

Strengthening Effort of Legislation Function of Regional Representatives Council (DPD) in the State Government System

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Abstract. This paper raises the issue of how to fortify the regulative capability of the DPD considering Article 22D of the 1945 Constitution of the Republic of Indonesia and a few choices of the Protected Court connected with the regulative capability of the DPD. The reason for this paper is to distinguish and dissect the regulative capability of the DPD and related Protected Court choices. This composing utilizes a regulating juridical strategy with a way to deal with regulation and the Established Court's choice connected with the regulative capability of the DPD. This paper presumes that the administrative power of the DPD after the Protected Court's choice puts the place of the DPD on fair terms with the DPR and the President, as directed in Article 22D passage (1), section (2), and passage (3) of the 1945 Constitution of the Republic of Indonesia. The Sacred Court confirms the place of the DPD during the time spent examining the Bill with the DPR and the President, albeit the execution has not yet been ideal. In this manner, it is proposed that in the change to the 1945 Constitution of the Republic of Indonesia, it is important to explain the administrative capability of the DPD, or if nothing else be contained in the Revision to the Law that directs the DPD.

Keywords: strengthening, function, legislation, DPD

1 Introduction

1.1 Background

Change of the 1945 Constitution of the Republic of Indonesia (The 1945 Constitution of the Republic of Indonesia) resulted in this lots of changes to design system of Indonesian state administration, including arrangement about institution representatives. Correction towards it, one of them done through changes carried out in

2001 in yearly gathering of Individuals' Consultative Get together of the Republic of Indonesia. The third revision of the 1945 Constitutions order presence another establishment in state arrangement of Indonesian organization, specifically the Territorial Agent Chamber (DPD) which is directed in Article 22C and Article 22D of the 1945 Constitution of the Republic of Indonesia.

Formation DPD as a state institution is effort constitutional which aims to be able to more accommodate voice from region with give channels, all at once role to region. The birth of the DPD in the Indonesian constitution was initiated for increase representativeness of region in the retrieval process decision political administering the state with hope to be created integration strong nation in framework of the Unitary State Republic of Indonesia (NKRI). The presence of the DPD cannot be separated from the central and regional connections which have always experienced tension since Indonesia's independence. With the formation of the DPD, regional interests can be accommodated.[1]

Correction towards the 1945 Constitution of the Republic of Indonesia, one of them done through changes carried out in 2001 in yearly gathering of Individuals' Consultative Get together of the Republic of Indonesia. The third revision of the 1945 Constitutions order presence another establishment in state arrangement of Indonesian organization, specifically the Territorial Agent Chamber (DPD) which is directed in Article 22C and Article 22D of it.

It's gives specific powers to the DPD. In the field of authoritative guidelines, the DPD has the power to submit and take part in talking about draft regulations (RUU) connected with territorial independence, focal and provincial relations, arrangement and extension and consolidation of locales, the board normal assets and other monetary assets, as well as connecting with the monetary harmony between the middle and the areas.

Aside from that, the DPD likewise has the power to give contemplations to the Place of Delegates (DPR) with respect to the Draft State Income and Use Financial plan (APBN) and draft regulations connecting with expenses, schooling and religion. The association of the DPD in giving contemplations is expected to give an open door to the DPD to communicate its perspectives and feelings on the bill, on the grounds that the DPD's perspectives and assessments will be connected with provincial interests. Field oversight authority is given to the DPD in regards to execution of regulations. As to keeping kinds of regulations, these regulations are talked about and additionally viewed as by the DPD. Aside from its position, the DPD is additionally given the power to give contemplations to the arrangement of individuals from the Monetary Review Board (BPK).

However, in carrying out its duties and authority, the DPD's authority is considered less significant and is designed not to have its own authority in making decisions. According to Jimmy Asshidqie, the function of the DPD based on the 1945 Constitution of the Republic of Indonesia is only as a representative for legislators together with the DPR. The nature of its duties is only to support (auxiliary agency) the constitutionality of the DPR's duties. In the process of making laws (UU), the DPD does not have the power to decide or play a role in the decision-making process. This is also in

accordance with the opinion of Bagir Manan who stated that the presence of the DPD does not further strengthen the regional of participation in representative bodies because the DPD is only a contemporary institution of the DPR. The duties and authority of the DPD are limited and the DPD's proposals are only for consideration by the DPR.[2]

On the other hand, there are a number of Constitutional Court decisions, namely Constitutional Court Decision Number 92/PUU-X/2012 and Number 79/PUU-XII/2014 which based on the rulings in their decisions, the Constitutional Court ratified these decisions and has restored the authority of statutory regulations belonging to the DPD as regulated in the constitution. The DPD has the power to be involved and examine the bill beginning from the conversation planning stage, accommodation stage, and conversation of the bill. The Protected Court's choice likewise applies to articles in Regulation Number 12 of 2011 concerning the Foundation of Authoritative Guidelines and articles in Regulation Number 17 of 2014 concerning Individuals' Consultative Gathering, Individuals' Agent Board, the Provincial Delegate Chamber and the Local Nation's Delegate Committee (Regulation on MD3).

1.2 Problem

In view of the foundation portrayal over, the issue that will be talked about is how to fortify the DPD's authoritative capability in light of Article 22D of the 1945 Constitution of the Republic of Indonesia and the plans in Protected Court Decision Number 92/PUU-X/2012 and Number 79/PUU-XII/2014?

1.3 Objective

This paper means to find out and analyze the supporting of the ability of DPD guideline considering Article 22D of the 1945 Constitution of the Republic of Indonesia and the blueprints in Blessed Court Choice Number 92/PUU-X/2012 and Protected Court Choice Number 79/PUU - XII/2014.

1.4 Method

This paper uses a normative juridical method with an approach to statutory regulations and Constitutional Court Decisions.[3] The normative legal writing method is carried out through literature studies related to legal politics by examining primary, secondary and tertiary data. Data collection techniques through literature studies related to the 1945 Constitution of the Republic of Indonesia and statutory regulations as well as a number of Constitutional Court decisions related to the function of DPD statutory regulations. The data analysis method is carried out qualitatively, starting from positive law then analyzed qualitatively to draw conclusions.[4]

2 Analysis

2.1 DPD legislation function based on Article 22D of the 1945 NRI Constitution as well analysis provision in Constitutional Court Decision Number 92/PUU-X/2012 and Constitutional Court Decision Number 79/PUU-XII/2014

The Indonesian state framework has gone through changes since there was a revision to the Constitution from the 1945 Constitution (UUD) to the 1945 Constitution of the Republic of Indonesia. The movements to the 1945 Constitution of the Republic of Indonesia in regards to state organization were completed by underscoring power and authority in view of the capability of state foundations managing created nations comparable to the arrangement of balanced governance, which has constitutional implications for the post-change state power administration system.[5] It's plainly controls the protected framework, separates the parts of state power, and manages established state organizations. Revisions to it have brought forth various state organizations, both those whose authority is allowed by the constitution (abilities endowed unavoidably) and state foundations whose authority is given by regulation (powers entrusted legislatively). State institutions which hold state power, are constitutional in nature, as well as state institutions which are formed by law and/or other statutory regulations which are bound to each other based on the principles of constitutionalism, the rule of balanced governance, the standard of mix, and the guideline of advantage for society, which depends on the 1945 Constitution of the Republic of Indonesia as the protected juridical reason for overseeing the Indonesian state. Changes in the system of constitutional affairs also have implications for state institutions which are constitutionally entrusted with authority, including representative institutions, as regulated in Chapter II concerning the MPR, Chapter VII concerning the DPR, and Chapter VIIA concerning the DPD, the following provisions are further regulated by law.

The DPD was formed as a new state institution which was given authority based on law (constitutionally entrusted power) since the Third Amendment, the 1945 Constitution in November 2001. However, the de facto birth of the new DPD occurred on October 1 2004 when 128 DPD members became was elected and appointed for the first time, and took the oath at the MPR/DPR RI Building. Based on this constitutional basis, the DPD institution is directly a legislative institution. The basic reasons that accommodate the existence of the DPD in Indonesia's constitutional structure are: [6]

- a. Reinforce provincial ties inside the unitary condition of the Republic of Indonesia;
- b. Increasing the accumulation and convenience of provincial yearnings and interests in the definition of public strategies connected with nations and locales; Furthermore,
- c. Encourage the speed increase of vote based improvement and territorial advancement in an agreeable and adjusted way. However Thus, the DPD regulations in the 1945 Constitution of the Republic of Indonesia show that DPD has function legislation limited, function consideration limited and functional supervision

limited. This thing based on Article 22D of the 1945 NRI Constitution, which determines that DPD:

Notwithstanding, the DPD guidelines in the 1945 Constitution of the Republic of Indonesia show that the DPD has restricted administrative capabilities, restricted thought works, and restricted administrative capabilities. This depends on Article 22D of the 1945 Constitution of the Republic of Indonesia which confirms that the DPD:

- a. can submit to the DPR draft regulations connecting with local independence, focal and territorial relations, the development and extension and consolidation of districts, the executives of regular assets and different wellsprings of financial, as well as those connecting with the equilibrium of focal and provincial funds;
- b. participate in examining draft regulations and guidelines connecting with territorial independence, focal and local relations, development and extension and consolidation of districts, the executives of regular assets and other financial assets, as well as those connecting with the equilibrium of focal and provincial funds, as well as giving thought to the DPR draft regulation concerning the state income and consumption spending plan as well as draft regulations connected with tax collection, schooling and religion; And
- c. can regulate the execution of the law with respect to territorial independence, the development, extension and consolidation of areas, focal and provincial relations, the board of normal assets and other monetary sources, execution of the state income and consumption financial plan, duties, training and religion as well as pass the consequences of the oversight on to the DPR as material for thought for follow-up;

The presence of the DPD causes the MPR to rely on two institutional pillars of representation, political representation through the DPR and regional representation through the DPD, resulting in changes to the organizational structure of the parliament. [7] This thing reflected in Article 2 passage (1) of the NRI Constitution 1945 which expressed that the MPR comprises of on chosen individuals from the DPR and DPD individuals through political race general and controlled more carry on with regulation. This is reflected in Article 2 passage (1) of the 1945 Constitution of the Republic of Indonesia which expresses that the MPR comprises of individuals from the DPR and individuals from the DPD who are chosen through broad decisions and are additionally directed by regulation. This is different from before the amendment to the 1945 Constitution which adhered to the principle of parliamentary supremacy. At that time, the understanding of popular sovereignty was implemented through the institutionalization of the MPR which was constructed as an institution embodying the sovereign Indonesian people through procedures for political representation (representative politics) by the DPR, regional representation (regional representation) by Regional Representatives and functional representatives (functional representation) by Group representatives. DPD as a state foundation is additionally directed by Regulation no. 17 of 2014 concerning the MPR, DPR, DPD and DPRD as follows has gone through a few last changes with Regulation no.

13 of 2019 concerning the Third Revision to Regulation Number 17 of 2014 concerning the MPR, DPR, DPD and DPRD (Regulation concerning MD3).

2.2 Decision Court Constitution Number 92/PUU-X/2012

The Established Court likewise expressed that Article 143 passage (5) of the MD3 Regulation is thought of as substantial and has restricting legitimate power as long as it adds the expression "...to the initiative of the DPD for draft regulations connected with provincial independence, focal and territorial relations, arrangement and extension and consolidation. locales, the executives sources, nature and different wellsprings of monetary energy, as well as the equilibrium of focal and provincial funds." Exactly the same thing likewise applies to Article 144 of the MD3 Regulation which is thought of as substantial and has the power of a lawful restricting as long as it adds the sentence "... also, to the DPD authority for draft regulations connecting with local independence, focal and provincial relations, arrangement and extension and consolidation of districts, the board normal assets and other monetary assets, as well as the equilibrium of focal and territorial funds." The Established Court's choice likewise expresses that Article 150 section (3) of the MD3 Regulation is substantial and has lawful power which for however long it is deciphered "DPD presents a Rundown of Issues (Faint) for proposed bills from the President or DPR concerned which have provincial independence, focal and territorial relations, development and extension and converging of districts, the board of different qualities and wellsprings of financial energy, as well as the equilibrium of focal and local funds." In view of this choice, the Protected Court through this choice thinks about that it has reestablished the power of the DPD's legal guidelines as directed in the constitution. The DPD has what is going on to be involved and examine the bill beginning from the foremost conversation stage, the Frail comfort and conversation stage, as well as the little assessment stage. This Protected Court choice likewise applies to articles in Rule Number 12 of 2011 concerning the Preparation of One Breath Rules with articles in the MD3 Rule which were dumped by the Spread out Court. [8] Through this choice, the Protected Court has affirmed five parts of DPD association in the authoritative cycle, to be specific :

- a. In in proposing draft regulations connected with areas, the DPD is equivalent to the DPR and the President;
- b. The honors/experts of the DPD are comparable to those of the DPR and the President in discussing the bill;
- c. The DPD partook in examining the bill yet nobody gave endorsement for the bill to become regulation;
- d. DPD partakes in setting up the Public Regulation Program; Also,
- e. The DPD surrendered thought without follow and in talking about the bill. For this situation, the DPR and the President should request the DPD for thought from the APBN Bill.

This implies that in light of Established Court Choice Number 92/PUU-X/2012 the position and authority of the DPD in public regulations and guidelines, specifically, First, the place of the DPD is equivalent to the DPR and the President in proposing related

regulations. draft regulation with respect to regions, including the board of regular assets and other monetary assets; besides, the power of the DPD is equivalent to that of the DPR and the President in examining the bill however doesn't take part in that frame of mind to even out I conversations of the bill becoming regulation and the DPD just gives contemplations without following up and talking about the bill; furthermore, third, the DPD partakes in setting up the public regulation program.

2.3 Decision of Constitution Court Number 79/PUU-XII/2014

The Sacred Court through choice Number 79/PUU-XII/2014 allowed the solicitation for legal audit of Article 71 letter c, Article 166 section (2), Article 250 passage (1), and Article 277 section (1) of the MD3 Regulation. In Choice Number 79/PUU-XII/2014, the Protected Court deciphered as restrictively unlawful Article 71 letter c, Article 166 section (2), Article 250 passage (1), Article 277 passage (1) of the MD3 Regulation, in particular that the Established Court stressed the contribution of the DPD's position when submit and examine a bill with a scholarly text connected with territorial independence, provincial development/extension, the idea of the board assets, and the freedom of the DPD spending plan. In the first place, Article 71 letter c of the MD3 Regulation is deciphered as "examining draft regulations connected with those proposed by the President, DPR or DPD with provincial independence, focal and territorial relations, arrangement and extension and consolidation of districts, wellsprings of the executives, nature of force and wellsprings of monetary strength. others, as well as the equilibrium of focal and local funds, including the past DPD which was taken by common understanding between the DPR and the President."

Aside from that, in the conversation the DPD was involved prior to taking a joint understanding between the DPR and the president. Second, Article 166 section (2) of the MD3 Regulation implies that the draft regulation as expected in passage (1) alongside its scholarly paper is submitted recorded as a hard copy by the DPD initiative to the DPR administration and the president. Third, Article 250 section (1) of the MD3 Regulation is deciphered as doing the obligations and authority as planned in Article 249, the DPD has freedom in getting ready financial arrangements for projects and exercises which are submitted to the president for conversation with the DPR as per the arrangements relevant regulations and guidelines. Fourth, Article 277 passage (1) of the MD3 Regulation is deciphered as a draft regulation with a letter of acquaintance from the DPD initiative with the DPR authority and the president. This choice partners with the power of the DPD in Article 22D of the 1945 Constitution of the Republic of Indonesia. The DPD as a standard representative establishment has what's the deal with the DPR and the President while proposing and taking a gander at draft rules connecting with provincial opportunity, focal and neighborhood relations, the new development and extension and cementing of locales, wellsprings of the heads of properties and other financial assets, as well as the equilibrium of focal and close by resources. Anyway, this is in opposition to Article 20 of it.

This decision also provides budget independence for the DPD, so that the DPD can work optimally and must be supported by the availability of an adequate budget. It is also necessary that a budget cannot be issued if there are differences between the DPR and DPD. Therefore, this law provides equal opportunities to the DPR and DPD independently to prepare and submit their institutional budgets according to their respective task plans, while still paying attention and considering the state's financial capabilities according to discussions between the President and the DPR. This is because it is appropriate to send the budget to the DPR for discussion with the President, taking into account the DPD's considerations.

3 Closing

3.1 Conclusion

In light of the multitude of portrayals given, in this article it tends to be reasoned that the DPD's clout in the field of regulation after the Sacred Court choice is to put a sufficient and solid administrative capability of the DPD along with the DPR and the President, as managed in Article 22D segment (1), entry (2) and area (3) of the 1945 Constitution. The Laid out Court surrendered study of specific articles of the MD3 Guideline. In decision Number 79/PUU-XII/2014, the Sacred Court gave conditions to illegal translation of Article 71 letter c, Article 166 section (2), Article 250 passage (1), and Article 277 passage (1) of Regulation no. MD3. Fundamentally, the Sacred Court accentuates the association of the DPD's position while proposing and talking about draft regulations connected with territorial independence, development/extension, the board of the idea of wellsprings of force and the freedom of the DPD's spending plan. This choice gives the DPD an order to be additionally engaged with the regulative cycle in Indonesia.

Under the steady gaze of the Established Court choice Number 79/PUU-XII/2014 of 2012, the Sacred Court had affirmed the power of the DPD through the Protected Court choice Number 92/PUU-X/2012 which was conveyed in regards to the material survey of the MD3 Regulation. The most common way of framing Administrative Guidelines in Indonesia is made sense of through Regulation Number 12 of 2011 concerning the Arrangement of Authoritative Guidelines, in this manner it has been altered a few times, most as of late by Regulation Number 13 of 2022 concerning the Second Update of Regulation Number 12 of 2011 concerning Development of Authoritative Guidelines.

Legitimately, the phases of framing a regulation comprise of arranging, drafting, examining and proclaiming. The DPD's power steadily turned out to be extremely restricted, in particular that it could propose draft regulations connecting with local independence, focal and territorial relations, the arrangement and extension and consolidation of districts, sources of wealth management furthermore, other financial assets, as well as equilibrium focal and territorial money districts, and this should be composed by the DPR official body so it tends to be proposed by the DPR body. Apart from that, in the discussion stage which consists of level I and II discussions, the DPD is only given the

authority to follow the discussion process up to the level I discussion. After the Constitutional Court Decision Number 92/PUU-X/2012, the DPD has broader authority in making decisions. institutional decisions. This can be seen from the recognition of the DPD proposal as an institutional proposal without having to be coordinated by the DPR legislative body.

3.2 Suggestion

There is a need to affirm and strengthen the legislative function of the DPD when amending the 1945 Constitution of the Republic of Indonesia. This will provide a strong and clear constitutional foundation. However, constitutional amendments are not easy to carry out because they must fulfill a number of constitutional requirements mechanisms and procedures, many conditions and time. Thus, other efforts that might be made when the fourth revision of the MD3 Law is carried out, at least regarding the DPD's legislative function, can be strengthened and clarified with a Constitutional Court decision which provides firmness in the DPD's authority in terms of submitting bills and discussing bills.

References

- [1] Efriza, Efriza, "Evaluasi Pemilu Serentak 2019 dan Sistem Presidensial," *Jurnal Renaissance*, vol. 4, no. 1, 2019.
- [2] S. Hendrawati, F. Santiago, dan Z. Fakrulloh, "Reconstruction Implementation of the Prerogative of the President in the Appointment of Ministers Based on the 1945 Constitution is Associated with the Indonesian Constitutional Law System," dalam *Proceedings of the 2nd Multidisciplinary International Conference, MIC 2022, 12 November 2022, Semarang, Central Java, Indonesia*, Semarang, Indonesia: EAI, 2023. doi: 10.4108/eai.12-11-2022.2327283.
- [3] Ali Zainuddin, *Metode Penelitian Hukum*. Jakarta: Sinar Grafika, 2011.
- [4] Ashsofa, Burhan, *Metode Penelitian Hukum*. Jakarta: Rineka Cipta, 2007.
- [5] Tim Penyusun Naskah Komprehensif Proses dan Hasil Perubahan UUD 1945, *Naskah Komprehensif Perubahan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Latar Belakang, Proses, dan Hasil Pembahasan 1999- 2002, Buku V Pemilihan Umum*. Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi, 2010.
- [6] Benoit, Kenneth, "Which electoral formula is the most proportional? A new look with new evidence," *Political Analysis*, 2000.
- [7] Jones, Mark P, *Electoral Laws and the Survival of Presidential Democracies*. Notra Dame: University of Notra Dame Press, 1995.
- [8] Muladi, Muhammad dan Suparno, "Indonesian Legal Reform Based on Pancasila," *Proceedings of the 1st International Conference on Law, Social Science, Economics, and Education, ICLSSEE 2021*, vol. 1, no. 1, Mar 2021.