making advice on draft bill proposed by DPD.

Keywords: Regional Representative Council, Duties and Functions, Complementary Organs

1. Introduction

The system of representation adopted by Indonesia is a unique system of Indonesia as it is formed as a manifestation of the needs, interests, and challenges of the Indonesian nation and state. The provisions of the 1945 Constitution, governing the existence of Regional Representative Council / DPD in the state structure of the state of Indonesia, are intended to 1) strengthen regional ties within the Unitary State of the Republic of Indonesia, 2) increase the aggregation and accommodation of aspirations and interests of the regions in the formulation of national policies relating to the state and the regions, 3) promote the acceleration of democracy, development and regional progress in a harmonious and balanced manner.

Based on Article 22 C and 22 D of the 1945 Constitution, then it can be said that the DPD does not have the same authority with the Parliament. Whereas according to Ratna Herawati, DPD RI has no full authority. DPD RI has limited function in the field of legislation, budget, supervision and consideration. The function of DPD RI is closely related to the system of mutual supervision and mutual balance in the Indonesian state administration namely; 1) may submit to the DPR the design of laws relating to regional autonomy, central and regional relations, the establishment and development for regional incorporation, management of natural resources and other economic resources, as well as related to the balance of central and local finance, 2) Participating in the draft laws relating to regional autonomy, central and regional relations, the establishment of regional divisions and mergers, the management of natural resources and other economic resources, as well as the financial balance between the central and regional governments and provide consideration to the House of Representatives on the draft law – invite the state budget of income and expenditure and the draft laws relating to taxes, education and religion, 3). Can supervise the implementation of the law on regional autonomy, the formation and division of regions, regional and central relations, the management of natural resources and other economic resources, the implementation of revenue and expenditure budget, taxes, education and religion, then submit it to the House of Representatives as a matter of consideration to be followed up(1). The issues to be studied in this paper are the duties of DPD RI and hotunctions of DPD RI Complementary Organs in supporting the Performance of DPD RI.



2. Methodology

The approach in this research is the normative or doctrinal juridical approach which is done by examining the legal materials covering the material of primary law and secondary law. Primary legal material is a legal material about authorized authoritative means to have authority. Primary legal materials consist of legislation, official records or treatises in legislation. The highest authority is possessed by the 1945 Constitution, and then subsequent legislation such as laws, government regulations, presidential regulations, and regulations of DPD RI. Whereas secondary law material includes all publications about law which are not included in official documents. Legal publications include textbooks, legal dictionaries, legal journals and comments on court decisions.

The existing legal substances is processed through a systematic and logical process of legal reasoning. While the analysis itself uses legal interpretation in grammatical, historical, systematic form. Specification in this study is analytical descriptive, which provides a detailed description, systematic and comprehensive analysis related to the implementation of duties and functions of DPD RI Complementary Organs. Data is collected through documentary study, literature study, or review of various literatures or library materials related to the task setting and materials about the function of DPD RI Complementary Organs, then the writer performed data processing, which is to sort the legal material to be arranged systematically so that it will facilitate the researcher in analyzing. Data analysis used in this research is qualitative analysis.

3. Review: The Regional Representative Council (DPD)

The existence of DPD RI is due to a mandate of the 1945 Constitution. The formation of DPD RI is based on the desire of all parties, both central government and regional government to improve the working relationship of communication and distribution of interests between central government and local government. According to Jimly Asshiddiqie, DPD RI is expected to be able to help overcoming the existing gap between the Central Government and Local Government in accordance with the spirit of regional autonomy that ensures justice, democracy and assurance of the territorial integrity of the State(5). The DPD Institution is an implication of the amendment of the 1945 Constitution which states that membership of the People's Consultative Assembly (MPR) consists of members of the House of Representatives / DPR and members of the Regional Representative Council / DPD. In Article 22 C and 22 D of the 1945 Constitution, it is stipulated that the position, duty and authority of DPD RI, which in essence DPD RI as well as DPR RI, has legislation function, supervisory function, budget function. However, in terms of legislation function, DPD RI is only authorized to propose Draft Laws, especially those related to regional autonomy. In the Draft Law discussion assembly, DPD RI is only involved in the discussion of the Bill relating to taxes, education, religion and the State Budget Revenue Bill. Basically, the role and existence of DPD RI in organizing the relationship between the Central Government and local government is far from ideal.

Basically DPD is deliberately designed almost like the House of Representatives, yet DPD is a direct representation of the people in the area that became the body of representatives. The duties and responsibilities of the DPD are only within the range of supervising about realization of legislation products proposal; and the legislation relationship or interest between central and regional government. The idea of the DPD RI formation is also inseparable from the idea of forming a bicameral system, which with the bicameral system, it is expected to allow legislation process to take place and enable the broader representation of the people.

Membership of DPD members is individual, while members of Regional Representative Council of each province are equal and the total number of members of Regional Representative Council is more than one third of House of Representatives members. The members of Regional Representatives Council are selected at least once a year. Members of the Regional Representative Council may be dismissed from office by the conditions prescribed by law. The existence of DPD is one of the markers of the change of the representative system in Indonesia, which was originally

referred to as a unicameral into bicameral, although it is still debatable whether it is bicameral enough with the existence of DPD because it still is different from the other countries' example of how bicameral system should run. In the presence of DPD, the adopted system of representation is often referred to as soft bicameral, because it is difficult to state that the authority of DPD authority is meaningful or strategic enough in the constitutional RI. On the other hand Maswadi Rauf argues that strong bicameralism is needed in Indonesia because of the diverse nature of Indonesian society, so the system is expected to do better in handling the various aspirations that flourish in various regions, so that this bicameralism can be considered as part of the effort to strengthen the state unity(6).

However, some opinions also state that the system of representation of the Unitary State of the Republic of Indonesia, not bicameral but trikameral, that is with the presence of MPR, DPR, and DPD. This is because the tasks and authorities of the MPR are different from the duties and authorities of DPR and DPD. The authority of the People's Consultative Assembly is to amend and enact the Constitution, to dismiss the President and Vice President, to elect the President and Vice President in the event of a vacancy of President and Vice President and to inaugurate the President and Vice President. The DPD does not have the authority to form legislation as the DPR does, but only proposes the draft law to the DPR in the limited field of supervision with the regional interests and only considering matters of certain laws implementations. Therefore DPD is only a small complement to the House of Representatives' function in the field of legislation, so that the DPD is the most distant unit and only get called as a co-legislator. Unlike in the United States which in its constitution declares that "All legislative powers here in granted shall be vested in a Constellation of the United, which shall be vested in a Congress, shall consist of the Senate and House of Representatives." The Dutch royal parliament called the Staten General consisting of Eerste Kamer and Tweede Kamer(7), unlike in England with the House of Lords and the House of Commons. Bicameral parliament is usually associated with a federal state form that requires two rooms to protect the federation's own formula. Yet in its development, due to unitary state's tendency of decentralization, many unitary states widely practice this bicameral system. Therefore, bicameralism can no longer be identified with federalism.

4. Results and Discussion

Furthermore, with the decision of the Constitutional Court No 92 / PUU-X / 2012 dated March 27, 2013 and No. 79 / PUU-XII / 2014, the petition for judicial review has been granted by restoring the right and authority of DPD RI in the function of legislation as mandated by the constitution. Constitutional Court decision clearly states that the authority of the DPD is equivalent to the Parliament, the President, in discussing the Bill in particular since the discussion of Level I in the House up to Level II before the decision, stated that the authority of the DPD is to be involved in the preparation of Legislation, as well as the authority of the DPD in the submission and discussion of the Bill in certainty on the revocation of the Government's Substitute in Lieu of Law / PERPU. Furthermore, the main point of the Constitutional Court ruling becomes the mainframe in chapter of DPD RI, fitting its performance as a form of anticipation of DPD RI in facing the institute's political agenda in the future.

Duties and authorities of DPD, according to the 1945 Constitution of the Republic of Indonesia, are as the following:

- a) To submit drafts of laws related to regional autonomy, central and regional relations, establishment and division of regional integration, the management of natural resources, and other economic resources, as well as those related to central and regional financial balances to the DPR.
- b) To discuss the draft law related to the matter as referred in number 1
- c) To compile and submit inventory lists of the draft laws coming from the DPR or the President related to point 1
- d) To give consideration to the House of Representatives on the draft laws on the State Budget and

- the draft laws relating to taxes, education, and religion.
- e) To supervise the implementation of the law on regional autonomy, the formation, division and merger of regions, central and local relations, natural resource management, other economic resources, the implementation of the state budget, taxes, education, and religion.
 - f) To deliver the supervising results over the implementation of the law on regional autonomy, the formation, division and merger of regions, central and regional relations, management of natural resources and other economic resources, the implementation of the State Budget Law, taxes, education and religion consideration to follow up.
 - g) To receive the results of state finances examination from BPK as material to make consideration for the House of Representatives regarding the draft laws related to RAPBN.
 - h) To provide consideration to the DPR in BPK members election
 - i) To establish national legislation programs related to regional autonomy, central and local relations, establishment and division and regional integration, management of natural resources and other economic resources, and related to central and local financial considerations.

The Regional Representative Council of the Republic of Indonesia as a State Institution in carrying out its duties has DPD RI as Complementary Organs. Based on Article 35 of Council Regulation No. 1 of 2014 on the Standing Orders, the Fittings of DPD consists of: Chairman of Council, Consultative Committee, the Committee on Committee I. II, III Committee, Committee IV, Designing Committee Act, Home Appliances Affairs Committee, Board Honor, Public Accountability Board, Parliamentary Cooperation Agency, Institutional Capacity Building Agency, Special Committee.

Chairman of DPD.

The DPD leadership is a collective collegial unit consisting of one chairman and two vice chairmen. Chairman of DPD reflects the representation of the West, Central and East regions within the Unitary State of the Republic of Indonesia.

The division of tasks between the Chairman and Vice Chairman of DPD, based on the DPD Code of Conduct is as follows: a). Vice Chairman of Sector I is tasked with coordinating the Complementary Organs of Committee I, Committee III, Law Designing Committee, Parliamentary Cooperation Board, and Institutional Capacity Building Agency. b). Vice Chairman of Field II is in charge of coordinating the Completeness of Committee II, Committee IV, Honorary Board, Household Affairs Committee, and Public Accountability Board.

Committee of Deliberation: Membership of the Deliberation Committee consists of the chairman of the permanent DPD Complementary Organs, as well as one member from each province who has not been represented as the chairman of the DPD Complementary Organs, the DPD Leader as their position became the Leader of the Deliberation Committee.

Committee I: Committee I of DPD has the duties and authority to propose draft Law, to discuss and to compile DPD's opinion and opinion, to supervise the implementation of regional autonomy law, central and regional relations, and among regions, the formation, expansion and merger of regions, politics, law, human rights, regional problems in the state border areas, land and spatial, settlement and population, communications and informatics, peace, public order and protection of society.

Committee II: Committee II is one of the DPD Complementary Organs which has duties and authority to apply for the draft of Law, to discuss and formulate the views and opinions of DPD, and to supervise the implementation of agriculture and plantation, transportation, marine and fishery laws, energy and mineral resources, forestry and the environment, the empowerment of populist and disadvantaged economies, industry and trade, investment, public works, food security, public housing, and settlement areas, rural and disadvantaged areas, meteorology, climatology and geophysics, State Owned Enterprises and Regional Owned Enterprises.

Committee III: Committee III is one of the DPD Complementary Organs which has the duty and authority to carry out the drafting of the draft Law, conducts the discussion and compiles the views of DPD, and monitors the implementation of Law on education, religion, culture, health, tourism, youth and sports, social welfare, women's empowerment and child protection, labor and transmigration, creative economy, population administration / civil registration, population / family planning and library control, and discussion and drafting of DPD considerations on draft laws relating to education and religion.

Committee IV: Committee IV is one of the Complementary Organs of DPD which has duty and authority to do the drafting of law, to conduct discussion and to compile the opinion and opinion of DPD, to supervise the implementation of the Law of State Budget, taxes and other levies, financial balance of central and regional, financial and banking institutions, cooperatives, small and medium enterprises, and conduct discussion and drafting of DPD's consideration regarding the draft law on APBN and draw up DPD's opinion on audit results, state finances, and make pertanggungagn against prospective members of BPK to be submitted to DPR.

The Designing Committee of the Act: The Law Designing Committee is a DPD Complementary Organs supporting the implementation of the DPD legislation function. The duties of the Designing Committee of the Law include planning and arranging, program discussing, harmonizing, rounding up draft proposals for one term of membership of DPD and each budget year.

Household Affairs Committee: The Household Affairs Committee is the DPD Complementary Organs which plans the budget of the Institute and the Secretariat General.

Honorary Board: The Honorary Board is a permanent DPD Complementary Organs and enforces the code of ethics. The Honorary Board is comprised of 17 people reflecting the regional representation. The Provincial Member Group shall submit a name of the interested member to be nominated as a Member of the Honorary Board. DPD Leaders from the concerned region shall convene a regional group meeting in order to determine which member represents the proportion of the concerned territory and which member to sit in the Board of Honor. The determining process is done through the mechanism of deliberation or voting, in case of voting, the session is chaired by the oldest and youngest member of the territory.

Public Accountability Agency: The Public Accountability Board established by DPD is a permanent Complementary Organs in implementation of a function of supervision and function of representation.

Parliamentary Cooperation Agency: Parliamentary Cooperation Agency is established by DPD as a permanent DPD Complementary Organs. It has the function of cooperating between parliaments.

Institutional Capacity Building Agency: Institutional Capacity Building Agency is a permanent DPD Complementary Organs, the body is functioning to carry out the development of institutional capacity including the study of the constitutional system in order to realize the regional representative institutions capable of realizing the value of democratic values. This body also serves to portray duties as a group of MPR members who come from all DPD members, here in after referred to DPD group in MPR that unite and organize all DPD members in its capacity as member of MPR.

Special Committee: The special committee is a DPD Complementary Organs formed and based on the Plenary Session of DPD, which works for a certain time and is in charge of discussing a material that is considered important and the material that is in contact with the scope of duty of several DPD Complementary Organs. Complementary Organs Membership represents each province representatives, except the membership of the Leaders, the Committee of Deliberation, the Honor Board, and the Special Committee. The distribution of membership in each Complementary Organs is determined by each province and each member is entitled to become a member of each Complementary Organs in rotation, based on agreement of the member of the province concerned.

The membership structure of the Complementary Organs, except the Special Committee, shall be stipulated in the Plenary Session at the beginning of each year, unless the last year is based on the provincial gross.

The Leader of the Complementary Organs is a collective collegial leadership entity. The leadership of the Complementary Organs consists of 1 (one) Chairman and 2 (two) Vice Chairs. The division of duties of the Chairman and Vice Chairman is governed by the Leadership of the Complementary Organs of Completeness based on the Complementary Organs task. Leadership Period of Leadership Complementary Organs is for 1 (one) year trial and afterwards can be re-elected except in the last year of the DPD membership period. The Leadership Composition of the Complementary Organs is based on the representation of the territory covering the West, the Middle East and the Eastern Region whose grouping of provinces is based on geographical considerations and the balance of provinces.

In the implementation of Legislative Function, there are two important things that always coincide with the constitutional design of DPD RI and the Complementary Organs and the Complementary Organs that needed to be discussed: that both of which have the power to influence DPD RI performance. The size of the quality of legislation used by DPD in every product produced is the constitutional and universal principles understood in the context of the relationship between the center and regions, such as accountability, preservation of the environment and natural resources, gender equality, fairness, and independence of regions and siding with the group susceptible. Legislation also deals with the legislative procedure that is about the establishment of law from beginning to end. In this case, DPD RI still have to improve and ensure the passage of legislation procedure proportionally as the Constitutional Court Decision.

In terms of DPD consideration about Budget Bill, the involvement of the Committee as Complementary Organs is crucial, especially with the more advanced setting that the presence of the model talks 2 levels in the discussion of the bill, talks of first rate bill under the authority of the DPD in the tripartite and talks of levels Second only contains decision making between DPR RI and President.

In terms of supervision of the law implementation, it becomes one of the committee's duties to carry it out and this task is increased by the change of directional supervision into two directions, namely submission the supervision and collect follow-up results of supervision of the implementation of the law. In addition to the duty tasks, DPD RI Complementary Organs also plays a role in the performance of DPD RI in terms of supervision of the management of the Regional financial through follow-up examination results BPK RI in a semester, performance in the function of representation and articulation of regional problems, performance in consolidation and development of DPD.

5. Conclusion

The ruling Constitutional Court firmly states that the DPD RI authority is equivalent to the DPR, the President in discussing certain Bill since the Level I discussions in the House of Representatives up to Level II prior to decision making, the DPD's authority to engage in the preparation of National Legislation Program, and the DPD's authority in the submission and discussion of certain Bill On the revocation of Government Regulation in Lieu of Law / PERPU. Furthermore, the main point of the Constitutional Court ruling becomes mainframe in Chapter chapter of DPD RI Complementary Organs performance as a form of anticipation of DPD RI in facing the institute's political agenda in the future. Implementation of Duties and Functions of DPD RI Complementary Organs currently includes the function of legislation, in the case of the DPD RI consideration of the draft state budget, in terms of supervision of the implementation of the law, in terms of supervision of local government financial management, in the function of representation and articulation of regional problems, Consolidation and development of the role of DPD RI still requires performance improvement to ensure the proportionate tasks and functions are carried out.

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