

Strengthening Authority of DPD RI in State of Administration System at Indonesia

Jefirstson Richset Riwukore¹, Hilda Manafe², Fellyanus Habaora^{3*}

¹Lecturer of Management Post Graduate Programe of Indo Global Mandiri University, Jl. Jenderal Sudirman, No.629, Palembang, Indonesia

²Member of the Regional Representative Council of the Republic of Indonesia 2017-2024 Period

³Post Graduate Programe Animal Production and Technology, Faculty of Animal Sciences, Bogor Agricultural University, Jl. Agatis, Babakan-Dramaga, Bogor, West Java, Indonesia

*Corresponding author

Abstract:- The Regional Representative Council of the Republic of Indonesia (DPD RI) in the constitutional system has the same horizontal-functionary relations as other high-level institutions, such as the House of Representatives of the Republic of Indonesia (DPR RI). However, the DPD RI in carrying out its functions through its authority as limited to being a co-legislator DPR RI. Therefore to strengthen the authority of the Republic of Indonesia Regional Representative Council, revitalization is needed. The strategy that can be done is to amend the 1945 Constitution of the Republic of Indonesia, even though it is predicted that there will be a resistant from DPR RI. Nevertheless it is necessary to consider of first the budget and protocol arrangements for the DPD RI because it considers a broad electoral area compared to the DPR RI.

Keywords: Strengthening, DPD RI, DPR RI, Constitution

I. INTRODUCTION

The Regional Representative Council of the Republic of Indonesia (DPD RI) is one of the high state institutions in the Indonesian constitutional system whose members are elected from each province through general elections. The authority of the DPD RI in accordance with Article 22D of the Republic of Indonesia Constitution 1945 (UUD NRI 1945), namely: DPD RI can submit Draft Law (RUU) to the House of Representatives of the Republic Indonesia (DPR RI) and/or participate in discussing RUU relating to regional autonomy, relations central and regional government, formation and division with merger of regions, management of natural resources and other economic resources, as well as central and regional financial balances, and can give consideration to DPR RI regarding the RUU relating to taxes, education and religion. Then DPD RI can also supervise the implementation of the law, and the results are submitted to DPR RI as material for consideration to be followed up. Thus, DPD RI is a state high institution that has limited authority over legislative functions, budget, and supervision.

Manan (2015) stated that the establishment of DPD RI as an opportunity for people in the regions to determine policies at the national level, especially those related to regional interests, is expected to further strengthen national

integration and strengthen feelings as a nation consisting of regions. Wasti (2017) stated that DPD RI was formed as a solution to overcome the ups and downs of relations between the central and regional governments so that the members of the DPD RI always think, act, and fight for the interests of their regions without being limited/hampered compared to DPR RI which oriented interests of political parties. Bidaya (2012) stated that before DPD RI was formed, regional aspirations were championed by regional envoys through the fraction of regional representative in parliament.

DPD RI has the same structure in the position of state administration with other state high institutions (DPR RI, People's Consultative Assembly of the Republic Indonesia/MPR RI, President and Vice President) after UUD NRI 1945 amendment, but Article 22D restricts space DPD RI to determine and decide on the Draft Law to become Law. DPD is also limited by its budgetary authority, "only giving consideration to Draft Regional Revenue and Expenditure Budget (RAPBN), tax, education, religion, and the election of members of Republic of Indonesia Supreme Audit Agency (BPK RI)". DPD RI in exercising its supervisory authority, "only as a informer to DPR RI as material for consideration to be followed up". Whereas DPD RI in carrying out its position as a member of MPR RI has the same authority with other state high institutions, where "DPD RI and DPR RI as members of MPR RI have the authority to amend and stipulate UUD NRI 1945, inaugurate the President and/or Vice President, and dismissal of the President and Vice President (Article 3, UUD NRI 1945)". The function of DPD RI in its position as a state high institution that is the same as DPR RI, but has very limited authority is the basis for the preparation of this paper with the title "Strengthening Authority of DPD RI in State of Administration System at Indonesia". The aim of the study was to understand the position and authority of DPD RI, then elaborate, and draft the concept of strengthening authority DPD RI in the constitutional system of the Republic Indonesia.

II. RESEARCH METHODS

The method in this research used the literature review technique and analyzed descriptively qualitatively. Data and information which obtained, then interpreted with the support of literature (libraries) such as source from books, journals, internet, papers, and so on. The work procedure begins with understanding the position and authority of DPD RI, elaborating the data and information which obtained, and then drafting the concepts and strategies for strengthening DPD RI in the constitutional system of Indonesian.

III. RESULTS AND DISCUSSION

1. *Understanding the Position and Authority of DPD RI*

1.1. *DPD RI carries out bicameral functions*

DPD RI and DPR RI are the institutionalization of the legislative function called parliament. There are 2 (two) parliaments in the world, namely unicameral (monocameral), namely the function of parliament in one forum only, and bicameral, namely institutionalization of parliamentary functions in two forums. Thus in Indonesia adheres parliament to a bicameral system, in which DPR RI is a representation of people's political representation, and DPD RI is a representative of the regions in which both are directly elected. The bicameral system was later explained to be a soft bicameral which caused an amputation of DPD RI because DPR RI had more power than other representative institutions.

The impact weakening of DPD RI because the addition of the system soft bicameral again from bicameral so that DPD RI is not optimal in the stipulation of legislation because only DPR RI has the authority it. The product of laws produced DPR RI did not absorb the full aspirations because there was an amputation of the authority of duties and legislative functions in DPD RI. The products of legislation that have been established by DPR RI have experienced judicial review in a short time because the legislative process is less intact, and can be prevented if it empowers DPD RI more.

Hidayat (2015) and Wasti (2017) explained that DPD RI was bicameral because of the need to reform of state of administration system from old MPR RI, where members of MPR RI besides DPR RI (regional delegation or group delegation) does not function effectively and not clearly orientation there as a representative of regional and group, and besides that old MPR RI has ambiguous power in the presidential system because it is able to bring down President with a Special Meeting Mechanism. Since the amendment to UUD NRI 1945 then DPD RI is specifically regulated to represent the region so that the aspirations of the people in the regions can be structurally accommodated at the national level. Then the presence of DPD RI after the reformation to create good checks and balances through bicameral system.

The choice of a soft bicameral parliamentary system in Indonesia (DPR RI and DPD RI) in the implementation of its

functions is not in accordance with the substance of the institution's presence with various consequences, such as: budget, protocol, facilities and infrastructure, and other facilities that are relatively not much different from DPR RI. Harijantri (2016) states that the amputation of the authority of DPD RI is not in accordance with the challenges and difficulties of a person to become a member of DPD RI which is far greater than being a member of DPR RI, but DPD RI authority is far below DPR RI.

1.2. *DPD RI as a State Institution*

MPR RI after the reformation and post-amendment to UUD NRI 1945 was no longer as superpower institution because its status was changed to a state institution with the same status (DPR RI, DPD RI, BPK RI, President and Vice President, Supreme Court of the Republic Indonesia/MA RI, Constitutional Court of the Republic Indonesia/MK RI, and Judicial Commission of the Republic Indonesia/KY RI). Harijantri (2016) explains that a high state institutions is an institution whose duties and authorities are regulated in UUD NRI 1945. Then Saragih (2004) classifies the state's high institutions functionally in relation to the implementation of triaspolitica (executive, legislative and judicial).

Based on the above then the state high institution is no longer hierarchical-functional but becomes horizontal-functional (equivalent). Thus, there are checks and balances that are realized through supervision among high-state institutions and joint decision-making. The General theory and state book written by Hans Kelsen states: "Whoever fulfills a function is determined by the legal order is an organ. These functions, which are the norms of a legal sanction.

UUD NRI 1945 states that the highest sovereignty is in the people so that the state institution in carrying out the function must have accountability to the giver of position and function. Kelsen's view explains that Parliament sets laws, and people choose their representatives to become members of parliament through the mechanism of elections. Thus DPD RI and DPR RI are both elected by the people through the mechanism of elections. The people's sovereignty to the function of the parliament is to give birth to norms or laws and is based on the accountability of the mandate of checks and balances carried out while the electoral process.

DPD RI and DPR RI based on the concept of state institutions there are no differences according to the nature/function, namely primary constitutional organs and auxiliary state organs. This distinction is based on the domain (domain), namely the power of the executive (government executor) in the president and vice president as a unit of presidential institutions; legislative power (oversight power) consisting of DPR RI, DPD RI, MPR RI, and BPK RI; and finally there is judicial power (judiciary), namely the MK RI, MA RI, and KY RI. Assidiqqie (2003) states that high state institutions based on function are those that describe the main powers in the executive, legislative and judicial.

1.3. *DPD RI according to MK decision Number Case:92/PUU-X/2012*

September 14, 2012, DPD RI submitted a request for judicial review to MK RI with Case Register: 92/PUU-X/2012 on Law Number 27 of 2009 concerning MPR RI, DPR RI, DPD RI and DPRD (UU MD3) and Law Number 12 of 2011 concerning the Establishment of Law towards UUD NRI 1945 (UU P3) which was signed by the Chairperson of DPD RI, namely Chairperson (Irman Gusman) and Deputy Chairperson (La Ode Ida and Gusti Kanjeng Ratu Hemas). Then on March 27, 2013 a reading was made of MK RI decision to accept the request submitted by DPD RI where there were five things need repaired In the Law governing MPR RI, DPR RI, DPD RI, and DPRD, namely:

1. DPD RI is involved in the making of the National Legislation Program (Prolegnas).
2. DPD RI has the right to submit a Draft Law referred to in Article 22D paragraph (1) of UUD NRI 1945 as is the case or together with DPR RI and President, including in the establishment of Draft Law on Revocation of Government Regulation.
3. DPD RI has the right to discuss about Draft Law in full in context Article 22D paragraph (2) of UUD NRI 1945.
4. Discussion of RUU in the context of Article 22D paragraph (2) of UUD NRI 1945 is three-party (tripartite), namely between DPR RI, DPD RI, and President RI.
5. MK RI states that the provisions in Law MD3 and Law P3 which are not in accordance with the interpretation of MK RI on the authority of DPD RI with automatically in themselves contrary to UUD NRI 1945, whether requested or not.

After the decision of MK RI, then DPR RI and President published Law Number 17 of 2014 and revised with Law Number 2 of 2018 concerning the Second Amendment to MD3 Law, but DPD RI remained co-legislator from DPR RI because DPD RI did not have the authority to stipulate a Law. This is because authority DPD RI must refer to UUD NRI 1945 as constitution, and not to Law MD3. Strengthening authority of DPD RI can only be implemented if there is a fifth amendment to UUD NRI 1945. Isra (2013: 20) and Hidayat (2015: 7) explain about the existence of MK RI ruling mention above as a constitutional alarm against the structuring of the representative legislative model oriented to strengthening the legislation of DPD RI. As a decision that has permanent legal force (final and binding), the offer of the fifth amendment to UUD NRI 1945 needs to be considered in order to strengthen the authority of DPD RI.

2. *Elaboration of the Position and Authority of DPD RI*

Strengthening authority of DPD RI in accordance with the functions of institutions that are bicameral and categorized in high-state institutions, as well as the existence of a permanent decision by MK RI then the strengthening of the authority of DPD RI can be done with:

1. Strengthening the legislative and budget functions is carried out by aligning the proposed authority until with the stipulation of the Draft Law into the Act between DPR RI and DPD RI. Bidaya (2012: 14) states that the mechanism can be reached by a separate discussion. First discussed in DPR RI, after it was agreed then submitted to DPD RI and vice versa depending on the object of Draft Law if it was related to the authority of DPD RI on Article 22D in UUD NRI 1945. If there is an inequality of understanding, a special committee will be formed between the two who will discuss Draft Law it.
2. Strengthening the oversight function is carried out by granting authority to DPD RI to choose public positions which so far have only been held by DPR RI such as choose MA RI Judges, MK RI Judges, Bank Indonesia (BI) Governors, and others. Asshiddiqie and Bidaya (2014) explained that the position of a member of DPD RI was actually very strong. In the United States political system, representatives of this region are similar to the term senator. On the other, DPD RI support is also real legitimate because it does not require the voice of voter dividers (BPP) which can be considered as support that great aspirations from the constituents or the people.

Strengthening authority of DPD RI is seen as an effort to strengthen regional ties in the State of Unity of Republic Indonesia (NKRI) and strengthen national unity of all regions, increase aggregation and accommodation of regional aspirations and interests in the policy formulation of national relating to regions, and encourage acceleration of democracy, development and progress of regions in a harmonious and balanced manner. Then encouraging check and balance.

3. *The concept of strengthening the authority of DPD RI*

Concept of strengthening authority of DPD RI can be done through revitalizing the principles, that DPD RI has balanced authority with DPR RI in terms of legislative functions, budget functions and supervisory functions so that they are equally effective; each member of DPR RI and DPD RI has the right to submit a draft law, and each draft law must go through both of these chambers before becoming a product of Law.

Table 1. Concept of strengthening authority of DPD RI

No.	Identification	+	-	Strategies
1.	DPD RI is a Bicameral System	DPD RI (representation of political party) and DPD RI (representation of regional). Both are institutionalized functions	Authority of DPD RI is limited in relation to legislative functions	Amendment to Article 22D of UUD NRI 1945
		DPD RI and DPR RI are elected through a general election mechanism	DPD RI does not use dividing numbers and has election territorial broad compared to DPR RI	Difference in incentives: DPD>DPR RI
2.	DPD RI as a High-State Institution	DPD RI is equal to the DPR RI, MPR RI, President RI and Vice President RI	DPD becomes co-legislator of DPR RI (Article 22D of UUD NRI 1945)	Amendment to Article 22D of UUD NRI 1945
		Interaction between 'horizontal-functional' state institutions	Bargaining position of DPR RI is more dominant than other high-state institutions	Amendment to Article 22D of UUD NRI 1945
		DPD RI is one of primary institutions in the state-administration system in Indonesia	DPD RI as to be an auxiliary / supporting institution	Amendment to Article 22D of UUD NRI 1945
3	DPD RI according to MK decision Number Case:92/PUU-X/2012	DPD RI has the authority to be involved in Prolegnas and the discussion of RUU	DPR RI does not respond to the decision of MK RI	Amendment to Article 22D of UUD NRI 1945
			Multiple interpretations: getting involved does not mean taking part	Amendment to Article 22D of UUD NRI 1945

In general, strengthening authority of DPD RI can be realized by amendment UUD NRI 1945 or the separation in Law Specifically, namely DPR RI Law, DPD RI Law, and MPR RI Law. Furthermore, MPR RI must be encouraged to become a joint forum between DPD RI and DPR RI when it has to decide on things that require mutual agreement between DPR RI and DPD RI as determined by UUD NRI 1945.

IV. CONCLUSION

DPD RI has a position and authority in State-administration Law system of Republic Indonesia in fact it has been strong, where DPD RI is in its position and authority as part of the bicameral system, capacity as a high state institution, and together other institutions carry out legislative functions. However, this position and authority is limited by an UUD NRI 1945 in which DPD RI is considered a co-legislator. Therefore, to strengthen the authority of DPD RI, revitalization is needed. The strategy that can be done is by amendment UUD NRI 1945, although this is predicted to be an problem at DPR RI.

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