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Performing Legislative Functions: The Role of Regional Representative Council and People's Representative Council

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ABSTRACT

Based on two factors, these are philosophical and legal aspect. In terms of the function of law, the existence of the Regional Councilor (DPD) and Legislative Assembly (DPR) can be established. Based on a provision in the 1945 Constitution, the Regional Councilor (DPD) and Legislative Assembly (DPR) were established, and, according to one philosophical definition, they represent all regional or people's representatives in Indonesia at the national scale. A system of functional industrial relations exists between the Regional Councilor (DPD) and Legislative Assembly (DPR) in relation to the function of legislation. The objective of this research are to find out the role of Regional Councilor (DPD) perform in the legislative functions; and Legislative Assembly (DPR) represent in obtaining legal products. The research that was accomplished was categorized as qualitative normative research based on the kind of data or legal materials examined. Due to institutional and constitutional limitations, the Regional Councilor (DPD) and Legislative Assembly (DPR) faced difficulties as a result of legal responsibilities. Institutional constraints are limitations imposed by the institution itself, such as insufficient support systems, unsuccessful legislation, and ineffective session management techniques. The Regional Councilor (DPD)'s current rules, Article 22D, paragraphs 1 and 2, and Law No. 27/2009 on MD3 are among the challenges we must overcome. These laws attempt to undermine the legislative authority of the Regional Councilor (DPD).

Keywords: *Legislative Functions, Legislative Assembly (DPR), Regional Representative Council*

INTRODUCTION

The state legislature includes the Regional Councilor (DPD) and Legislative Assembly (DPR). Enacting or drafting laws is the responsibility of the legislative branch. Equal rights apply to both the Regional Councilor (DPD) and the Legislative Assembly (DPR). There are some distinctions between the two despite the fact that they are at the same place. The Legislative Assembly (DPR)'s members are from political parties that participate in general elections, are chosen by public election, and have legal standing. Since the 2019-2024 period, Legislative Assembly (DPR) has consisted of around 575 members from 80 constituencies. On the other hand, Regional Councilor (DPD) members are representatives from each province who are elected through general elections and are high institutions in the legislature. Meanwhile, Indonesian Regional Councilor (DPD) are usually called senators. The ratio of Regional Councilor (DPD) members to Legislative Assembly (DPR) members is no more than one-third. The Regional Councilor (DPD) has about 136 members for the years 2019 through 2024. The kind of benefits that the Regional Councilor (DPD) and Legislative Assembly (DPR) get is another distinction between them. Currently, each region is represented by four members of the Regional Councilor (DPD). There are several obligations and authority of the Indonesian People's Representatives Council such following below:

1. Preparation and discussion of the Draft Law;
2. Accept the Regional Councilor (DPD)'s proposed Draft Law regarding regional autonomy, central relations at the regional level, expansion at the regional level, and financial balance at the regional level;
3. Create legislation under the presidency approval;
4. Approve the proposed state budget; and
5. Control the state's finances, politics, and laws.

Meanwhile, the obligations and authority of the Indonesian Regional Councilor (DPD) such following below:

1. Submission of legislative proposals regarding regional autonomy, regional central relations, regional expansion, and regional financial balances;
2. Considerations on the Draft Law and the Selection of Members of the Supreme Audit Institution (BPK);
3. Supervision and evaluation of the implementation of draft regional regulations; and
4. Supervision of Local Laws.¹

¹ Dewan Perwakilan Daerah, "Fungsi, Tugas, Dan Wewenang DPD RI," *Dewan Perwakilan Daerah Provinsi Jawa Barat*, last modified 2022, accessed December 29, 2022, <https://jabar.dpd.go.id/profile/fungsi-tugas-wewenang>.

The Regional Councilor (DPD) and Legislative Assembly (DPR) are governmental institutions that were formed by article, and they represent all people or areas that are represented at the national level in Indonesia. It implements the 1945 Constitution. The pattern of functional industrial relations between the Regional Councilor (DPD) and Legislative Assembly (DPR) is the pattern of industrial relations between the Regional Councilor (DPD) and Legislative Assembly (DPR) related to legislative functions, and the pattern of functional industrial relations between the Regional Councilor (DPD) and Legislative Assembly (DPR) can be found in Law No. 27/2009 on MD3. The concerns that the Regional Councilor (DPD) and Legislative Assembly (DPR) encounter have to do with how the law is supposed to work, or with institutional and constitutional restraints. Based on previous descriptions, there are two problem statement of this research, such as (1) what roles does Regional Councilor (DPD) perform in the legislative functions; (2) what roles does the Legislative Assembly (DPR) represent in obtaining legal products. The objective of this research are to find out the role of Regional Councilor (DPD) perform in the legislative functions; and Legislative Assembly (DPR) represent in obtaining legal products.

LITERATURE REVIEW

Legislative Functions

According to Article 20 paragraph (1) of the 1945 Constitution, the legislative function involves the establishment of laws with the President's approval, which means that the Legislative Assembly (DPR) participates in determining political policies held by the President (Government).² Legislative and supervisory functions are basically the two main purposes of parliament, which also serves to inform the government of the aspirations and criticisms of various groups (parlemen parle a government).³ In terms of its legislative functions, the Legislative Assembly (DPR) has the authority to propose a Draft Law (RUU), modify, or remove any proposed legislation by the government. Meanwhile the tasks of reviewing, proposing, discussing, and creating laws are included in the legislative function. In addition, laws and public policy are intended to maximize pleasure for the greatest number of people.⁴

² Yuni Kartika, "Lembaga Legislatif Republik Indonesia Dalam Perspektif Siyasa Dusturiyyah (Analisis Terhadap Fungsi Legislasi, Pengawasan Dan Anggaran Dewan Perwakilan Rakyat Republik Indonesia)," *QIYAS: Jurnal Hukum Islam dan Peradilan* 6, no. 1 (2021): 22–36, <https://ejournal.iainbengkulu.ac.id/index.php/QIYAS/article/download/4346/3029>.

³ Effendy Suryana, Kaswan, and Dinah Sumayyah, *Pancasila Dan Ketahanan Jati Diri Bangsa Panduan Kuliah Di Perguruan Tinggi*, 1st ed. (Bandung: Refika Aditama, 2015).

⁴ *Ibid.*

Regional Councilor (DPD)

As a result of democratization and the establishment of a transparent and accountable government, the modification of the 1945 Constitution has resulted in the creation of a variety of new state institutions. In order to represent regional objectives in the establishment of policies at the national scale, the Regional Councilor (DPD) was established. According to Article 22D of the 1945 Constitution, the Regional Representatives Council has the authority to submit specific draft laws, participate in discussions with the Legislative Assembly (DPR) and the Government regarding the drafting of specific draft laws, offer opinions and views on specific draft laws, be aware of draft laws related to taxes, education, and religion, as well as supervise the enactment of other draft laws.

The implementation of the roles, responsibilities, and authority of the Regional Representatives Council has been further clarified by Law No. 27/2009 concerning the People's Consultative Assembly, the Legislative Assembly (DPR), the Regional Councilor (DPD), and the Regional Legislative Assembly (DPR) (UU MD3), but the MD3 Law also includes a variety of provisions. It was reinforced by the Constitutional Court Decision Number 92/PUU-X/2012, which had restored the authority of the Regional Representatives Council in carrying out its legislative duties as stipulated in the 1945 Constitution. The Regional Representatives Council was considered to have not optimally manifested its authority as per the 1945 Constitution.⁵

People's Representatives Council

According to Law No. 17/2014 of the People's Consultative Assembly, the Legislative Assembly (DPR), the Regional Representatives Council, and the Regional Legislative Assembly (DPR), which states that the Legislative Assembly (DPR) is composed of members of political parties participating in general elections who are elected through general elections, then Article 68 states that the House of Representatives of the Republic of Indonesia is composed of all members elected by the people.

The Legislative Assembly (DPR) needs specific responsibilities and authority in order to fulfill its roles and responsibilities as a representative of the people, convey out its functions as a representative of the people, and build relationships with other power structures that are based on checks and balances. Laws and policies tend to be made against the interests of the people if the institution does not have equal responsibilities and authority with other powers.⁶

⁵ DPD, "Susunan Dan Kedudukan MPR, DPR Dan DPD" (2015).

⁶ Sugiman, "Fungsi Legislasi DPR Pasca Amandemen UUD NKRI 1945," *Jurnal Ilmiah Hukum Dirgantara* 10, no. 2 (2020): 173–182, <https://journal.universitassuryadarma.ac.id/index.php/jihd/article/download/468/434>.

RESEARCH METHODOLOGY

The research that was accomplished was categorized as qualitative normative research based on the kind of data or legal materials examined. To identify the answers to the current legal concerns, normative legal research is a process that studies for legal principles, rules, and doctrines. In accordance with the previous definition, this research was conducted out by looking at and examining theories, concepts, works of literature, legislation, and rules pertaining to the functions of the Representatives of Indonesia as Indonesia's national legislature. A statutory approach is the most effective approach. The Regional Councilor (DPD) and the Legislative Assembly (DPR) are studied as research objects using the statutory approach to analyze their legislative functions.

RESULT AND DISCUSSION

The Role of Regional Councilor (DPD) as a State Institution in the Constitutional System of Indonesia

The Regional Councilor (DPD) is a new institution established by the 1945 Constitution's Third Amendment. According to Articles 22C and 22D of the 1945 Constitution provide forth the rules governing the Regional Councilor (DPD)'s participation in the Indonesian constitutional system. An description of the contents contained in Article 22C is provided below:

1. Each region elects a member of the Regional Councilor (DPD) through majority voting;
2. Each region's representation on the Regional Councilor (DPD)s must not be more than one-third of the overall representation on the Legislative Assembly (DPR) and must be equivalent to all other representation on the Regional Councilor (DPD)s;
3. There is at least one annual meeting of state representatives;
4. Legislation regulates the structure and responsibilities of national representatives.

Meanwhile, in Article 22D describes several descriptions such following below:

1. The management of geographical and other economic resources, central and local budgets, central-local relations, the establishment, growth, and merging of localities are all under the jurisdiction of the Regional Councilor (DPD);
2. The Regional Councilor (DPD) also discussed bills relating to regional autonomy, central-regional relations, formation, expansion and merger of regions. Management of natural resources and other economies as well as central and regional financial balances. In addition, they advise the Legislative Assembly (DPR) on the state budget bill and the tax, education and religion bills;

3. The Legislative Assembly (DPR) has the authority to supervise concerns such as law enforcement, regional autonomy, region-to-region relations, region-to-region formation, expansion, and merger, management of natural and other economic resources, execution of government budgets, taxes, education, and religion, and the reporting of monitoring results to the Legislative Assembly (DPR);
4. Delegates of the Legislative Assembly (DPR) may be released from their obligations in accordance with the methods and guidelines established by law.

Citizens have the right to hear, through their representatives, whether some state institution is performing as a state institution in a democracy in which citizens have the capacity to decide power, exercise power, and supervise policies. determining who is responsible for conducting out or fulfilling the obligations imposed by the Constitution.

Saldi Isra ascertains from the provisions in Article 22D of the 1945 Constitution that the phrase "take part in the debate" is still acceptable in order for the Regional Councilor (DPD) to perform more effectively in the legislative function. This possibility was disregarded, even so, as stated in Law No. 22/2003 on the structure and functions of the People's Consultative Assembly, the Legislative Assembly (DPR), the Regional Representatives Council, and the Regional Legislative Assembly (DPR) further constrained the role of his Regional Councilor (DPD) in the legislative process. This limitation exists because the term "discuss together" is now only acceptable in Level 1 discussions.⁷

In addition, the Regional Councilor (DPD)'s engagement in laws that come under its jurisdiction can be maximized before the period of mutual consent between the Legislative Assembly (DPR) and the President. Unless the constraints listed in Article 20 (2) of the 1945 Constitution were eliminated, optimizing the role of the Regional Councilor (DPD) in the legislative function would be a significant challenge to regulation at the legislative level. can be accomplished by the President and Legislative Assembly (DPR).

Furthermore, based on Law No. 22/2003 provides an excessive amount of deference in the District Legislative Committee (DPRD), Regional Councilor (DPD), and Legislative Assembly (DPR) to the regulations of the Legislative Assembly, which governs the structure and obligations and responsibilities of the People's Consultative Assembly. The regulation of the relationship between the Regional Councilor (DPD) and the Legislative Assembly (DPR) in the formulation of laws is delegated to the Legislative Assembly (DPR) rules by Law No. 22/2003, therefore the Regional Councilor (DPD) rules' Code of Conduct only interacts with the drafting and submission of Draft derived from the

⁷ Saldi Isra, *Lembaga Negara : Konsep, Sejarah, Wewenang, Dan Dinamika Konstitusional*, ed. Embun Tiur, 1st ed. (Depok: Rajawali Pers, 2020).

Regional Councilor (DPD) and the Congress. When addressing the measures included in the Regional Councilor (DPD)'s authority, they do not agree on the relationship between the Regional Councilor (DPD) and the Legislative Assembly (DPR).

In addition to the Legislative Assembly (DPR) Draft Law being implemented, Law No. 22/2003 and Legislative Assembly (DPR) rules 2005/2006 are further limiting the authority of the Regional Councilor (DPD) in accordance with Article 22D (1) and (2) of the Constitution of 1945. Thus, the role of the Regional Councilor (DPD) in the legislative process becomes more ambiguous. The Regional Councilor (DPD)'s legislative role has to be strengthened in context of the restrictions on its capacity. Legally, such strengthening may be accomplished by taking out further revisions to the 1945 Constitution, but it is challenging to enhance the legislative authority of the Regional Councilor (DPD) without taking action.

However, in proceedings presided over by the Legislative Assembly (DPR), the President, and the Regional Councilor (DPD), the Regional Councilor (DPD) only participates in the initial processes during which legislative powers are exercised. The Regional Councilor (DPD) was no further participating as the process proceeded on and there was mutual agreement. Then returned to the Legislative Assembly (DPR) and President under Article 20 (2) of the 1945 Constitution. In this concept, even though the Regional Councilor (DPD)'s parliamentary role does not adequately reflect local ambitions due to constitutional limitations, it should still be possible for it to contribute politically to promoting local interests.

Legislative Assembly (DPR)'s Role in Drafting Legal Products

The Republic of Indonesia is a constitutional state, as stated explicitly in Article 1 (3) of the 1945 Constitution. On the other hand, legislation not only informs and/or directs the acts of the highest and/or higher institutions of the state, but also serves as a product created by them. All aspects of civil, state, and governmental action are based on and guided by the law. The legislative branch is a parliament that enacts legislation according to the will of the people. In a democracy, it is the people who decide the laws through their directly elected representatives in parliament. In a democratic country, the will of the majority of the people becomes the will of the nation, and it can even become the law of the nation without being questioned whether it is good or bad. Therefore, the people's will came to be the basis for binding legislation. The accurately and systematically of legal education can be made easier by scientific advancements in the realm of legislation. Because enacting legal principles and ideals is no longer the primary objective of legal education in contemporary constitutional

governments. A societally established way of living that changes and transforms people's circumstances.⁸

The methodologies used in drafting laws and regulations determine whether the regulation is successful in achieving its goals, whether the community feels comfortable and happy, or whether it actually causes conflict within society.⁹ The support of legal sociology, legal psychology, legal anthropology, legal culture, and planning science is crucial for this reason. The legal system must be represented in modern society as a mechanism for social transformation rather than as an independent and closed organisation of social activity. Planning, proposal, discussion, and ratification are the first steps in the legislative process, which is a type of legal development. The president and his ministers, as well as the Legislative Assembly (DPR), are the actors who conduct out all of these processes in contemporary democratic systems. The legislative process is bottom-up in a democratic legislative system and seeks for substantive legislation that express the values and will of the population.

CONCLUSION

In order to establish laws that represent cultural values, the interests of all groups and individuals, and legal pluralism, the spirit of democracy and law reform must be ingrained in Indonesia's national culture. A majority that is liberated from control and the desires of a small political elite is needed to respond to a significant period of reform and to shape the characteristics of a participatory legal product. Civil society involvement in the supervision of the drafting of legislation, beginning with the production of scientific articles and continuing with the conducting of public hearings prior to the enactment of legislation. Discussions on communication with the public occur at various parliamentary hearings to decide whether laws should be enforced and to make sure that items that are created legally are accepted without causing a distance between governments and the people. To determine which laws will not be enforced, there must be general agreement. Therefore, law must be used as a catalyst for social change in order to significantly transform the legislative branch (law as a means of social engineering). Products that are morally righteous and in keeping with people's consciences and the demands of social justice.

⁸ Agus Riswanto, "Strategi Politik-Hukum Meningkatkan Kualitas Kinerja DPR Ri Dalam Produktivitas Legislasi Nasional," *JURNAL CITA HUKUM* 4, no. 2 (December 2, 2016), <http://journal.uinjkt.ac.id/index.php/citahukum/article/view/4140>.

⁹ Mei Susanto, Rahayu Prasetianingsih, and Lailani Sungkar, "Kekuasaan DPR Dalam Pengisian Pejabat Negara Dalam Sistem Ketatanegaraan Indonesia," *Jurnal Penelitian Hukum De Jure* 18, no. 1 (March 28, 2018): 23, <https://ejournal.balitbangham.go.id/index.php/dejure/article/view/366>.

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