



FUNCTIONS AND ROLES OF THE REGIONAL REPRESENTATIVE COUNCILS (DPD) OF THE REPUBLIC OF INDONESIA IN STRENGTHENING REGIONAL AUTONOMY IN THE BICAMERAL GOVERNMENT SYSTEM

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ABSTRACT

Since the amendment of the 1945 Constitution, the Indonesian parliamentary system has changed from a unicameral system to a bicameral system. The manifestation of this institution has awakened the hopes of local people that regional problems can be fought for at the national level. However, if we pay attention to the functions, powers, and tasks that have been regulated in Article 22 D of the 1945 Constitution and Law Number 22 of 2003 concerning the composition and position of the in the People's Consultative Assembly (MPR), the House of Representatives (DPR), the Regional Representative Council (DPD) and Regional People's Representative Assembly (DPRD), there are many assumptions that whether the functions of the Regional Representative Council can be representing regional interests. The Regional Representative Council (DPD) does not only function as counseling for the regional autonomy council, it does not serve the legislative body as a country that adopts a bicameral system. Amendments to the 1945 constitution are the main way to strengthen the position of this institution as a companion to the DPR.

Keywords: The 5th Amendment of the 1945 the People's Consultative Assembly (MPR), the House of Representatives (DPR), the Regional Representative Council (DPD) and Regional People's Representative Assembly (DPRD), Bicameral System.

INTRODUCTION

The transition of the government from the New Order Era to the Reformation Era resulted in a period of a transition government, during this transitional period there have been four amendments/changes to the UUD'45 as the state constitution. Amendments to the 1945 Constitution of the Republic of Indonesia (UUD 1945) in 2001, fundamentally changed the state administration system of the Republic of Indonesia, even from these changes formed various new institutions, one of which is the Regional Representative Council of the Republic of Indonesia (DPD RI). The Regional Representative Council (DPD) is seen as a state institution that represents regional aspirations based on territory, in contrast to the House of Representatives (DPR) which is seen as a representation of the population.

This territorial representation intends to bury the regional representatives in the past that were only symbolic representatives in the People's Consultative Assembly (MPR). The Republic of Indonesia Regional Representative Council should be the second chamber of parliament in Indonesia because the Regional Representative Council of the Republic of Indonesia (DPD RI) was born equipped with several constitutional powers in the 1945 Constitution of the Republic of Indonesia (UUD 1945). However, the constitutional authority is systematically reduced by several laws regulating it, as a result, the Regional Representative Council (DPD) has been unable to perform its ideal function as a parliament chamber for years (Manan, 2011). The emergence of an

atmosphere of reform in all spheres of social life, nation and state, can certainly give rise to some ideas or ideas that the joints of state life need to be reexamined according to the new paradigm adopted. The reality shows that there is a desire, demand and even need for the power of the President as determined in the 1945 Constitution to undergo a review. It is not enough to stop there; the position of state institutions needs to be repositioned under the spirit of constitutional reform itself.

As a result, the principles of separation and / or distribution of power as adhered to by the bicameral government system and the principle of checks and balances systems that allow for mutual testing and monitoring among state institutions are justified through constitutionalism mechanisms and processes. Therefore, both the formation of new state institutions and reduction of authority over existing state institutions were pursued by using the amendment mechanism to the 1945 Constitution, and these changes took place systematically and fundamentally so that they also had an impact on the constitutional system.

Strengthening the Regional Representative Council of the Republic of Indonesia is needed in the context of checks and balances between institutions, the principle of checks and balances between branches of state power and within the legislative power branch itself is built with the existence of the Regional Representative Council of the Republic of Indonesia (DPD RI) under amendments to the three laws The



1945 Constitution of the Republic of Indonesia (UUD NRI 1945) in 2001.

The Regional Representative Council is seen as a state institution that represents regional aspirations based on territory, in contrast to the People's Representative Council of the Republic of Indonesia (DPR RI) which is seen as a representative of the population. The election of members of the Regional Representative Council (DPD) through national elections has further strengthened the institutionalization of political representation based on territoriality, a recruitment process that is very different from the members of the Regional Representatives faction in the MPR before the amendment of the 1945 Constitution, which was only appointed and appointed. . The election of members of the Regional Representative Council (DPD) through elections, the legitimacy of elected members of the Regional Representative Council (DPD) is much stronger and this strengthening has a legal umbrella through the Constitutional Court Decision No. 92/2012 The position and authority of the Regional Representative Council (DPD) is the same as that of the DPR and the President in the field of legislation.

The need for a Regional Representative Council (DPD) in the constitution is motivated by two main reasons. First, is to bring local needs and interests into policymaking at the national level. Implicitly, this implies another meaning that the House of Representatives (DPR) so far has not been sufficiently capable of being able to play a role representing regional interests. Second, is to encourage the existence of a balancing political force in the parliament so that legislative power is not concentrated in one institution (Piliang and Susanti, 2006). The second reason is on the other hand, especially from the perspective of relations between state institutions, that the presence of the Regional Representative Council (DPD) is expected to be the main balancing force so that policies at the national level are decided more carefully with various kinds of considerations. The existence of another room in this political representation system, apart from the House of Representatives (DPR), will encourage healthy competition between institutions in terms of political ethics and reform of the work system. This competition is expected to make the DPR and the Regional Representatives Council (DPD) better.

Formulation of the Problem

Based on the above background, the problems in this study are formulated as follows:

1. What is the actual position, duties and authority of the Regional Representative Council in exercising its rights and authorities?
2. How does justice function in the equal rights and powers of the Regional Representative Council with the House of Representatives of the Republic of Indonesia?
3. What are the ideal constitutional consensus and political consensus between the Regional Representatives Council

and the People's Representative Council in the Bicameral Parliament system?

LITERATURE REVIEW

Rule of Law Theory

The theory is scientific knowledge that includes an explanation of a factor from a scientific discipline. In the world of science, theory occupies an important position, because theory provides a means to better summarize and understand the issues being discussed. Things that at first seemed scattered and independent could be put together and shown to be related to one another in a more meaningful way.

W. Friedman revealed the essential basics of the legal theory according to Kelsen (2007), namely:

- a. The aim of legal theory, like any science is to reduce chaos and plurality to become a unity.
- b. Legal theory is the science of applicable laws, not actual laws.
- c. Law is a normative science, not a natural science.
- d. Legal theory as a theory of norms has nothing to do with the working power of legal norms.
- e. Legal theory is a formal, structured theory, changing content in special ways. The relationship between legal theory and the typical system of positive law is what relations are possible with real laws.

The theory used in this research is the theory of the welfare state law, the theory of legal norms and the theory of legal protection.

A country can be said to be a rule of law if it meets the elements of a rule of law. Friedrich Julius Stahl states the characteristics of a rule of law as follows:

- a. There is a recognition of basic human rights.
- b. There is a distribution of power.
- c. Regulatory governance

Representative Theory

The representative theory is closely related to the principles of people's sovereignty and democracy. In modern times, people's power is no longer exercised directly but is channeled through representative institutions as the realization of an indirect democratic system. Three things need to be considered when the assessment is focused on this problem of representation, first regarding the understanding of the represented party, the second concerning the party who is representing it, and the third is related to how the relationship and position are (Purnama, 2008).

Historically, the emergence of representation was the result of the implementation of the feudal system, especially in England and France. At first, only functional representatives were known because in general, the representatives at that time were people who were recruited through the appointment system based on the different classes



in society. But then, in modern countries such as the United States and others by adhering to the principle of equality, a representation based on this system of appointment is not used because it is deemed incompatible with the democratic system adopted. So that in practice there are only two kinds of representatives, namely political representatives and regional representatives. Duguit's view is actually in line with Belifante's view that representation is a compromise between the principle of democracy which demands equal rights for every citizen and the principle of practical utility to carry out equality in question. In this case, the people are equally positioned as incapable of carrying out their duties to make a decision, therefore it is necessary to establish an institution that can represent them to act in terms of these needs.

Theory of Law Formation

Crabbe argues that the most important aspect of the legislation is not only related to the regulatory aspect but also the process of its formation (the important part of the legislation is not only the regulatory aspect but the law-making process itself. it is necessary to pay attention to the basics of its formation, especially those related to foundations, principles related to the content (Bahri, 2020).

According to Maria Farida Indrati, the principles of forming legislation are a guideline or a signpost in the formation of good laws and regulations. Burkhardt Krems said that the formation of the regulations involved:

- Contents of the regulations (Inhalt der Regelung);
- Form and arrangement of regulations (Form der Regelung);
- The method of establishing regulations (Method der Ausarbeitung der Regelung); and Procedures and processes for establishing regulations (Verfahren der Ausarbeitung der Regelung).
- Thus the principles for the formation of state laws and regulations will include legal principles related to it.

Constitutional Theory

Along with the rule of law theory, constitutions based on historical flash have existed since ancient Greece. This is based on the theory of the state of law developed at that time by Plato and Aristotle, teachers, and students who were nicknamed The Philosopher. Plato, for example, the Republic argued that it is possible to create an ideal state to achieve essentially good. For that power must be held by someone who knows best, namely a philosopher (The Philosopher King). The Philosopher King is required to teach and put forward policies that will ensure the implementation of a clean and just government.

Meanwhile, Asshiddiqie (2011) defines the constitution as the basic law that is used as guidance in the administration of a country. The constitution can be in the form of a written basic law which is commonly called a Basic

Law, and it can also be unwritten. This is inseparable because not all countries have written constitutions or constitutions. The British Empire, for example, does not have a single text of the Basic Law as a written constitution but is commonly referred to as a constitutional state.

RESEARCH METHODS

The method of legal research is: "a scientific activity, which is based on certain methods, systematics and thinking, which aims to study one or several specific legal phenomena, by analyzing them (Soekanto, 1986). This research is a descriptive study. It is intended to seek, finding, describing and analyzing materials regarding bicameral system governance in the practice of carrying out the equivalent function of two parliamentary chambers through comprehensive and all-inclusive review and tracing of secondary data.

The analytical approach, namely knowing the meaning contained in the terms used in the laws and regulations related to the Regional Representative Council as one of the rooms in the bicameral government system, as well as knowing its application in practice, is also closely related to the aspects of a systematic review of the relevant laws and regulations, by doing a technical study.

The subject matter of the study includes:

- The position and role of the DPD in the formation of laws; and
- Mechanisms and procedures for implementing the legislative function of the DPD institution as well as the weaknesses and obstacles it faces.
- Judging from its purpose, this legal research is categorized as normative legal research (literature law research). Library material and other data as the main research material will be studied in depth which includes research on legal principles, legal systematics, legal synchronization, and legal comparisons.

This research is legal research with a normative juridical approach that is evaluative, the research typology chooses qualitative research. Qualitative research is a study that is shown to describe and analyze phenomena, events, social activities, attitudes, beliefs, perceptions, thoughts of people individually or in groups.

This research was conducted by taking an inventory of positive law, synchronizing laws vertically and horizontally, discovering legal principles related to the Regional Representative Council in the bicameral government system in Indonesia after the amendment of the 1945 Constitution of the Republic of Indonesia.

Processing and Data Analysis

Following the research approach used and the types and sources of data, the methods and data collection techniques in this study are based on library research or literature study. This research method is used to obtain secondary data consisting of primary legal materials,



secondary legal materials, and tertiary legal materials (Soekanto, 1986).

RESEARCH RESULT

1. *Position Functions and Authorities of the Regional Representative Council based on the 1945 Constitution of the Republic of Indonesia CHAPTER VIIA Article 22C and Article 22D concerning the Regional Representative Council as formulated in:*

Article 22C which reads:

- a. Members of the Regional Representative Council are elected from each province through general elections.
- b. The number of members of the Regional Representative Council from each province is the same and the total number of the members of the Regional Representative Council is not more than one-third of the number of the DPR.
- c. The Regional Representative Council meets at least once a year.
- d. The composition and position of the Regional Representative Council shall be regulated by law.

Article 22D which reads:

- a. The Regional Representative Council may submit to the House of Representative's draft laws relating to regional autonomy, central and regional relations, the formation and expansion and amalgamation of regions, management of natural resources and other economic resources, as well as those relating to the balance of central and regional finances.
- b. The Regional Representative Council participates in discussing draft laws relating to regional autonomy, central and regional relations, the formation and expansion and amalgamation of regions, management of natural resources and other economic resources, as well as those relating to the balance of central and regional finances, as well as providing considerations to the House of Representatives on the draft law on state revenue and expenditure budget and draft laws relating to taxes, education and religion.
- c. The Regional Representative Council can supervise the implementation of laws on regional autonomy, central and regional relations, the formation and expansion and amalgamation of regions, management of natural resources and other economic resources, as well as those relating to the balance of central and regional finances, as well as providing considerations. to the House of Representatives on the draft law on state revenue and expenditure budget and draft laws relating to taxes, education and religion and convey the results of their supervision to the House of Representatives as a matter of consideration for further action.

- d. Members of the House of Representatives can be removed from office, the terms and procedures are regulated by law.

The Urgency of the Existence of the Regional Representative Council

- a. The Regional Representative Council of the Republic of Indonesia (DPD RI) as a state institution that represents regional aspirations based on territory. Because the State consists of Territory, Government and People.
- b. The Republic of Indonesia Regional Representative Council becomes the second chamber of parliament in Indonesia in a bicameral government system and the principle of checks and balances system that allows for mutual testing and monitoring among state institutions to obtain justification through constitutionalism mechanisms and processes, for this reason, the Regional Representative Council of the Republic of Indonesia) was born equipped with a number of constitutional powers in the 1945 Constitution of the Republic of Indonesia (UUD 1945).
- c. The Republic of Indonesia Regional Representative Council (DPD RI) in the constitution is motivated by the main reason to bring the needs and interests of the regions in policymaking at the national level.
- e. The Republic of Indonesia Regional Representative Council (DPD RI) in the constitution is motivated by the main reason to encourage the existence of balancing political power in the parliament so that legislative power is not concentrated in one institution.
- f. The presence of the Regional Representatives Council (DPD) is expected to be able to play a role in strengthening Regional Autonomy and bridging regional interests at the central level. The Regional Representative Council (DPD) becomes a kind of channel to fight for regional interests in national policies and increase the acceleration of regional development by fighting for a balance between the central and regional budgets on Budgeting Rights in the DPR RI.
- g. On the other hand, the Regional Representatives Council (DPD) is expected to carry out an important function to strengthen national integration, reduce regional turmoil and keep regions away from the spirit of separatism. In this context, the existence of the Regional Representative Council (DPD) is very important and strategic.

The Constitutional Authority of the Council of Regional Representatives as a State Institution

The Republic of Indonesia Regional Representative Council (DPD RI) should be the second chamber of parliament in Indonesia which has the same functions, powers and rights as the Indonesian People's Representative Council (DPR RI) because the Regional Representative Council of the Republic of Indonesia (DPD RI) was born with many powers. The constitution of the 1945 Constitution of the Republic of



Indonesia (UUD 1945). However, the powers of the constitution are systematically reduced by political interests and power through a number of laws regulating them. As a result, the Regional Representative Council (DPD) has been unable to perform its ideal function as a parliamentary chamber for years (Manan, 2011). This is paradoxical with one of the original objectives of the formation of the Regional Representative Council of the Republic of Indonesia (DPDRI), namely strengthening the legislative body, which according to Lumbun (2008), the legislative body is one of the legal structures in the actualization of Pancasila values.

As a result, the Regional Representative Council of the Republic of Indonesia (DPD RI) has the authority as stated in the 1945 Constitution of the Republic of Indonesia CHAPTER VIIA Article 22D which reads:

- a. The Regional Representative Council may submit to the House of Representative's draft laws relating to regional autonomy, central and regional relations, the formation and expansion and amalgamation of regions, management of natural resources and other economic resources, as well as those relating to the balance of central and regional finances.
- b. The Regional Representative Council participates in discussing draft laws relating to regional autonomy, central and regional relations, the formation and expansion and amalgamation of regions, management of natural resources and other economic resources, as well as those relating to the balance of central and regional finances, as well as providing considerations to the House of Representatives on the draft law on state revenue and expenditure budget and draft laws relating to taxes, education and religion.
- c. The Regional Representative Council can supervise the implementation of laws on regional autonomy, central and regional relations, the formation and expansion and amalgamation of regions, management of natural resources and other economic resources, as well as those relating to the balance of central and regional finances, as well as providing considerations. to the House of Representatives on the draft law on state revenue and expenditure budget and draft laws relating to taxes, education and religion and convey the results of their supervision to the House of Representatives as a matter of consideration for further action.
- d. Members of the House of Representatives can be removed from office, the terms and procedures are regulated by law.

2. Analysis of Institutional Relationship between Dpd Ri and Dpr Ri in the Indonesian Bicameral Parliamentary System

In countries that adhere to the understanding that in the administration of the state administration, the power of the government needs to be limited, usually, this limitation is

formally juridical manifested in the legal institutions listed in various other constitutional rules. As a result of the dynamics of the state administration, these constitutional rules need to be adjusted to the real conditions of the growth and development of the state administration in question.

Amendments to the 1945 Constitution of the Republic of Indonesia (UUD1945) in 2001, fundamentally changed the constitutional system of the Republic of Indonesia, even from these changes various new institutions were formed, one of which is the Regional Representative Council of the Republic of Indonesia (DPD RI). The Regional Representative Council (DPD) is seen as a State institution that represents regional aspirations based on territory, in contrast to the House of Representatives (DPR) which is seen as a representative of the population. This territorial representation intends to bury regional representatives in the past that were only symbolic representatives in the People's Consultative Assembly (MPR). The election of members of the Regional Representative Council (DPD) through the national general election (election) has further strengthened the institutionalization of political representation based on territory and through the legitimacy election for elected Regional Representative Council (DPD) members is much stronger, strengthening the Regional Representative Council (DPD) as an institution in the field of legislation, the position and authority are the same as that of the People's Representative Council (DPR) and the President according to the Constitutional Court decision Number: 92 / PUU-X / 2012.

The Republic of Indonesia Regional Representative Council should be the second chamber of parliament in Indonesia because the Regional Representative Council of the Republic of Indonesia (DPD RI) was born equipped with a number of constitutional powers in the 1945 Constitution of the Republic of Indonesia (UUD 1945). However, the powers of the constitution are systematically reduced by political interests and power through a number of laws regulating them. As a result, the Regional Representative Council (DPD) has been unable to perform its ideal function as a parliamentary chamber for years (Manan, 2011).

This is paradoxical with one of the original objectives of the formation of the Regional Representative Council of the Republic of Indonesia (DPD RI), namely strengthening the legislative body, which according to Lumbun (2008), the legislative body is one of the legal structures in the actualization of Pancasila values.

Article 22 D of the 1945 Constitution after the amendment is difficult to realize the aims and objectives of the formation of the DPD, likewise, it is difficult for DPD members to be morally and politically accountable to voters and their constituencies. Article 22 D also cannot reflect the principle of checks and balances between two representative



institutions (legislature). The DPD as a state institution has very strong legitimacy because its members are directly elected by the people. As a state institution, of course, the DPD should have the same position as other state institutions. Due to these limitations, it is only natural what the DPD has done to strengthen its role and authority.

Likewise, the state administration reality in Indonesia shows that under the 1945 Constitution of the Republic of Indonesia (UUD 1945) the implementation of the position, the nature of the 1945 Constitution often creates problems, both in the form of its implementation into various other constitutional principles. and in the form of providing interpretations of the contents of the 1945 Constitution which tended to be adjusted to the interests of each party (while the People's Consultative Assembly itself was silent). This results in constitutional conflicts both internal to the state institutions concerned and between state institutions or between state institutions and society. This phenomenon shows the need for a democratic mechanism through an institution that has the authority to carry out checks and balances.

The emergence of an atmosphere of reform in all spheres of social, national and state life can certainly give rise to some ideas or ideas that the joints of state administration need to be reexamined according to the new paradigm adopted. The reality shows that there is a desire, demand and even need for the power of the President as determined in the 1945 Constitution to undergo a review. It is not enough to stop there; the position of state institutions needs to be repositioned following the spirit of constitutional reform itself. As a result, the principles of separation and / or distribution of power as adhered to by the bicameral government system and the principle of checks and balances systems that allow for mutual testing and monitoring among state institutions are justified through constitutionalism mechanisms and processes.

Therefore, both the formation of new state institutions and reduction of authority over existing state institutions were pursued by using the amendment mechanism to the 1945 Constitution, and these changes took place systematically and fundamentally so that they also had an impact on the constitutional system.

One of the content material as a result of the Third Amendment to the 1945 Constitution of the Republic of Indonesia Chapter VIIA Article 22C and Article 22D concerning the Regional Representative Council as formulated in:

Article 22C which reads:

- a. Members of the Regional Representative Council are elected from each province through general elections.
- b. The number of members of the Regional Representative Council from each province is the same and the total number of the members of the

Regional Representative Council is not more than one-third of the number of the DPR.

- c. The Regional Representative Council meets at least once a year.
- e. The composition and position of the Regional Representative Council shall be regulated by law.

Article 22D which reads:

- a. The Regional Representative Council may submit to the House of Representative's draft laws relating to regional autonomy, central and regional relations, the formation and expansion and amalgamation of regions, management of natural resources and other economic resources, as well as those relating to the balance of central and regional finances.
- b. The Regional Representative Council participates in discussing draft laws relating to regional autonomy, central and regional relations, the formation and expansion and amalgamation of regions, management of natural resources and other economic resources, as well as those relating to the balance of central and regional finances, as well as providing considerations to the House of Representatives on the draft law on state revenue and expenditure budget and draft laws relating to taxes, education and religion.
- c. The Regional Representative Council can supervise the implementation of laws on regional autonomy, central and regional relations, the formation and expansion and amalgamation of regions, management of natural resources and other economic resources, as well as those relating to the balance of central and regional finances, as well as providing considerations to the House of Representatives on the draft law on state revenues and expenditures and draft laws relating to taxes, education and religion and convey the results of their supervision to the House of Representatives as a matter of consideration for further action.
- f. Members of the House of Representatives can be removed from office, the terms and procedures are regulated by law.

Strengthening the legislative function of the Regional Representative Council of the Republic of Indonesia (DPD RI) is needed in the context of checks and balances between state institutions. The principle of checks and balances between branches of state power and within the legislative branch of power itself was built with the existence of the Regional Representative Council (DPD) following the Third Amendment of the 1945 Constitution (UUD 1945) in 2001.

The need for a Regional Representative Council (DPD) in the constitution is motivated by two main reasons. First, is to bring local needs and interests into policymaking at the national level. Implicitly, this implies



another meaning that the House of Representatives (DPR) so far has not been sufficiently capable of being able to play a role representing regional interests. Second, is to encourage the existence of balancing political power in the parliament so that legislative power is not concentrated in one institution.

The first reason is quite plausible. So far, the regions feel that the central government has not paid enough attention, namely when the government was managed centrally during the New Order era. Regional aspirations and interests are not accommodated in decision making at the central level.

This has created dissatisfaction in the regions, especially when they know and realize that potential resources in the regions are absorbed for central interests. Politically, this is of course not beneficial in terms of strengthening national identity, national unity and territorial integrity of the country.

The presence of the Regional Representatives Council (DPD) is expected to be able to play a role in strengthening Regional Autonomy and bridging regional interests at the central level. The Regional Representative Council (DPD) becomes a kind of channel to fight for regional interests in national policies and increase the acceleration of regional development by fighting for a balance between the central and regional budgets on Budgeting Rights in the DPR RI. On the other hand, the Regional Representatives Council (DPD) is expected to carry out an important function to strengthen national integration, reduce regional turmoil and keep regions away from the spirit of separatism. In this context, the existence of the Regional Representative Council (DPD) is very important and strategic.

The second reason is on the other hand, especially from the perspective of relations between state institutions, that the presence of the Regional Representative Council (DPD) is expected to be the main balancing force so that policies at the national level are decided more carefully with various kinds of considerations. The existence of another room in this political representation system, apart from the House of Representatives (DPR), will encourage healthy competition between institutions in terms of political ethics and reform of the work system. This competition is expected to make the DPR and the Regional Representatives Council (DPD) better.

Each product of legislation is expected to be checked twice, in a kind of 'double-check' system, so that its quality is more guaranteed and truly reflects the combined interests of all the people (Asshiddiqie, 2011). In this context, the formation of the DPD is expected to make a big contribution to the realization of a more democratic government.

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With a background like the one above, it is clear that the Regional Representative Council (DPD) has an important position and role in the Indonesian constitutional system. As an institution that acts as an institution that absorbs regional aspirations and an institution that fights for regional aspirations in national policies, the presence of the Regional Representative Council (DPD) is an answer to the lack of political control of the community which was previously only exercised by the House of Representatives (DPR). That is why, it is only natural that many people have high hopes for the institution of the Regional Representative Council (DPD).

The Regional Representative Council (DPD) only has the function of oversight and consideration, therefore the House of Representatives is stronger, while the powers of the Regional Representative Council are only additional and limited to matters directly related to regional interests. More extreme, Executive Director of the Center for Law and Policy Studies (PSHK) Susanti (2006) stated that the Regional Representative Council (DPD) was born without authority. According to him, it is not correct to say that the Regional Representative Council (DPD) "has limited powers". Because authority in a political context will always be related to political decision making. And the matter of making political decisions is something that is not included in the characteristics of the Regional Representative Council (DPD).

This limitation or lack of authority is seen in the legislative function inherent in the Regional Representative Council (DPD). Assiddiqie (2011), stated that according to the provisions of the 1945 Constitution, in the field of legislation the Regional Representative Council (DPD) does not have the authority to form a law, but only proposes a bill to the DPR.

The duties of the Regional Representative Council (DPD) in the field of legislation are only to support (auxiliary agency) the constitutional duties of the DPR. In a process of forming a law or legislation, the Regional Representative Council (DPD) does not have the power to decide (Non-Voting Right) or play a role in the decision-making process at all. Without sufficient authority, of course, the Regional Representative Council (DPD) will find it difficult to carry out its legislative functions perfectly. This has resulted in the limited role of the Regional Representative Council (DPD) in fighting for its original purpose as an institution that represents regional interests. It is also impossible for the system of checks and balances in the parliamentary institution to operate optimally.

Judging from the limited authority, it shows that the position of the Regional Representative Council



(DPD) is not equal to that of the People's Representative Council (DPR). So, naturally, the concept of bicameralism in the Indonesian legislature is still questionable. It must be admitted that the current Regional Representative Council (DPD) is built based on the concept of a second chamber parliament without a paradigm, not referring to the parliament in one of the countries that exist today. If only the decision-makers of the policy draft on the formation of the Regional Representative Council (DPD) tried to learn from countries that adhere to the two-chamber system (bicameral) and then want to refer to it, then the political position of the Regional Representative Council (DPD) will certainly not be what it is today. You see, even though it is just to nurture the soul, it is called a soft bicameral system.

The formation of DPD RI without Parliamentary Structure Theory

Two reasons allow the drafters of the constitution to choose a bicameral system. The first is to build a check and balance mechanism in discussions in the legislative field. The second reason is to form representatives to accommodate certain interests which are usually not sufficiently represented by the first assembly.

- a. All federal States have two assemblies;
- b. Most countries with large populations have two assemblies: likewise, most countries with large territories have two assemblies.

The status of the two houses to some extent depends on the way they are elected, if the second chamber is directly elected by the voters, the system or cycle of elections could be different, because if not, the reasons for choosing the two houses can be questioned again.

Lijphart (1995) distinguishes between the strong and weak bicameral parliaments into three characteristics: First, the powers that are formally granted by the constitution to the two chambers; second, how their method of selection usually affects the democratic legitimacy of these chambers; Third, a crucial difference between two chambers in a bicameral legislature is that the second chamber may be elected in a different way or design as well as over representing a particular minority.

If the second chamber is representative of the regions, the strength of the second chamber may vary depending on whether the bill in debate relates directly to these regions. And a joint session of the two assemblies can be used as a mechanism to resolve the conflict so that most members of the second assembly have a greater proportion of the final

decision making. The bicameral systems that exist in the world are evenly divided between the strong and the soft. Many powerful systems are found in presidential systems. There is no presidential system that uses a soft bicameral system. If we study 48 countries in the world, where 22 countries are in the form of Unitary States which adhere to a two-chamber system (bicameralism), none of the two chambers are as weak as the Regional Representative Council of the Republic.

It must be admitted that the current Regional Representative Council (DPD) is built on the concept of a second chamber parliament without a paradigm. Without sufficient authority, of course, the Regional Representative Council (DPD) will find it difficult to carry out its legislative functions perfectly. This resulted in the limited role of the Regional Representative Council (DPD) in fighting for its original purpose as an institution that represented regional interests. It is also impossible for the system of checks and balances in the parliamentary institution to operate optimally. Judging from the limited authority, it shows that the position of the Regional Representative Council (DPD) is not equal to that of the People's Representative Council (DPR). So, it is only natural that the concept of bicameralism in the Indonesian legislative body is still questionable in the Parliamentary Structure.

CONCLUSIONS AND RECOMMENDATIONS

From various literature sources that become the author's reference in research on representative institutions (parliament), several terms can be used in representative institution theory, including the legislature, assembly, and parliament. The term legislative or legislature reflects one of the main functions of the institution, namely the making of laws (legislation).

Analyzed based on the legislative function in the narrow sense of the Indonesian Parliament after the amendment to the 1945 Constitution of the Republic of Indonesia, practicing asymmetric bicameralism / weak bicameralism / soft bicameralism in which one room is stronger than the other, because of its authority DPR is more dominant than DPD.

The bicameral system, not a static one in its development. According to Lijphart (1995), three models can be found in its implementation, namely Strong Bicameralism, Weak Bicameralism and Insignificant Bicameralism. Between strong and weak parliaments Lijphart (1995) makes three characteristics: First, the powers that are formally granted by the constitution. Second, how their method of selection usually affects the democratic legitimacy of these chambers. Third, a crucial difference between the two chambers in the bicameral legislature is that the second chamber may be elected in a different way or design as the representative of a



particular minority.

If analyzed by the Indonesian Parliament after the amendment to the 1945 Constitution of the Republic of Indonesia, related to Lijphart's (1995) opinion, regarding the bicameral parliamentary model in the context of a limited legislative function, the building of the Indonesian Parliament adheres to a soft bicameralism weak system and is incongruent in style. It is called incongruent because the first room is different from the second room. The first chamber (DPR) is the political representative, while the second chamber (DPD) is the territorial/regional/regional representative.

Bicameralism Weak Building, found in the provisions of the 1945 Constitution of the Republic of Indonesia, (post-amendment), Article 20 (1) and Paragraph (2) and Article 20A Paragraph (1) The DPR has a full legislative function in making laws starting from the planning stage, the discussion stage, and the approval decision-making stage, whereas the DPD has limited legislative authority and function, as regulated in Article 22D Paragraph (1) and Paragraph (2), namely that it can submit a bill and participate in the discussion but cannot participate in returning the final decision.

Based on the results of this study, the following conclusions can be drawn:

1. Judging from the limitations of authority, it shows that the position of the Regional Representative Council (DPD) is not equal to that of the People's Representative Council (DPR). The concept of bicameralism in the Indonesian legislature is still questionable in the Parliamentary Structure. Therefore, it can be said that the Regional Representative Council of the Republic of Indonesia (DPD RI) was born without the Parliamentary Structure Theory.
2. DPD RI was born without justice because the DPD RI is not equal to the DPR RI, this violates social justice as stated in the fourth paragraph of the preamble to the 1945 Constitution as the state constitution, as well as injures social justice which is the fifth principle of Pancasila as the basis of the Republic of Indonesia and philosophy live the Indonesian nation.
3. The results of the research prove that the birth of the DPD RI has a constitutional defect because it violates social justice as stated in the fourth paragraph of the preamble to the 1945 Constitution as the state constitution. Based on the results of research on Political Law, it is increasingly clear that the reduction of the functions, rights and powers of the DPD RI by the political elites and rulers at the time of its formation through the III Amendment to the 1945 Constitution of the Republic of Indonesia Chapter VII A Article 22C and Article 22D concerning Regional

Representative Council, is the engineering of political elites and rulers through political law.

4. The Regional Representative Council as an institution in the field of legislation has the same position and authority as the House of Representatives (DPR) and the President. For this reason, researchers have the belief that the Unitary State of the Republic of Indonesia (NKRI) is very appropriate to use a strong bicameral parliamentary system where the DPD RI is equivalent to the DPR RI, so it is necessary to make changes to the 1945 Constitution of the Republic of Indonesia Chapter VII A Article 22C and Article 22D. concerning the Regional Representative Council.

Recommendations

Reform of the constitutional structure of the Indonesian representative institution (parliament) must be carried out, particularly concerning the regulation of the position of the DPD which is a regional representative institution and has a position as a state institution, as regulated in Article 1 Paragraph (2) of the 1945 Indonesian Constitution, so that it is developed into a bicameral system strong (strong bicameralism) in the sense that the two rooms are equipped with the same strong authority and balance each other.

To realize the checks and balances system, the DPD must be given full authority (starting from the planning stage, holding discussions and the decision-making stage) in certain fields as regulated in Article 22D Paragraph (1) and Paragraph (2) of the Indonesian Constitution. 1945, which is related to regional interests, namely regional autonomy, central and regional relations, formation, expansion and merger of regions, management of natural resources, other economic resources, as well as central and regional finances, state revenue budget, taxes, education and religion, both in the field of legislation and budgeting, the DPD has the right to submit bills, discuss and make decisions. Meanwhile, the results of DPD supervision must be followed up by the Government.

To achieve the effectiveness of parliamentary functions in Indonesia after the amendments to the 1945 Constitution of the Republic of Indonesia, the authors provide specific suggestions as follows:

1. The presence of the Regional Representative Council (DPD) must be able to play a role in strengthening Regional Autonomy and bridging regional interests at the central level. The Regional Representative Council (DPD) must be a kind of channel to fight for regional interests in national policies and to increase the acceleration of regional development by fighting for a balance of the Revenue Budget between the Central and Regions on



Budgeting Rights in Parliament. For this reason, the Regional Representative Council (DPD) must have Budgeting Rights.

2. The Constitutional Court Decision Number: 92 / PUU-X / 2012. The Regional Representative Council (DPD) as an institution in the field of legislation has the same position and authority as the House of Representatives (DPR) and the President. For this reason, the Regional Representative Council (DPD) must have LEGISLATION RIGHTS
3. On the other hand, the Regional Representative Council (DPD) is expected to carry out an important function to

strengthen national integration, reduce regional turmoil and distance the region from the spirit of separatism. In this context, the existence of the Regional Representative Council (DPD) is very important and strategic.

To realize the aforementioned suggestions, the authors argue that there is a need for amendments to the 1945 Constitution of the Republic of Indonesia to amend the UUD'45 Chapter VIIA Article 22C and Article 22D concerning the Regional Representative Council.

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