

RECONSTRUCTION PROPOSAL REPRESENTATIVE COUNCIL INITIATIVES AREA REPUBLICINDONESIA IN EXECUTING LEGISLATION FUNCTIONS FOR REALIZING SOVEREIGNTY PEOPLE

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Abstract

In the legislative function, the DPD has the authority to submit and participate in discussing bills related to regional autonomy, central and regional relations, formation and expansion and merger of regions, management of natural resources and other economic resources, as well as those related to financial balance between the center and the regions as referred to in Article 22D paragraph (1) and paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Furthermore, the birth of the DPD RI is also interpreted as an optimization of Indonesia's representative institutions. The need for a two-chamber parliamentary system is important given the need to guarantee checks and balances mechanisms within the representative institutions themselves. However, in current practice the implementation of the legislative function is still far from expectations, so it is necessary to reconstruct the implementation of the legislative function owned by the DPD in realizing the ideal of people's sovereignty.

The method used in this study is normative juridical which is carried out as an effort to obtain the necessary legal material in connection with the problem. The legal materials used are primary legal materials, secondary legal materials and tertiary legal materials. In addition, primary data is also used to support secondary data on legal materials. For data analysis is done by interpretation method.

From the results of the research it can be concluded that the DPD RI has limited legislative functions because it does not have the power to make laws and exists only as a "special assistant" to the DPR RI and the government, or in other words the DPD RI is only a "weak chamber" under the DPR RI and the president in legislative functions. For this reason, the DPD RI still needs amendments to the constitutional amendments so that they can be on a par with other legislators, namely the DPR RI and the President, apart from that it is also an important aspect that public understanding needs to be of particular concern to continue to support the DPD RI which has a legislative function. So that aspirations that arise from the regions are still channeled to the DPD RI as an institution that has duties and functions as a legislative body.

Keywords: Legislation, Reconstruction

INTRODUCTION

Sovereignty people in Indonesia post reform the more Lots change And increasingly respected in various ways and institutional forms Which born. This development then changed the constitutional system significantly. This is only for the sole purpose of creating a constitutional mandate, namely welfare people's life. (Asshiddiqie , 1995). The constitutional system in the legislative field has seen a major change because practice shaper Constitution plus with presence institution Board Representative Republican Region Indonesia (DPD RI). Existence DPD RI in system parliament Indonesia in a manner conceptual is step

improvement system parliament Indonesia in framework provide a forum for the aspirations of regional (local) interests in the policy context national. Politically, the existence of the DPD RI started with the demand for democratization of the parliamentary system that used to be before the 1945 Constitution in the amendment was not elected through election. Design state administration Indonesia experience change fundamental after Assembly deliberative People Republic Indonesia (MPR RI) do four time changes to the 1945 Constitution of the Republic of Indonesia . One of The important change is the formation of a new state institution called DPD RI. Since change That, so system representative And parliament in Indonesia changed from unicameral system to bicameral system. The initial idea of forming the DPD institution RI is a means of aggregation, representation and articulation of people's aspirations and interests in the regions structurally as well as a tool to give a more role to the regions in the process of making national policies for problems Which directly related with area.

Idea the Then it is said in norm constitution as contained in chapter 22D Constitution NRIs Year 1945. That DPD RI have authority submit to DPR RI design Constitution Which related with regional autonomy, central and regional relations, formation and expansion as well amalgamation of regions, management of natural resources and other economic resources, as well as those related to central and regional financial balances. DPD RI got to supervise (control) the implementation of the law on autonomy regions, central and regional relations, formation and expansion as well as mergers area, management of natural resources, and other economic resources, implementation state budget and spending, taxes, education and religion. But the supervision be delivered again to DPR RI as consideration for follow-up.

With task And authority constitutional like This so task DPD RI in field legislation only support task constitutional Board Representative People Republic of Indonesia (DPR RI) ⁹. In the process of forming a law on legislation, the DPD RI does not have the power to decide or play a role in decision-making process altogether. Though, the support requirements to be member DPD RI Far more heavy compared to condition support For become members of the House of Representatives RI. It means, quality legitimacy DPD members RI it at all No offset in a manner worth it by quality authority as people's representatives area. The weakness of the authority possessed by the DPD shows that efforts to make it happen This idea is not without challenges and obstacles. The challenges and obstacles originate from aspect legislation, Good which is directly related with regional interests as well as those related to constitutional tasks and authorities DPD RI, as well as the duties and functions of DPD RI. Constitutional challenges and obstacles, considered contained in the 1945 Constitution of the Republic of Indonesia of 1945, which is not easy to overcome by means "formal amendments. If the situation is the opposite, or for example the DPD RI can strengthened, the DPD RI Legislation function can become a supervisor and counterweight (checks and balances), this is in line with what was conveyed by research in John's thesis Sinartha Wolo Which title Role Legislation Board Representative Area And The effect To Effort Strengthen Checks And balances In Institution Legislative, that DPD RI colleagues in one context of state power, namely the DPR RI in supervising the performance of other Powers that can run optimally, namely PowerJudicial and Executive Powers, but in fact the DPD RI is not strong enough to become balancer power Which other

Improvement provision Constitution NRIs Year 1945 can also taken through convention state administration or through interpretation by Justice constitution. Implementation Task And Function DPD RI that is legislation, budget And supervision through the stages of discussion. In the decision-making stage DPD RI, the discussion is carried out through 2 (two) levels of discussion, namely: (Projodikoro , 2022) Level I discussion done by tool completeness DPD RI And Level II discussion And decision-making in the

DPD RI Plenary Session. Some form of decision DPD RI is Decision about Prolegnas proposal and Decisions about supervision.

Throughout the course of reform, several issues still need to be discussed and examined about regulations that are considered to hamper DPD RI. In the constitution, authority The DPD RI is considered to be still limited when compared to the DPR RI, despite the fact many see these two institutions as having an equal position in several aspects. However, this has also led to the two-chamber system of Indonesia's representative institutions still soft (soft bicameralism). In principle, the two rooms do not have authority Which The same or equivalent.

The House of Representatives of the Republic of Indonesia was formed, it looks like it has much greater authority and position rather than DPD RI. If seen from the perspective of Bicameralism written by Toni Harsan in his thesis entitled, Position of the Republican Regional Representative Council Indonesia Viewed From a Bicameral Perspective. DPD RI does look like that weak, so it needs improvement in the regulatory aspect. The research is very clear try give suggestion strengthening to DPD RI, It means institution DPD RI requires restructuring so that the position and authority of the DPD is through an Amendment V of the 1945 Constitution so that the position and authority of the DPD becomes strong and balanced with DPR so that parliament We use system bicameral strong or strong bicameral system. Through strength constitutional in carrying out its functions in the field of legislation, budget And supervision so DPD expected capable increase performance go beyond failure messenger class in period past And failure DPD periodbefore . Besides that too the DPD RI still has very little authority and tends to limited to agenda aspects and program activities to absorb the aspirations of the community which ultimately shows the extent of the strength of the position or position of the DPD The Republic of Indonesia as a large institution under the auspices of the legal umbrella of the 2011 Constitution of the Republic of Indonesia 1945. During its development, the limitations of the DPD also created gaps desire DPD RI submit a judicial review to Constitutional Court.

Through this background the author tries to pose a simple problem, Point what you want to propose in this thesis is related to the DPD RI which is still weak as legislator. History has recorded that there was never a Judicial Review regarding the Authority of the DPD RI in forming laws, at least there is two decisions of the Constitutional Court that have given decisions to the DPD RI For add authority And chance so that more strong as shaper law than before. As for the Court's decision The constitution is contained in the case registration decision Number 92/PUU-X/2012 And case registration decision number 79/PUU-XII/2014.

In practice the performance of DPD RI every year given the opportunity to enter into the mechanism formation Constitution, DPD RI allowed For propose initiatives on any bills to be discussed, which linkages tightly with area or aspirations local in form law Decision (Beschickking). For example, in 2021 there is a decision by the DPD RI Number 7 regarding Proposal for the National Legislation Program of the Regional Representative Council of the Republic of Indonesia Year 2021. Matter This Of course just No regardless from results second decision Court Constitution the. The decision of the constitutional court of course has more or less impact to performance DPD RI.

Based on empirical data from October 2004 to October 2014 has submitted 57 (fifty seven) bills, 237 (two hundred thirty seven) view And opinion, 74 (seven twenty four) consideration And 138 (one hundred threetwenty-eight) monitoring results. The entire bill has been submitted to the DPR however not all follow up. Several bills proposed DPD initiatives and DPD involvement the discussion on the bill was very limited, only the maritime bill was proposed initiative DPD And Finally become Constitution. Proof beginning that suggestion initiative DPD RI Not yet effective in operate process formation regulation legislation.

Other empirical data states that the proposal for the RI DPD initiative to this day is true not working optimally. It can be seen from the recent data that only one the only DPD RI initiative proposal that was accepted into law only in 2014 by other legislators of the Indonesian Parliament and the President. Ineffectiveness This Of course just No regardless from Authority DPD RI Which based on base constitutionally reduced by the MPR, DPR, DPD, and DPRD Laws (UU MD3). Although Already he filed judicial reviews, However still just has give constitutional loss to the DPD RI, meaning that it cannot be denied that some the articles in the MD3 Law and the Law on the Establishment of Legislation today still exist legalize the practice of forming legislation which has deep effect reduce function DPD RI, until reduce task authority DPD RI from will constitution.

METHOD

Type study law is carried out in a manner juridical normative is juridical normative Where law conceptualized as What Which written in regulation legislation (law in books) or law is conceptualized as a rule or norm Which is benchmark behave man Which considered proper This normative legal research is based on primary and secondary legal materials, namely research that refers to the norms contained in regulations legislation.

This thesis research also went through a statutory approach process (statue approach), meaning the statutory approach is an approach that conducted by reviewing all laws and regulations concerned cant with issue law Which handled. In method approach researchers need to understand the hierarchy, and the principles in the regulations legislation. laws and regulations are written regulations formed and generally binding. From this understanding, briefly it can be said that what is meant by a statute is in the form of legislation and regulations. With thereby approach legislation is approach Which use legislation and regulations

The technique of collecting legal materials in this study is Studies library, namely conducting searches of legal materials by reading, see, listen, nor Now Lots done search with through Internet, Technique collection material law This writer do For collect material law secondary Which made material support instudy.

Legal research conducted by the author using material analysis techniques law with use method interpretation (interpretation). Interpretation law happen, if there is provision Constitution Which in a manner direct can applied to the concrete case at hand, or this method is carried out in terms of the rules Already There is, but No clear For can applied on incident concrete or contains the meaning of solving or deciphering a double meaning, norm blurred (vage norms), conflicts between legal norms (antinomy norms), And uncertainty from something regulation the legislation even Still still hold on on the sound of the text.

Results

If only the proposal for the DPD RI initiative could function properly, then research would be conducted has been studied more deeply by Elisabeth Kristiani Panjaitan, Ratna Herawati, Untung Sri Hardjanto entitled on the Implementation of Legislative Functions of the Regional Representatives Council Republic of Indonesia Period 2009-2014 will have a process that has the same results effective by DPD RI. Study elisabeth et al. actually show How obstacles and obstacles experienced by the DPD RI as a high state institution that become part shaper Constitution. As for difference study Elisabeth with scientific work that the author will examine in depth about the significance of the proposal initiative DPD RI Which has not yet been reviewed by the journal.

A pabila in Study law discuss between what should be law as legal fact disclosed para expert law in level theoretical must linear with concrete events that occur in the field, then in research DPD RI regarding the proposal for this initiative, the author will see very well that it is not optimal the productivity of DPD RI in forming laws is fundamental. This means that the facts that occur in the field, there are still many obstacles

experienced by the DPD RI, in addition to the proposed RI DPD initiative, the author suspects that it has not become a top priority by DPR RI And Government For made Constitution, so that only One Laws are only accepted by the DPR RI together with the President as two institutions Legislators. in another sense that, not only giving views and give consideration to the bill only, but technically and the legal basis of the DPD RI must have a good mechanism in the formation of laws act.

Therefore, if the first stage to submit the law is entered into the prolegnas, so prolegnas must describe need as well as urgency formation of legislation as a program,²¹ In principle Prolegnas is instrument For plan program formation Constitution so that The resulting laws are directed to be consistent and aligned with development planning national government work plan and DPR RI strategic plan as well as strategic plan DPD RI.²² On base the also needed mechanism supporters Which can ensure implementation plan legislation in implementation development And formation public prosperous needed synergy between implementation development public with implementation development law positive Whichplanned and integrated in a systematic and structured planning program comprehensively, and this must also be created in one of the processes namely process initiative proposal Which conducted by DPD RI.

The ideals of the state to create maximum people's sovereignty the technical proposal of the initiative is p the main thing that needs to be reconstructed in the technical process, so that later it can be more effective than its current implementation. However, if what happens is just the opposite, so the author's background needs to examine more deeply aboutthe initiative of the DPDR RI with the title Reconstruction of the Proposed Council of Representatives Initiative Region of the Republic of Indonesia in Carrying Out Legislative Functions to Realize Sovereignty People in a work scientific thesis.

Discussion

A. Function Legislation Board Representative Area Republic Indonesia

In principle, the most basic interests of each citizens is the protection of their rights as human beings. human rights is one of the core materials of the draft law modern state constitution. The link between the constitution and human rightscan be seen from historical development. Protection struggle Human rights are always related to the development of restrictions And arrangement power Which is teachings constitutionalism. In practice, the limitation of power arises because there is one thing incident Which background. Grow And develop in maintenance country. Power Which absolute by king English for example, leaving story dark in practice patriotic. Not no doubt this absolute power practice raises resistance from the Barons who Then in a manner evolutionary stimulate born, grow And the flower parliament in England. From the event there is a limitation of state power Then develop become culture in maintenance country, although this is not written in a text. Apart from the restrictions power, as well as the practice of protecting human rights man poured into the form regulations (text),this must be in line with the written provisions of the basic state agreement based on common consensus (constitution).

The birth of a constitutional guardian body is only for one main purpose namely as a means of controlling the practice of implementing the 1945 Constitution of the Republic of Indonesia in statutory form. That is, only by testing the invite, is one of the method country law can ensure legal entity That No Then played with or in for at will heart shaper Constitution. This is of course a noble task which is one the authority of the Constitutional Court granted by the Constitution of the Republic of Indonesia Year 1945. testing of laws against the 1945 Constitution of the Republic of Indonesia, often called as judicial reviews. However term the There is Which use with terms constitutional review.

B. Proposal Post RI DPD Initiative Decision Court Constitution Case No. 92/PUU-X/2012

Before Constitution about the Assembly People's Consultation, Board Representative People, Board Representative Area, And Board Representative People Area changed, based on Decision Court Constitution Case No. 92/PUU-X/2012, that this decision is a bit much change method formation regulation legislation Which There is in Indonesia, Wrong One trust Which appear post decision court constitution the is need changed practice submission the law law to include the Regional Representatives Council as an institution that lawful to propose statutory initiatives. This thing is existence For accommodate decision Court Constitution the. Scope Regional Representative Council according to the 1945 Constitution of the Republic of Indonesia Article 22D paragraph (1) mention authority Board Representative Area in matter can submit design Constitution Which related with area. The Constitutional Court emphasized that the word "can" is interpreted as a choice subjective Board Representative Area For submit or No submit Draft Constitution Which related with area.

In fact, Indonesian constitutional politics in particular process models legislation has the more emphasize shape going to direction system parliament two room. Matter This is implication after Court Constitution grant For part application Board Representative Region concerning laws of the People's Consultative Assembly, Council Representative People, Board Representative Area, And Board Representative Regional People and law no. 12 of 2011 concerning Law act Formation Regulation Legislation. Test material This done in framework emphasize authority constitutional Which owned by the House of Representatives Area in terms of legislation process.

To be more complete and examine more deeply, the authors discuss first a little about the implications of the decision. Test ideas to function legislation Board Representative Area covers 5 matter. First, so that Board Representative Area involved in a manner equivalent in preparation of the national legislation program. Second, the draft law generated are treated the same as the Draft Law of President and the House of Representatives. Third, engage in discussion Draft Constitution certain from beginning until end. Fourth, the discussion of certain Draft Laws is 3 parties (tripartite), namely the People's Representative Council, the Regional Representative Council, and the President. Fifth, as an integral part of the draft discussion process Constitution certain, Board Representative Area involved also in process agreement A Draft Constitution Which discussed in a manner tripartite.

Examination of the constitutional authority of the Regional Representatives Council as stated in Article 22D of the third amendment of the 1945 Constitution of the Republic of Indonesia conducted to find a constitutional basis stating as well justify that in context Chapter 22D Change Third Constitution 1945, the Regional Representative Council has equal authority with House of Representatives and the President. The thing that will be discussed mainly related with authority Board Representative Area For discuss Draft Constitution Which listed in Chapter 22D paragraph (2) the third amendment to the 1945 Constitution of the Republic of Indonesia from beginning to end including stage agreement.

Based on construction on Court Constitution emit the decision that the position of the Regional Representatives Council in the field of legislation equivalent to the House of Representatives and the President, on that basis the Council Representative Area entitled and/or authorized propose Draft Certain laws are drafting prolegnas within the DPR Representative Area And discuss Draft Constitution certain from the beginning to the end of the stages, but the Regional Representative Council No give agreement or endorsement design act act become law. The consequence of this decision is creation process legislation model tripartite (Board Representative People, Board Representative Area, President) special For Draft Constitution certain of these namely the Draft Law relating to regional autonomy, central and regional

relations, formation and expansion as well as merging of regions, management of natural resources and resources other economic resources, as well as those related to financial balance center and area.

This means that the presence of a Constitutional Court decision on the Law act Assembly deliberative People, Board Representative People, Regional Representative Council, and Regional People's Representative Council change structure state administration Indonesia Because President, Board Representative The people and the Regional Representatives Council have the same position in Draft Constitution. Matter This according to writer must There is emphasis on the function of legislation must be seen as a whole, namely starting from the submission process to approving a bill become Constitution.

Conclusion

1. Based on the discussion above, it can be concluded that position DPD Decision Court Constitution Number: 79/PUU-XII/2014 , parallelwith DPR And Government in discussion in a manner tripartite, However This position has not been fully implemented. based on functional analysis legislature, it can be concluded that the DPD RI has limited functions legislation Because No have power For form the law law and its existence only as a "special assistant" to the DPR RI and government, or in a word other DPD RI just “weak chamber” in lowerDPR RI and the president in the function of legislation. Implementation of post DPD functions Decision Court Constitution (MK) Number 79/PUU-XII/2014 , functionDPD legislation has not been fully implemented. This is caused by there are several Articles in the MD3 Law that have not accommodated the contents of the Decision MK, while the Constitutional Court Decision Number 92/PUU-X/2012 which is in essence designing the legislative process be a tripartite model, namely the DPR, DPD, and President, who is equal from the beginning to the end of the Level I Talks stage. On Talks Level II, DPD convey his opinion before agreement or endorsement bill become UU between DPR And Presidentin meeting plenary DPR However DPD No involved endorsement bill become UU.
2. The implementation of the legislative functions of the DPD RI The period to date is a bit much can still be considered to have made rapid progress, but not closed adjacent eye that, Still Lots obstacle And management from facet regulations and their implementation practices that need to be improved. means DPD RI still require amendments to the constitution in order to be equal with shaper Constitution Which other that is board representative the people and the President Apart from that, an important aspect is understanding the community needs special attention to continue to support the DPD RI having a legislative function. So that the aspirations that arise from the region still channeled to the DPD institution as an institution that has a duty as well as its function as an institution legislative.

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