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Role Optimization of Regional Representative Council in The Legislative Function

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ABSTRACT

The Regional Representative Council or DPD is an institution that represents the region as a state institution. After the bicameral parliamentary structure was established, the idea of bicameral became both strengthened and weakened. This research aims to identify the situation of the Regional Representative Council according to the 1945 Constitutional amendment and the weaknesses of the Regional Representative Council in implementing its legislative function. The type of research used in this legal research is descriptive-analytical with an evaluative normative juridical approach. The findings of the research identified that the situation of the Regional Representative Council, according to the 1945 Constitutional amendment, caused several changes in its position, members, functions, term of office, as well as its relationship with the House of Representatives. On the other hand, the weaknesses of the Regional Representative Council in implementing its legislative function were caused by its' limited authorities, its' unequal position with the House of Representatives, and its consideration, which was not even being considered by the House of Representatives as the House of Representatives was not obligated to, its' non-exclusive status, and its' potentially conflict of interest.

Keywords: *Bicameral, Legislative Function, Regional Representative Council*

INTRODUCTION

The Regional Representative Council (DPD) was established in November 2001. The establishment of the Regional Representative Council was implemented through the third amendment of the 1945 Constitution in the People's Consultative Assembly (MPR) annual session. One of its objectives is to represent regional interests and maintain a balance between the central and regional governments. The fundamental idea behind the establishment of the Regional Representative Council is to pay more attention to regional aspirations and, at the same time, provide a more substantial role in the political decision-making process, especially on issues directly related to regional interests. This intention is based on the past history of centralized decision-making that has created a sense of inequality and injustice and, above all, threatened territorial integrity and national unity. The presence of regional representatives in the People's Consultative Assembly needed to be deemed sufficient to address these challenges. In Article 246 of Law No. 17/2014 on the People's Consultative Assembly, the House of Representatives (DPR), the Regional Representative Council, the Regional People's Representative Council (DPRD) (MD3) stipulates that the Regional Representatives Council consists of regional representatives elected through general elections. Furthermore, in Article 247, it is explained that the Regional Representative Council is a regional representative institution that serves as a national institution. Then, in Article 248 defines the functions of the Regional Representative Council.

1. The Regional Representative Council has the following functions:
 - a. submitting bills relating to regional autonomy, the relationship between the central and the regional governments, the establishment, expansion, and merger of regions, the management of natural resources and other economic resources, as well as those relating to the financial balance between the central and the regional governments to the House of Representatives;
 - b. participating in the discussion of bills relating to regional autonomy, the relationship between the central and regional governments, the formation, expansion, and merger of the regions; the management of natural resources and other economic resources, as well as the central and regional government finances;
 - c. giving consideration to the House of Representatives on the bills on state budget and bills relating to taxation, education, and religion; and
 - d. supervising the implementation of the law regarding regional autonomy, formation, expansion, and merging of regions, relations between the central and regional government, management of natural resources and other economic resources, implementation of the state budget, taxation, education, and religion.

2. The function, as referred to in Paragraph 1, is performed within the context of regional representation.

In Article 249 defines the authorities and duties of the Regional Representative Council such following below:

1. The Regional Representative Council has the following authorities and duties:
 - a. Proposing bills relating to regional autonomy, relations between the central and regional governments, the formation and expansion and merger of regions, the management of natural and other economic resources, as well as those relating to the financial balance between the central and regional governments to the House of Representatives;
 - b. Participating in the discussion of bills relating to the matters referred to in letter a;
 - c. Compiling and submitting an inventory list of bills originating from the House of Representatives or the President relating to the matters as referred to in letter a;
 - d. Giving consideration to the House of Representatives on bills regarding the state budget and bills relating to taxation, education, and religion;
 - e. Capable of monitoring the implementation of law on regional autonomy, formation, expansion, and merger of regions, central and regional relations, management of the regions, the relationship between the central and regional governments, the management of natural resources, and other economic resources, the implementation of the other economic resources, the implementation of the state budget, taxation, education, and religion;
 - f. Presenting the results of local autonomy, local formation, expansion and amalgamation, central and local relations, management of natural and other economic resources, implementation of state budgets, and supervision of the implementation of laws on taxation, education, and religion to the House of Representatives as consideration for further action;
 - g. Receiving the results of the examination of state finances from the Audit Board (BPK) as material for making considerations to the House of Representatives on bills related to the state budget;
 - h. Providing considerations to the House of Representatives in the appointment of the Audit Board members; and
 - i. Compiling a national legislative program relating to regional autonomy, central and regional relations, formation and expansion and merger of regions, management of natural resources and other

economic resources, as well as those relating to the financial balance between the central and regional governments.

2. In implementing the supervisory duties as referred to in Paragraph 1 letter d, members of the Regional Representative Council may refer to in Paragraph 1 the Regional Representative Council may conduct meetings with local government, the Regional People's Representative Council, and elements of society in the constituency.

In Article 250 is defined as follows:

1. In implementing the authority and duties as referred to in Article 249, The Regional Representative Council prepares a budget which is set forth in programs and activities in accordance with the provisions of laws and regulations.
2. In preparing the programs and activities of the Regional Representative Council as referred to in Paragraph 1, in order to meet its needs, the Regional Representative Council may prepare specific financial standards and submit them to the Government for joint discussion.
3. The budget management of Regional Representatives Council as referred to in Paragraph (1) shall be managed by the Secretariat General of Regional Representatives Council under the supervision of the Ministry of Home Affairs in accordance with the provisions of laws and regulations.
4. The Regional Representative Council determines the accountability of the Regional Representative Council's budget management in the regulations of the Regional Representative Council in accordance with the provisions of laws and regulations.
5. The Regional Representative Council reports the budget management as referred to in Paragraph (3) to the public in an annual performance report.

The last, Article 251 states that more detailed provisions regarding the implementation of the authorities and duties of Regional Representatives Council as referred to in Article 249 shall be stipulated in the regulations of the Regional Representatives Council regarding procedures. Based on the several previous descriptions regarding the Regional Representative Council, this research is conducted to analyze the current situation of Regional Representative Council according to the 1945 Constitution amendment and the weaknesses of Regional Representative Council in implementing the legislative function.

RESEARCH METHODOLOGY

The type of research used in this research is descriptive-analytical. This research is legal research with an evaluative normative juridical approach. This research is conducted by taking inventory of positive laws, vertically and horizontally synchronizing laws and regulations, finding legal principles related to the Regional Representative Council based on the 1945 Constitution of the Republic of Indonesia and Law No. 17/2014 on the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional People's Representative Council which has been amended by Law No. 42/2014 on Amendments to Law No. 17/2014 on the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional People's Representative Council and amended for the second time by Law No. 2/2018 on the Second Amendment to Law No. 17/2014 on the People's Consultative Assembly, the House of Representatives, The Regional Representative Council, and The Regional People's Representative Council, which has also been amended for the third time by Law No. 13/2019 on the Third Amendment to Law No. 17/2014 on the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional People's Representative Council.

RESULT AND DISCUSSION

The Situation of The Regional Representative Council According to the 1945 Constitution Amendment

Since the Provisional People's Consultative Assembly (MPRS) and the People's Consultative Assembly were formed in the New Order era, there have also been established a number of regional representatives. However, there is an impression that some regional representatives have not effectively advocated for their regions. This may be due to the undemocratic process of appointment. The regional special representatives were officially appointed by the General Bureau of Democracy. However, since the civil administration of the regions is also determined, the regional special representatives are effectively consist of the governor, the governor's spouse, and the military regional commander, thus making it impossible for them to carry out their duties to the satisfaction of several people effectively.

Based on the conditions of the Regional Representative Council above, the role of the Regional Representative Council is briefly outlined as threefold: legislative authority (submission of bills, discussion of bills with the Regional Representative Council) and advisory authority (consideration of bills, scrutiny of the election of the Audit Board) and supervisory authority (overseeing the enforcement of relevant laws). However, in implementing these authorities, the Regional Representative Council is merely used as a subordinate to the functions,

roles, and rights of the House of Representatives. This condition is not proportional to the complexity of candidates for the Regional Representative Council to compete for votes in the elections to fill the seats of the Regional Representative Council members compared to candidates for the House of Representatives members (Akbar, 2013).

On this basis, the prospect of the representative institutions currently provided for in the 1945 Constitution is unlikely to last for a long term. This is likely to happen if the current political power is replaced by another. This should be of concern to the People's Consultative Assembly. If amendments to the 1945 Constitution are to be implemented again, it will emphasize a theoretical approach that must be considered both from a philosophical point of view and, more importantly, fundamental, not merely based on the situation or political reality.

The Regional Representative Council is one of the state institutions in Indonesia regulated in the 1945 Constitution. Based on Article 22E Paragraph 1 of the 1945 Constitution, the Regional Representative Council is a state institution whose members are elected from regional representatives. They are elected through the general election for a five-year term. In terms of its duties and authorities, the Regional Representative Council has a particular role in terms of legislation relating to the regions. Since its establishment, the Regional Representative Council has undergone several changes in the Act and other statutory provisions. These changes are usually implemented to accommodate political dynamics and evolving governance essentials.

The Indonesian Constitution has undergone several changes through the amendment process to accommodate the necessities and developments of the nation. As one of Indonesia's higher state institutions, the Regional Representative Council has also undergone changes according to several amendments to the 1945 Constitution. Fundamentally, changes to the Regional Representative Council occur in the articles that regulate the position, composition, and functions of the institution. However, these changes may vary depending on each amendment. One of the amendments to the 1945 Constitution that had a significant impact on the Regional Representative Council was the 4th Amendment, which was enacted in 2002. This amendment changed several articles in the 1945 Constitution relating to the Regional Representative Council. The following are some of the changes related to the Regional Representative Council under the 4th Amendment:

1. Position of the Regional Representative Council: Under the 4th Amendment, the Regional Representative Council is recognized as a higher state institution rather than a state institution. This has provided the Regional Representative Council with a more empowered and independent position as part of the constitutional system.
2. Members of the Regional Representative Council: The number of the Regional Representative Council members is specified to be four representatives from each province, elected through general elections.

Previously, members of the Regional Representative Council were regional representatives appointed by the People's Consultative Assembly.

3. **Functions of the Regional Representative Council:** The 4th Amendment also establishes the functions of the Regional Representative Council in the legislative process. The Regional Representative Council has the authority to give consideration to bills relating to regional autonomy, the origin of natural resources, and other strategic issues relevant to the region.
4. **Term of Office:** Prior to the amendment, members of the Regional Representative Council served for five years, corresponding to the term of office of the House of Representatives. However, following the amendment, the term of office of the Regional Representative Council members has become five years, and the Regional Representative Council members can be re-elected for only one further term.
5. **Relationship with The House of Representatives:** The Regional Representative Council is in a working relationship with The House of Representatives, both of which form The People's Consultative Assembly as the supreme body of the country. In the formation of laws, the Regional Representative Council may provide considerations and opinions to the House of Representatives, although the House of Representatives has the right to final determination.

The last part of the discussion is about the standing of the Regional Representative Council in its legislative function after the decision of the Constitutional Court. After the decision of the Constitutional Court, some of these conditions encourage the Regional Representative Council to affirm the constitutionality of its functions, duties, and authorities (Akbaruddin, 2013). In the bicameral parliamentary system, the Constitutional Court's examination of the Law on the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional People's Representative Council and the Law on the Formation of Legislation against the 1945 Constitution concluded five main constitutional issues of the Regional Representative Council. First, the authority of the Regional Representative Council to propose a bill regulated by Article 22D Paragraph 1 of the 1945 Constitution, which, according to the Regional Representative Council, is a bill from the President and the House of Representatives. Second, the Regional Representative Council's authority to participate in discussing the bill referred to in Article 22D of the 1945 Constitution with the House of Representatives and the President. Third, the Regional Representative Council's authority to give approval to the bill referred to in Article 22D. Fourth, the involvement of the Regional Representative Council in the preparation of the National Legislation Program, which, according to the Regional

Representative Council, is the same as the involvement of the President and the House of Representatives. Fifth, the Regional Representative Council's authority to give consideration to the bill, which is referred to in Article 22D (Reza, 2019).

It is inevitable that the functions and authorities of the Regional Representative Council are limited, yet this does not necessarily prevent members of the Regional Representative Council from performing their duties. While waiting for the fifth amendment to the 1945 Constitution, the Regional Representative Council should prove its integrity as a respected institution that can optimally work within its limitations. The Regional Representative Council may optimize its role by engaging at the level of influence, as the democratic legitimacy of the Regional Representative Council is particularly strong (Kosasih, 2016).

When analyzed in detail, since the Decision of the Constitutional Court No. 92/PUU-X/2012 on 2 March 2013, Indonesian constitutional politics, especially the model of the legislative process, has increasingly strengthened its formation towards a bicameral parliamentary system. This is the implication after the Constitutional Court partially granted the Regional Representative Council's petition on the Law on The People's Consultative Assembly, The House of Representatives, The Regional Representative Council, and The Regional People's Representative Council and Law No. 12/2011. This material test is conducted in order to reinforce the constitutional authority possessed by the Regional Representative Council in terms of the legislative process. In line with Yenny AS's statement regarding why this implication is the way to the bicameral parliamentary system, it is appropriate to examine the current situation of The Regional Representative Council in Indonesia's legislative system before and after the Constitutional Court's decision (Reza, 2019).

Some regions of Indonesia are recognized as the largest producers of their natural resources, and yet they remain economically deprived. This situation has prompted reforms to accommodate these regions into the Central Assembly. One possibility is to convert this institution into two assemblies, the first one for party representatives and the second one for regional representatives. When formed through the Nichamber, a bicameral representative body, strong-or-weak dualistic reasonings emerged. Debates took place in the People's Consultative Assembly (MPR), the group that sought a strong Regional Representative Council (Golkar Party), the group that opposed a bicameral system (PDIP and Utusan Golongan), and a weak but bicameral system (PPP). However, ultimately, a weak bicameral compromise/agreement was reached. Although the Regional Representative Council is a legislative body, it does not have its own legislative authority. Such authority is still vested in the House of Representatives, where the Regional Representative Council is merely restricted to providing considerations (Dekantara, 2018).

In the new Indonesian legislative structure, the Regional Representative Council was established as a result of the reform process and is more legitimized as

a new, directly elected national representative body with members elected equally from each province. Being directly elected, voters naturally set high expectations for the elected members who would advocate for regional initiatives at the central government level. Although the Regional Representative Council is a breath of fresh air at the central government level, the functions and authorities of the Regional Representative Council, as stipulated in the 1945 Constitutional Amendment and Law No. 22/2003, are still far from the expectations of its constituents. This circumstance has a severe impact on the actions of the Regional Representative Council members to fulfill public expectations. The reputation of the Regional Representative Council itself will be undermined if the Regional Representative Council fails to fulfill public expectations. In general, each party has their own way of doing it. The most common way is to organize activities directly with the involvement of the communities. It is on this occasion that the councilors utilize the momentum to approach the community (Wibisono, 2017).

The Regional Representative Council is a new institution in the Indonesian Constitution. However, it can be concluded that the roles and functions of the Regional Representative Council members are relatively weak. Similarly, the rules for implementing the mandate of the Regional Representative Council are not optimal, given the political position of the Regional Representative Council, which plays a decisive role and represents local aspirations. Various laws and regulations underline the weak position of the Regional Representative Council and its lack of electoral legitimacy. For instance, the Regional Representative Council may only draft laws related to regional autonomy, central-regional relations, formation and expansion, dissolution of regions, management of natural resources and other current economic resources, and matters related to central and regional financial balance. However, the Regional Representative Council is only required by the House of Representatives to discuss the draft law with the government in accordance with the rules of the House of Representatives. Compared to similar institutions in the Netherlands, Germany, and the United States, it can be concluded that the authority of the Regional Representative Council is the weakest among the several countries. Future arrangements related to strengthening the legislative function of the Regional Representative Council from the perspective of deliberative democracy require amendments to the 1945 Constitution to strengthen the Regional Representative Council's position. This is due to the Constitutional Court Decision No. 92/PUU-X/2012, which merely enhanced the Regional Representative Council's involvement and could not affirm the Regional Representative Council's position (Dharmapala et al., 2022).

In general, the Regional Representative Council plays a role in overseeing and giving consideration to bills related to regions and regional autonomy. However, in practice, the Regional Representative Council does face some limitations in its decision-making and political influence. Factors such as the election system, limitations on authority, and relationships with other legislative

bodies may affect the political position and role of the Regional Representative Council in the constitutional system of Indonesia. It should be noted that political and legal situations may change over time, and evaluations of the role and function of the Regional Representative Council may also differ, depending on the perspective of each individual or group.

This condition makes the Regional Representative Council unable to take control of changes to the provisions of the bill during the general session of the agreement between the House of Representatives and the President. As a consequence, the resulting policy has the potential to disadvantage the regions. The absence of Regional Representative Council in the discussion process of joint ratification bill is due to Article 20 Paragraph 2 of the 1945 Constitution of Indonesia: “Each draft law is discussed by the House of Representatives and the President to obtain joint approval.”

One of the main obstacles of the Regional Representative Council is its absence in the process of discussing a bill for joint ratification between the House of Representatives and the President. Article 20, Paragraph 2 of the 1945 Constitution states that every draft law is discussed by the House of Representatives and the President for joint approval. In this context, there is no mention of the Regional Representative Council’s involvement in the discussion process. This would imply that the Regional Representative Council does not formally have a position in the joint approval of the bill with the House of Representatives and the President. The Regional Representative Council’s involvement in the deliberation process of the bill is limited to the initial stages of deliberation in the House of Representatives or in consultation with the government in accordance with the rules of the House of Representatives, as mentioned earlier.

This limitation potentially affects the Regional Representative Council’s control role over bills that affect the regions. As it is not involved in joint approval, the Regional Representative Council may have limitations in directly influencing or changing the substance of the bill. As a result, the resulting policies may not fully reflect the aspirations and necessities of the regions. However, it should be noted that political conditions and dynamics within the parliament may change from time to time. Should there be a desire to strengthen the role of the Regional Representative Council in the process of discussing bills and controlling changes to provisions that could potentially harm the regions, there needs to be further discussion on the mechanism and authority of the Regional Representative Council in the Indonesian constitutional system.

Constitutionally, the scope of participation of the Regional Representative Council in the ratification of the bill concerns regional autonomy, central and regional relations, formation and expansion and merger, regional integration, management of natural resources and other economic resources, as well as issues related to the central and regional fiscal balance. Indeed, the existence of the Regional Representative Council is as a regional representative. Therefore, efforts

need to be made to optimize the implementation of the legislative function to ensure that the aspirations of the public are fulfilled.

The Regional Representative Council has the scope of its involvement in the passage of the bill, which concerns several issues related to regions and regional autonomy. As a territorial or regional representative body, the Regional Representative Council plays an essential role in discussing bills that directly affect regions and regional autonomy. Some of the issues that are the focus of the Regional Representative Council in the legislative process include:

1. **Regional Autonomy:** The Regional Representative Council plays a role in overseeing and giving consideration to bills related to regional autonomy. Regional autonomy is a fundamental principle for regional government that gives regions the authority to regulate and manage government affairs and local interests.
2. **Central and Regional Relations:** The Regional Representative Council is also involved in the discussion of bills relating to the relationship between the central and regional governments. This issue is critical to ensure the balance of power and resource allocation between the central and regional governments.
3. **Regional Formation and Expansion:** The Regional Representative Council plays a role in overseeing and giving consideration to bills related to regional formation and expansion. This issue relates to changes in regional boundaries and status that may significantly impact local communities.
4. **Management of Natural Resources and Regional Economy:** The bill that regulates the management of natural resources and other economic resources is also the focus of the Regional Representative Council's role. This is related to the utilization and equal distribution of natural resources for the welfare of the region and the community.
5. **Fiscal Balance between the Central and Regional Governments:** The Regional Representative Council is also involved in bills relating to fiscal balance between the central and regional governments, including revenue sharing and budget allocation.

Optimizing the implementation of the legislative function of the Regional Representative Council is crucial to ensure that the aspirations of regional communities are well represented in the policy and legislation-making process. Through an active role in monitoring, providing considerations, and participating in the discussion of the bill, the Regional Representative Council is expected to be a means for regional communities to convey their demands and interests effectively.

Provisions are necessary in order to optimize the implementation of the legislative function of the Regional Representative Council as stipulated in the 1945 Constitution of the Republic of Indonesia, to strengthen the system of checks and

balances of legislative power. Furthermore, the use of the word “may” in the wording of Article 22D Paragraph 1 and Paragraph 3, with the initial phrase “The Regional Representative Council may” and the word “participates” in Article 22D Paragraph 2 of the 1945 Constitution of the Republic Indonesia, which begins with the sentence “The House of Representatives participates...”. Hence, it caused divergent interpretations among legislators, specifically the House of Representatives and the President, as well as the Constitutional Court in its decision. Consequently, the execution of the Constitutional Court’s decision to amend the law was hampered.

The oversight of the Regional Representative Council is conducted by those involved in the enforcement of the type of laws discussed and reviewed by the Regional Representative Council. Based on Article 23F Paragraph 1 of the 1945 Constitution of the Republic of Indonesia, the Regional Representative Council is also authorized to advise on the appointment of The Audit Board members. The context of this authority is that the Audit Board oversees the use of funds in the context of state budget law enforcement, which is also reviewed by the Regional Representative Council.

Regarding the oversight role of the Regional Representative Council, Article 23F Paragraph 1 of the 1945 Constitution of the Republic of Indonesia states that the Regional Representative Council has the authority to advise on the appointment of the Audit Board members. The Audit Board is an institution responsible for examining the management of state finances. In this context, the Regional Representative Council has a role in providing considerations regarding potential members of The Audit Board to be appointed. This implies that the Regional Representative Council may provide recommendations or advice to the President or authorized institution for the appointment of the Audit Board members.

It is important to note that this power of advising is related to the appointment of the Audit Board members and not directly related to the process of state financial supervision by the Audit Board. The authority to supervise the Audit Board and the audit of state finances remains the duty and authority of the Audit Board as an independent institution that is directly responsible to the People’s Consultative Assembly based on Article 23F Paragraph 2 of the 1945 Constitution. Thus, the Regional Representative Council, in this context, plays a role in providing insights on qualified Audit Board candidates who can effectively fulfill the task of auditing state finances. The appointment of qualified and independent members of the Audit Board is expected to improve the performance of the Audit Board in supervising the management of state finances, including supervision of the funds used in the context of state budget law enforcement that can be reviewed by the Regional Representative Council.

The Regional Representative Council, as referred to in Article 22D Paragraph 2 of the 1945 Constitution of the Republic Indonesia, is also authorized to give consideration to the House of Representatives on the state budget bill relating to

taxation, education, and religion. The use of the term “consideration” acts as a form of proposal from the Regional Representative Council with the House of Representatives, which is not binding in the state budget bill. Even the role of the Regional Representative Council as a regional representative should be empowered to fight for the distribution of central remittances to the regions. The role of the funds transfer from the central to the regional is to maintain/ensure the achievement of minimum public service standards in all regions of the country due to the inequality of financial conditions in each region. Meanwhile, capital transfers from the central to the regional level on the basis of regional autonomy, including the General Allocation Fund (DAU) and Special Allocation Fund (DUK). Given its vital role and not just in the form of “considerations,” the role of the Regional Representative Council supports the role of the regional representatives of the Regional Representative Council. Moreover, the Regional Representative Council’s position is not linked to any political party, making regional interests a priority and the main goal of the Regional Representative Council.

It is essential to empower the role of the Regional Representative Council in the budget function and the issue of remittance distribution from the central to the regional governments. Constitutionally, the Regional Representative Council has a role in giving consideration to the House of Representatives on state budget bills related to taxation, education, and religion. However, in practice, the role of the Regional Representative Council as a regional representative body could be more empowered to advocate for the interests and distribution of funds from the central to the regional governments.

In the deliberation process of the state budget bill, the involvement of the Regional Representative Council provides an opportunity for the Regional Representative Council to convey the aspirations and interests of the regions effectively. While the use of the term “consideration” implies that the Regional Representative Council’s proposals are not binding, it may provide a platform to articulate issues of importance to the regions and contribute to formulating budget policies that are more inclusive and equitable for all regions of the country.

The role of fund transfers from the central to the regional level, such as the General Allocation Fund (DAU) and Special Allocation Fund (DUK), is crucial in maintaining the balance of financial conditions in each region and ensuring minimum public services are achieved equally across the country. The Regional Representative Council could play an active role in ensuring that the allocation of these funds is in line with the specific needs and potential of the regions so as to promote equitable development and economic progress in the various regions.

The Regional Representative Council’s detachment from political parties opens up opportunities for the Regional Representative Council to focus more on regional interests and become a more independent representative in defending the needs of the region. With a strong position and commitment to prioritizing regional interests, the Regional Representative Council has the potential to play a more

effective role in ensuring that budget policies and funding allocations genuinely accommodate the needs and aspirations of all Indonesians, with no exceptions.

The concept of the Regional Representative Council on the principle of territorial or regional representation requires the Regional Representative Council to have an equally vital role in fighting for regional interests. In other words, the Regional Representative Council plays a role in expanding the region at the central level or as a regional representative at the national level. Constitution-making that contradicts the actual conditions indicates that there is no close relationship between the members of the Regional Representative Council and the regions they represent. In fact, regional needs may not be accurately represented by members of the Regional Representative Council from their respective regions. This is due to the understanding of the formulation of Article 22E Paragraph 4 of the 1945 Constitution of the Republic of Indonesia, which defines Participants in the general election to elect members of the Regional Representative Council as individuals. The lawmakers have interpreted this article in a unanimous manner, leaving no room for the involvement of the local government of the region concerned in the nomination process of the Regional Representative Council. As a result, there is no close relationship between the local government and members of the Regional Representative Council, who ultimately aim to voice regional interests through their authority derived from individual will. In contrast to the conditions prior to the revision of the 1945 Constitution, the position of regional special envoy was elected by the governor and previously by the provincial Regional People's Representative Council. These dynamics have the potential to cause disconnection between regions and regional representatives (the Regional Representative Council). If this persists, the constitutional order itself will be jeopardized, as required by the 1945 Constitution of the Republic of Indonesia.

The understanding of Article 22E Paragraph 4 of the 1945 Constitution also implies that members of the Regional Representative Council are not from political parties, and the House of Representatives. However, in terms of membership practice, the Regional Representative Council is still dominated by candidates who are members of political parties. In this dimension, there will be a "conflict of interest" when the Regional Representative Council fights for the will of their respective regions. In Article 22E Paragraph 4 of the 1945 Constitution states that members of the Regional Representative Council are not from political parties, in contrast to the House of Representatives, which usually comes from political parties. The essence of this provision is to maintain the independence and role of the Regional Representative Council as a territorial or regional representative body that is more focused on the interests of the region rather than the interests of political parties. However, in practice, the membership of the Regional Representative Council is still dominated by candidates affiliated with political parties. This is due to the election rules of the Regional Representative Council, which have not fully implemented the full involvement of the community or independent candidates in

the election of the Regional Representative Council. With candidates from political parties, there could be a potential conflict of interest when members of the Regional Representative Council have to defend the will of their region.

Conflicts of interest can occur when members of the Regional Representative Council must adjust between the interests of the political parties that support them and the interests of the regions they must represent. Associations with political parties may influence the attitudes and decisions of the Regional Representative Council members in voicing the aspirations and needs of their regions. In some cases, this can obscure the role of the Regional Representative Council as an independent institution that should represent the direct interests of the region, not a particular political party. In order to address potential conflicts of interest, there is a need to reform the selection of members of the Regional Representative Council to encourage the participation of independent or non-partisan candidates. In addition, there needs to be strong oversight and accountability mechanisms to ensure that members of the Regional Representative Council remain focused on their role as regional representatives and maintain independence from political party interests. The more vital the role of the Regional Representative Council as regional representatives without the influence of political parties, the better the representation and fulfillment of the interests of regional communities can be realized.

The Regional Representative Council's Weaknesses in Implementing Its Legislative Function with the Indonesian Parliamentary Bicameral System

In the legal tradition of countries that adhere to the civil law system, such as Indonesia, the separation of authority is required as a form of implementation of the rule of law. The implementation of separation of powers and allocation of powers in modern times has combined the separation of powers concept with the concept of control and balance, and this mixed concept is referred to as the decentralization concept (Lekipiouw, 2020). In this case, the authority is not clearly separated but rather divided, leading to overlapping capacities. However, the original concept of teaching the political triad comes from Montesquieu, who intended to fully separate the rights, which are the legislative, executive, and judicial authorities. This concept has historically been adopted by continental Europe. The concept of check and balance originated from the Founding Fathers of the United States of America, which are entirely separate yet supervise each other without any authority above or (not the rule-maker or any other authority) monitoring the check and balance mechanism.

In civil law, legal systems such as the one adopted by Indonesia, the separation of powers is an important principle that is implemented as part of the principle of the rule of law. The application of the separation of powers and division of powers concept in modern times often includes a combination with the principle of checks and balances, thus creating a distribution of powers model. In a

distribution of power system, powers are not strictly separated as in Montesquieu's concept of *trias politica*. Instead, power is divided among government institutions, such as the legislative, executive, and judiciary, with each having different authorities and functions. Although there is a clear division of duties, there is also the potential for overlapping authorities between these institutions.

The concept of power distribution allows for checks and balances among government institutions. It implies that these institutions monitor and limit each other, preventing one power from becoming dominant and avoiding abuse of power. It also prevents one party from becoming the "dominant" or absolute ruler of power (MPR RI, 2017). This approach, which originated in the common law legal tradition, particularly in the United States, aims to create a balance of power and promote transparency, accountability, and oversight within the government system. It is important to recognize that the application of separation of powers and distribution of powers principles may differ between countries, depending on the political and legal structure of the country. Despite differences in interpretation and application, this principle remains an essential foundation in upholding a just and equitable rule of law.

After the Amendment of the 1945 Constitution of the Republic of Indonesia, the sovereignty of the people is determined to be divided horizontally by separating it (separation of power) into rights that are submitted/or exercised by state institutions (MPR RI, 2018). The legislative institutions have an equal position and control each other on the foundation of the checks and balances principle that refers to the concept of *trias politica*. Legislative power remains vested in the People's Consultative Assembly, which consists of two representative bodies that are equal to other state institutions.

After the amendment, the separation of powers concept is still adopted while still referring to the principle of checks and balances (supervision and balance of power), which refers to the concept of *trias politica*. In the post-amendment 1945 Constitution of the Republic of Indonesia, popular sovereignty is realized through the horizontal division of power by separating it into powers that are attributed or exercised as functions of state institutions that have equal positions and control each other. This includes three primary separation of powers, which are:

1. Executive Separation of Power: Executive power is vested in the President and the Government, who are responsible for running the government and implementing state policies.
2. Legislative Separation of Power: Legislative power remains in the People's Consultative Assembly. However, The People's Consultative Assembly is now comprised of two equal representative bodies: The House of Representatives, which is elected through general elections, and The Regional Representative Council, which represents the regions of Indonesia. The House of Representatives and the Regional

Representative Council have roles in law-making, overseeing the government, and determining the country's policies.

3. **Judicial Separation of Power:** Judicial power is vested in the Constitutional Court, which is in charge of adjudicating cases relating to the constitution and ensuring that the constitution is appropriately implemented.

Through the division of authority and the concept of checks and balances, each state institution monitors and limits each other, preventing one dominant power and avoiding the abuse of power. This principle reflects an effort to create a balance of power in the government system, thus allowing the state to function efficiently, fairly, and equitably.

According to Jimly Asshiddiqie (2019), the principle of regional representation in the Regional Representative Council must be distinguished from the principle of people's representation in the House of Representatives. Jimly Asshiddiqie intends that in order for all the aspirations of the people to be genuinely incarnated into The People's Consultative Assembly, which is independent, in addition to consisting of both representative institutions, it causes the structure of the Indonesian parliament, consisting of three pillars, that is, The People's Consultative Assembly, The House of Representatives and The Regional Representative Council is described as tricameral. The three institutions have equal status with the President and the implementation of the judicial power, which consists of the Supreme Court and the Constitutional Court (Tinambunan & Abrianto, 2021).

The Regional Representative Council is a new state institution in Indonesia's constitutional structure compared to other institutions, such as the House of Representatives and the People's Consultative Assembly, as a result of the 1945 Constitutional Amendment. The Regional Representative Council is seen as a manifestation of a representative system with a bicameral structure in a presidential system of government (Mastur, 2022). Therefore, the Regional Representative Council should also be given legislative powers to balance and supervise the House of Representatives based on the principle of checks and balances. In addition, the purpose of establishing the Regional Representative Council is to strengthen the role of the regions in the process of state administration, which is one of the significant factors in maintaining the unitary state of the Republic of Indonesia.

The Regional Representative Council is a relatively new state institution in Indonesia's constitutional structure after the amendment of the 1945 Constitution. The Regional Representative Council was formed as a result of amendments to the 1945 Constitution that became effective in 2004. Previously, there were only The House of Representatives and The People's Consultative Assembly in Indonesia's state representation system. The presence of the Regional Representative Council in Indonesia's constitutional system provides an additional dimension to the

representation and participation of regions in the policy and legislation-making process. As a territorial or regional representative body, the Regional Representative Council has an essential role in overseeing and giving consideration to bills that have an impact on regions and regional autonomy.

The principle of checks and balances is significant in this context. By giving legislative powers to the Regional Representative Council, such as giving consideration to bills, the Regional Representative Council can play a role in balancing and supervising the House of Representatives. Through the system of checks and balances, the two legislative bodies can control each other so that there is no excessive power and abuse of power can be avoided. The primary purpose of establishing the Regional Representative Council is to strengthen the role of the regions in the state administration process and ensure that the aspirations and needs of the regions are heard and properly represented in national policy-making. The Regional Representative Council is a forum to represent regional interests and fight for a fairer and more equitable distribution of policies across Indonesia. As a new institution, the Regional Representative Council continues to develop and increase its role and influence in the Indonesian constitutional system. The Regional Representative Council is expected to make a positive contribution to strengthening the unitary state of the Republic of Indonesia and maintaining the balance of power at the national level.

The existence of the Regional Representative Council in Indonesia's current constitutional system is an attempt to strengthen the concept of representation. However, in legal practice, the Regional Representative Council does not have a definite position. Furthermore, the provisions of the 1945 Constitution on the Regional Representative Council are not regulated in a complete and concise manner, causing an understanding that the presence of the Regional Representative Council is inevitable. This can be seen in Article 22C, Article 22D, Article 23E Paragraph 1, and Article 22F Paragraph 2; the Regional Representative Council has no authority other than to provide considerations, suggestions, or proposals to the House of Representatives as institutional decision-makers, both in the fields of legislation and supervision (Suryawan, 2020). The authority of the Regional Representative Council inherent in the implementation of regional autonomy, limited to providing opinions, also reveals the weakness of the Regional Representative Council's function as it cannot prioritize regional interests before the ability to consider them. Furthermore, a bill that is not in accordance with regional interests cannot be rejected by the Regional Representative Council by using the rights owned by the Regional Representative Council, as is practiced in the bicameral representation system. This is what causes the Regional Representative Council to hold no power in the current constitutional system, which makes the position of the Regional Representative Council inconvenient.

The presence of the Regional Representative Council in the Indonesian constitutional system currently faces several obstacles and challenges. Although the

Regional Representative Council is a territorial or regional representative institution, in practice, its position and authority are not comprehensively regulated in the 1945 Constitution, thus making its role and function ambiguous and dilemmatic. Some of the obstacles faced by the Regional Representative Council in the current constitutional system are:

1. **Limited Authority:** The Regional Representative Council has limited authority, especially in terms of the law-making process. Although the Regional Representative Council has the authority to give consideration to bills, the consideration is advisory and not binding. The House of Representatives remains the deciding institution and has greater legislative authority. As a result, the Regional Representative Council has no direct power to fight for regional interests and amend bills that are not in line with regional needs.
2. **Lack of Decision Impact:** The limited authority of the Regional Representative Council also implies that important decisions are more likely to be made by the House of Representatives rather than the Regional Representative Council. This may lead to the Regional Representative Council feeling less empowered in defending regional interests and influencing national policy.
3. **No Mechanism to Cancel Bills:** As mentioned, the Regional Representative Council does not have a mechanism to cancel bills that are not in line with regional interests. Although the Regional Representative Council provides considerations and suggestions, the House of Representatives retains the final decision on the bill.
4. **Lack of Independent Representation:** Although the Regional Representative Council is supposed to be an independent regional representative institution, the involvement of candidates from political parties may obscure the role of the Regional Representative Council as an independent institution representing regional interests.

To enhance the role and function of the Regional Representative Council in the constitutional system, it may be necessary to amend the 1945 Constitution further to provide more specific and significant authority to the Regional Representative Council. By giving the Regional Representative Council more substantial legislative authority and an effective mechanism to defend regional interests, the Regional Representative Council could be more active in voicing the aspirations of regional communities and ensuring that national policies reflect the needs and expectations of all regions of Indonesia.

The Regional Representative Council shares the same authority as the House of Representatives; however, in reality, the Regional Representative Council cannot be considered as just an additional institution, as seen in Law No. 42/2014 on the amendment of Law No. 17/2014 on The People's Consultative Assembly, The

House of Representatives, and The Regional Representative Council. In this law, the House of Representatives is authorized to decide on laws based on a joint agreement with the President. The Regional Representative Council does not exist in the 1945 Constitution regarding the authority of The Regional Representative Council to be able to decide laws like The House of Representatives except that the legislative function of The Regional Representative Council is to merely give consideration.

Although The Regional Representative Council is an upper legislative assembly with the same authority as The House of Representatives, in practice, The Regional Representative Council functions more as a complementary institution to The House of Representatives rather than having parallel legislative authority. This is reflected in Law No. 42/2014 on the amendment of Law No. 17/2014 on The People's Consultative Assembly, The House of Representatives, and The Regional Representative Council. In this law, the House of Representatives is given the authority to decide on legislation through joint agreement with the President. This means that the House of Representatives has stronger legislative powers in the law-making process.

Meanwhile, the Regional Representative Council's authority in the legislative process is more limited. The Regional Representative Council has a legislative function that is only limited to providing considerations or proposals on bills related to regional autonomy or issues related to regions and regional interests. However, considerations from the Regional Representative Council are not binding and do not have the power to amend or cancel the bill. As a result, the Regional Representative Council's law-making authority is not equivalent to that of the House of Representatives, and the Regional Representative Council acts more as a forum to voice regional aspirations and needs rather than an institution with an independent legislative role. As a means to enhance the role and authority of the Regional Representative Council in the legislative process, it may be necessary to take further reform measures, both in the 1945 Constitution and other laws governing legislative institutions. By giving the Regional Representative Council stronger legislative powers, the Regional Representative Council could play a more active role in voicing regional aspirations and ensuring that national policies reflect the needs and expectations of all parts of Indonesia.

The authority of the Regional Representative Council based on its constitutional foundation, which is then reduced by the Law on the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional People's Representative Council, has caused a constitutional disadvantage to the Regional Representative Council (Gunawan et al., 2023). There are several articles that have reduced the functions, duties, and authorities of the Regional Representative Council from the will of the constitution. This condition is considered not to provide a proper system considering the legitimacy of the Regional Representative Council members, which is strong, and

the institution of the Regional Representative Council as a high state institution, which should be able to work with significant authority as territorial representation. The Regional Representative Council, as a representative institution, replaced regional and group delegates in the People's Consultative Assembly through the third amendment to the 1945 Constitution in 2001, which was then revised in the fourth amendment to the 1945 Constitution in 2002. The establishment of the Regional Representative Council cannot be separated from two things: First, there is a demand for democratization of the filling of institutional members always to include the people of the electorate. The existence of regional and group delegates in the composition of The People's Consultative Assembly was replaced by the existence of The Regional Representative Council. Second, given the demands for the implementation of regional autonomy, which, if not properly controlled, will lead to demands for separatism. The Regional Representative Council was formed to represent the interests of the people in the regions. The group delegates themselves were later replaced as the determination of group delegates was considered to complicate democracy, and group delegates were considered to have been channeled and accommodated through the existence of The Regional Representative Council.

In order to strengthen the capacity of the Regional Representative Council adequately and favorably, it is necessary to improve the state order that can better guarantee the sovereignty of the people and the principle of checks and balances between state institutions. In the legislative power, it is necessary to reorganize the principles of equality, mutual control, and sharing between the House of Representatives and the Regional Representative Council. The goal in this direction will lead to the need to amend the 1945 Constitution comprehensively, and in the context of the Regional Representative Council, it is necessary to improve Article 22D. Moreover, the Regional Representative Council has strengthened democratic life, especially with regard to the regions, by absorbing the aspirations and interests of the regions, as well as defending the interests of the people and regions to the Government. This will undoubtedly also bring the central government and regional governments closer together and between the community and the government. In turn, it will be able to foster and strengthen the feeling of the benefits of government and strengthen national unity. The Regional Representative Council also demonstrates that the strengthening of democracy can be seen from several aspects, including the system of electing members of the Regional Representative Council directly by the people as the owners of sovereignty. In addition, the Regional Representative Council as a regional representative indicates accommodation and regional representation, meaning that there is a spread of representatives from all regions/provinces in Indonesia.

In Indonesia's bicameral parliamentary system, the Regional Representative Council has several weaknesses in implementing its legislative function. Some of these weaknesses include:

1. **Limited Authority:** One of the main weaknesses of the Regional Representative Council lies in its limited authority in the legislative process. The Regional Representative Council has more limited authority compared to the House of Representatives. Some bills that are not directly related to regional autonomy or central-regional relations issues may not go through the direct involvement of the Regional Representative Council. As a result, the Regional Representative Council cannot directly contribute to the broader law-making process.
2. **Unequal Position with The House of Representatives:** Although the Regional Representative Council and the House of Representatives are both legislative institutions, the role and powers of the Regional Representative Council tend to be inferior to those of the House of Representatives. The House of Representatives has greater authority in the law-making process, including initiating legislation and discussing bills in depth. The Regional Representative Council can often only provide "considerations" to the House of Representatives, which are not binding.
3. **There is no obligation for the House of Representatives to take into account the Regional Representative Council's consideration:** The Regional Representative Council may provide considerations on a particular bill to the House of Representatives. However, the House of Representatives is not obligated to take action or consider the input. This implies that the views and proposals of the Regional Representative Council can be ignored or not taken into consideration by the House of Representatives.
4. **Non-exclusive Status of the Regional Representative Council Members:** The electability of the Regional Representative Council members in the current electoral system is non-exclusive. This implies that a candidate for the Regional Representative Council may also be a candidate for the House of Representatives or a candidate for president/vice president simultaneously. This may lead to the prioritization and focus of the candidate's efforts being divided and less consistent in representing regional interests at the national level.
5. **Potential Conflict of Interest:** As previously highlighted, the members of the Regional Representative Council who are not fully independent from political parties may create potential conflicts of interest between the interests of political parties and the interests of the regions they represent. This may obscure the role of the Regional Representative Council as an independent regional representative body that directly represents the interests of the community (Felicia et al., 2020).

In order to improve the effectiveness of the Regional Representative Council in implementing its legislative function, it may be necessary to reform the system for electing members of the Regional Representative Council, expand the powers of the Regional Representative Council in discussing a more comprehensive range of bills, and improve the interactional and cooperation system between the Regional Representative Council and the House of Representatives. In addition, it is also essential to strengthen the independence of the Regional Representative Council members and ensure that they are able to truly represent the interests and aspirations of the regions independently of the political party's influence.

The strengthening of the Regional Representative Council should no longer be associated with a form of federalism with a bicameral system of representation. It is undeniably true that many countries that adhere to federalism use a bicameral system of representation, yet many countries in the form of unitary states also adopt a bicameral system of representation. In the context of Indonesia, which has a vast territory consisting of thousands of islands with a high level of heterogeneity and a large population, it would not be a mistake if Indonesia preferred a bicameral system. The existence of a strong Regional Representative Council in the future must be maintained, and the choice of a bicameral representative system does not need to be concerned about federalism. Indeed, the socialization of the agreed constitutional system rules must be conducted continuously, as well as maintaining and strengthening the national identity, namely Pancasila, the 1945 Constitution, the Unitary State of the Republic of Indonesia, and Unity in Diversity (Bhineka Tunggal Ika).

CONCLUSION

The Regional Representative Council is responsible for representing regional interests and maintaining a balance between the central and regional governments. Following the establishment of the bicameral system, the first assembly served as political party representatives, and the second assembly served as regional representatives. The complementary role of the Regional Representative Council and the House of Representatives arose due to the lack of consensus on bicameralism in the discussions that took place during the sessions of the National Assembly (People's Consultative Assembly). This is also reflected in Articles 22C and 22D of the 1945 Constitution of the Republic of Indonesia, which state that the Regional Representative Council, as a new institution in the Indonesian constitution, has a significantly weakened role and function for its members. In order to improve the effectiveness of the Regional Representative Council in carrying out its legislative function, it may be necessary to reform the system for electing members of the Regional Representative Council, expand the authority of the Regional Representative Council in discussing a more comprehensive range of bills, and improve the mechanism of interaction and cooperation between the Regional Representative Council and the House of Representatives. In addition, it

is also important to strengthen the independence of Regional Representatives Council members and ensure that they can truly represent regional interests and aspirations independently of political party involvement.

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