

The Effectiveness of Regional Representative Councils: An Analysis of Checks and Balances and the Protection of Indigenous Peoples Rights

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Abstract

Following the reform, the establishment of the House of Regional Representatives (DPD) is a crucial component of the revitalization of the Indonesian constitutional system. This study examines the role of DPD in the bicameral system, as well as the regulations governing its authority in relation to the DPR, particularly in the formation of laws related to regional autonomy and indigenous peoples. The method used is normative legal research with a legislative approach. The results showed that, although DPD has a limited legislative function as stipulated in Article 22D of the 1945 Constitution, its authority has not been balanced with that of the DPR, thus hampering the effectiveness of regional representation. This imbalance has an impact on the weak protection of the aspirations of indigenous peoples, who are often victims of development policies, such as in the case of the eviction of customary land due to the construction of the Archipelago Capital. In this context, DPD should act as a bridge between the region and the central government. However, the absence of clear regulations regarding the form of DPD's accountability makes its position less optimal. Therefore, constitutional strengthening and regulatory reform are necessary to enhance the effectiveness, equality, and capacity of the DPD in representing and legislating, thereby ensuring justice, protecting the rights of indigenous peoples, and promoting equitable national development.

Keywords

Authority; Bicameral System; DPD; Effectiveness

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1. INTRODUCTION

Since the Unitary State of the Republic of Indonesia (NKRI) gained independence, Indonesia has undergone several changes in its constitution, commonly referred to as the 1945 Constitution of the Republic of Indonesia (UUD 1945). The changes to the 1945 Constitution occurred after the New Order era, also known as the post-Reformation era. In the post-Reformation era, Indonesia underwent various changes and improvements in all aspects, one of which was in the field of law and the national institutional system. Changes in the national institutional system can be seen in the formation of the Regional Representative Council (DPD), which is stated in Article 2 Paragraph (1) of the 1945



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Constitution. Referring to Article 2, Paragraph (1) of the 1945 Constitution, which states that the People's Consultative Assembly (MPR) consists of members of the House of Representatives (DPR) and regional representatives in accordance with the established rules (Diarti & Zukriadi, 2024).

The establishment of the DPD certainly has underlying reasons. The reasons for the formation of the DPD are to strengthen regional ties within the framework of the Unitary State of the Republic of Indonesia and to strengthen the sense of national unity, to maximize the grouping of aspirations and various needs from the regions related to formulating national policies, and to create democracy and equitable development in every region (Panjaitan, 2015). The reasons behind the formation of the DPD are closely tied to its role in national institutions. As stated in Article 22D of the 1945 Constitution, the DPD has the authority to propose draft laws (RUU) related to regional issues, such as regional autonomy.

One of the authorities of the DPD is that it can propose draft laws, which can be interpreted as indicating that Indonesia has a bicameral system consisting of the DPD and the DPR, both of which represent the people and have the opportunity to propose draft laws to be passed by the President (Panjaitan, 2015). The similarity in the authority of these two institutions raises the possibility of overlapping authority within the institutional system in Indonesia, creating legal uncertainty regarding people's representation in the bicameral system of the Indonesian constitutional system (Nirahua, 2011; Putra, 2023).

A bicameral system is a parliamentary system consisting of two chambers, such as the DPR and DPD in Indonesia, which serve to represent the interests of the people and regions in a balanced manner in the legislative process. The purpose of this system is to create fairer representation and prevent the domination of power by one party (Wati et al., 2022). In practice, this system is closely related to the principle of *checks and balances*. This mechanism ensures mutual supervision and balance between the executive, legislative, and judicial branches of government, thereby preventing the abuse of power. With this principle, each institution has limited authority and controls the others to maintain balance and ensure democratic and accountable governance (M. Marzuki, 2022).

The provisions in the 1945 Constitution do not comprehensively regulate the position of the DPD. There are no provisions relating to the powers of the DPD as stipulated in Article 22C of the 1945 Constitution, Article 22D of the 1945 Constitution, Article 23E paragraph (1) of the 1945 Constitution, and Article 22F paragraph (2) of the 1945 Constitution, or based on Law- Law Number 27 of 2009 concerning the People's Consultative Assembly (MPR), the House of Representatives (), the Regional Representative Council (DPD), and the Regional House of Representatives (DPRD) (Andriyan, 2018).

The accountability of the DPD is crucial because it concerns regional interests, which are a key factor in the country's progress. Reviewing the positive law relating to the DPD, there are no regulations concerning the form of accountability of the DPD to the people (Wasti, 2017).

Based on the background described above, the author formulates the problem as follows: What is the role of the DPD in the constitutional system of the Republic of Indonesia and the DPD regulations related to overlapping issues with the DPR in the formation of regional laws, such as those related to the rights of indigenous peoples?

2. METHOD

The research in this paper employed a normative research methodology. Normative research is a form of legal research that focuses on the study of literature, utilizing secondary legal materials, and making positive law the central object of study (Tahur et al., 2023). This study employs a statutory approach, commonly referred to as the Statute Approach. This research approach was used to examine various legal bases related to the research object that are correlated with one another (Arliman S, 2018).

The data analysis used by the author in this study was conducted using a descriptive analytical method, namely research that uses legal analysis in the form of applicable laws related to the phenomena or issues that are the object of research, which are then also related to relevant legal theories (P. M. Marzuki, 2017).

3. FINDINGS AND DISCUSSION

3.1 The Theory of Balance and *Checks and Balances*

From a historical perspective, the government demonstrates that power is concentrated in the hands of a particular institution, which has led to irregularities. In Indonesia's constitutional system, there is an imbalance, with the president, who holds executive power, having enormous authority. The legislative institution, which is supposed to exercise oversight, does not function as it should, resulting in the president acting too *overpoweringly* or imposing his policies. This deviation has led to the establishment of *checks and balances* within the Indonesian constitutional system.

a. Theoretical Aspects of the Division of Power

In the 19th century, the concept of limiting government power through the creation of a constitution emerged, encompassing several restrictions on government, people's rights, and the principle of *checks and balances*, which became known as constitutionalism (Simanjuntak, 2019).

Indonesia is a constitutional state, which aligns with Immanuel Kant's view that a constitutional state protects human rights and the separation of powers. On the other hand, Friedrich Julius Stahl, in his book entitled "*The Law and The Constitution*," argues that the separation of powers can be viewed from two angles, namely formal and material. Material separation of powers means that

this division of powers must be strictly maintained in state affairs, which are typically divided into three branches: legislative, executive, and judicial. However, if there is no firmness in this matter, it is referred to in the material sense (*division of power*) (Pulungan & A.L.W, 2022).

b. The principle of *checks and balances* in the harmonization of the DPD

This principle is a constitutional principle that requires the three branches of power —namely, the legislative, executive, and judicial branches —to be equal and to check and balance each other. This is to prevent the abuse of power by state officials in state institutions. The mechanism of *checks and balances* originated from a principle applied in the US constitutional system by combining the principles of separation of powers and *checks and balances*. In this principle, when linked to the harmonization between the DPD and the DPR, it should provide a solution, because when viewed in terms of the DPD's functions —namely, legislative, supervisory, and advisory functions —it is unusual as a bicameral constitutional model. The authority of the DPD is only to provide advice to the DPR (Pirmansyah, 2014).

In the United Kingdom, the bicameral system consists of *the House of Lords* and *the House of Commons*. In contrast, the bicameral system in the United States consists of *the House of Representatives* as the lower house and the *Senate* as the upper house. Both chambers are placed on an equal and balanced footing (*strong bicameral*), rather than placing one chamber above the other (*soft bicameral*) (Wasana Agung et al., 2023). The establishment of a second chamber in a representative institution that is *a strong bicameral system* is an effort to implement *checks and balances*. Regarding the *a quo* system, Jimly Assiddiqie argues that the existence of two chambers in a country can result in a *double-checking system* because both institutions can ensure that all legislative products and various supervisory actions can be *double-checked*. The advantage of *the double-check system* is even stronger if the upper house, which examines and revises a draft, has a different number of members from the lower house (Tutik, 2012).

Within the framework of *checks and balances*, the relationship between the DPR and the DPD should reflect a complementary and balancing nature. Representation from the regions serves as a counterbalance to party politics in the DPR, which is often oriented towards national interests and the interests of the political elite. The reduction of the DPD's role means that regional interests are often neglected in central legislation. The existence of the DPD can be considered an *internal check* on the legislative power of the DPR so that it does not neglect the principle of regional justice. Therefore, matching the principle of *checks and balances* in the relationship between the DPR and the DPD requires a reformulation of institutional roles and functions. Harmonization between the two must be strengthened through more equitable regulations.

3.2 Regional Representative Council (DPD)

The Regional Representative Council (DPD) can be considered a relatively new state institution. This is because the DPD was not formed at the beginning of Indonesia's independence, but after the reform took place. Before the formation of the Regional Representative Council (DPD), there was the Senate of the Republic of the United States of Indonesia (RIS), which was represented by 16 (sixteen) RIS states. With the return of the state from the United States of Indonesia to the Republic of Indonesia, state institutions changed, including the abolition of the Senate in the Republic of Indonesia. The abolition of the senate had the effect of eliminating the high institution that represented regional interests in Indonesia, specifically the Regional Representative Council of Riau Islands Province (n.d.).

Following the entry into the New Order era, new legal regulations altered the structure of the Indonesian parliament, including the formation of the Regional Representatives Faction (F-UD). During the Soekarno and Soeharto eras, the system for electing F-UD members was heavily influenced by the Regional Representative Council (DPRD), resulting in regional aspirations not being widely represented. Reform brought major changes to the legislative body, and the existence of the DPD was expected to represent better regional aspirations in the dynamics of national politics and development. In 1959, following the issuance of the Presidential Decree and the reinstatement of the 1945 Constitution, the Provisional People's Consultative Assembly (MPRS) was established, comprising a group of regional representatives elected by the Provincial DPRD, which was later replaced by the DPD (Suroto, 2018).

The Regional Representative Council (DPD) is a state institution established in accordance with the spirit of the 1945 Constitution of the Republic of Indonesia, aimed at promoting a more democratic state administration. The establishment of the DPD originated from the reasons and objectives of fulfilling a sense of justice, especially for regional communities, and the capacity of regions to participate in national life. Thus, in the third amendment to the 1945 Constitution, a regional representative institution was established, namely the Regional Representative Council of the Republic of Indonesia (DPD RI), which was formed in November 2001. The DPD, with its new structure, was formed on October 1, 2004 (Suroto, 2018).

In this case, it is explained that legislation implies that the DPD reflects a state institution with a legislative paradigm, and the DPD can oversee draft laws. However, its limited authority means that the DPD is weaker in terms of position and function compared to the DPR. Based on several indicators, such as the legislative comparison between the DPD and the DPR, the DPD is indeed the second chamber in the Indonesian parliament within the context of the bicameral system. The DPD was originally established to represent regional aspirations that could not be accommodated by the DPR (Salman & Efriza, 2022). However, it has become a weak point because the DPD lacks the same authority

as the DPR, resulting in an imbalance. In its role as a regional representative body, individual DPD members can cater to the aspirations of the regional community. However, in terms of groups, the DPD is divided into committees.

In contrast, the DPR has a representative function, which enables it to oversee government policies and regulations and carry out legislative functions by proposing and passing laws. The normative view regarding the imbalance with the legislative function of the DPR is that the DPD is not explicitly given the legislative function to formulate laws. Moreover, suppose we conclude that the described ratio is applicable. In that case, the legislative function of the DPD should play a significant role in the process of formulating laws during the discussion and ratification stages. Although its presence is limited to level 1 (one), the DPD has the right to provide input on bills related to regional autonomy, central and regional relations, and economic and natural resource management (Wele et al., 2024).

Subsequently, the ratification stage is carried out through a mutual agreement with the DPR, which makes the final decision. In terms of representation, the DPD represents regional interests, while the DPR represents the interests of the people through political parties. The DPD represents regional aspirations that are not accommodated by the DPR, which should be the case. The DPD is supposed to act as a check and balance, but in reality, this is not the case due to its limited authority. The DPD's legislative functions are limited to four, as stated in Article 22D of the 1945 Constitution: proposing certain draft laws, participating in the discussion of draft laws, providing considerations related to draft laws on the state budget, taxes, education, and religion, and supervising implementation within its authority (Suroto, 2018a).

In principle, bills can originate from the DPR and the President; however, this can lead to shortcomings, as a bill proposed by the DPR may be a draft that the DPD has already proposed. Regarding the position of the DPD in the hierarchical process of drafting laws, it is not significantly different from that of the DPR or commissions, or joint commissions. What, unfortunately, affects the authority of the DPD in the discussion of bills, as contained in Article 22D, is that it is only at this first level that the President discusses and provides explanations, and the factions express their views if the bill originates from the President. Conversely, when the President provides explanations to the factions and the DPD states that the bill relates to the authority of the DPD as referred to in Article 65 paragraph (2) of Law Number 12 of 2011 concerning the Formation of Legislation (UUP3), it originates from the President.

The drafting of legislation can be facilitated by compiling a List of Issues (DIM). The DIM can be submitted by the President or the DPR, with the requirement that the President can submit the DIM if the bill originates from the DPR and vice versa, taking into account the proposal from the DPD as stipulated in Article 22D of the 1945 Constitution. Regarding the drafting of legislation in the

aforementioned article, the DPD tends to be incompetent in exercising its authority to express an opinion, so the first level of discussion is still carried out as it should be. This clearly creates a dilemma for the DPD, which is further exacerbated in the second-level discussion system. This is because, at the second level, the DPD is only given the authority to submit a mini-opinion but does not have the authority to participate in approving the president and the DPR (Hantoro, 2013).

As explained above, the necessary speculation is that the legislative function should be modified without placing too many restrictions on the DPD, if it is indeed desired to give the DPD clear authority and functions. As a continuation of this, a second chamber will be established in the people's representative institution to address regional issues and needs, thereby promoting fairness in the distribution of power (Felicia et al., 2020). In decision-making at the national level, especially in the formulation of laws related to regions, when connected to the presidential system, the structuring of the legislative function of the People's Consultative Assembly () is fundamental to strengthening the system because the president is very dominant in the legislative process (Simanjuntak, 2019).

The reality is that the legislative function is limited to matters related to legislation, but not to its implementation. From the perspective of the state's objectives, regional interests have a broad scope within the national policy framework. Without the establishment of an equal check and balance between the DPR and the DPD, the authority of the DPD should be equal to that of the DPR (Wasana Agung et al., 2023). In the national legislation program, the instrument for drafting bills at the central level should also include, or, in this case, consider regional interests and aspirations that have been developed in the regions. However, relevant laws still constrain and hinder the DPD. Therefore, an amendment to the 1945 Constitution is needed to optimize the function, position, and authority of the DPD (Rotua Tinambunan & Oktafian Abrianto, 2021).

3.3 The Role of the DPD in National Regulations on Regionalism

Regarding the role of the DPD, it is certainly not far from the duties and authorities for which it is responsible. As with the duties and authorities discussed previously, one of the roles carried out by the DPD is to advocate for national policies that favor the regions. The DPD's role in favoring the regions also aims to prevent disparities between regions in Indonesia (Salman & Efriza, 2022).

Referring to the aspect of regional interests upheld by the DPD, it is impossible to ignore the existence of indigenous peoples in various regions scattered throughout Indonesia. Indigenous peoples are social groups that reside in a region within a long-established social, cultural, and economic system that has been passed down from one generation to the next (Mangumpaus & Permana, 2022). Their way of life adheres to a system of hereditary inheritance and is characterized by deep local wisdom. Article 1, paragraph 1 of the Draft Indigenous Peoples Law states that Indigenous Peoples, which is the term for customary law communities, are groups that have settled in certain geographical areas for

generations, have ties to their ancestral origins and/or a common domicile, cultural identity, and customary law. They also have a close relationship with the land and their surrounding environment, and uphold a value system that shapes the economic, political, social, cultural, and legal order of their lives. Indigenous peoples possess a cultural identity that is deeply rooted in their history and the values that shape their lives. In Indonesia, indigenous peoples are also known as ethnic groups that have several characteristics, including (Sempo et al., 2024):

- a. Their lives depend on nature, as evidenced by their reliance on activities such as hunting and farming to manage the natural resources around them.
- b. They have a social organization (clan) based on descent, and indigenous peoples also have rules or customary systems and laws that apply in their social life. They hold spiritual beliefs based on the teachings of their ancestors.

In line with the times, indigenous peoples face several challenges, such as the eviction of indigenous lands due to development and a lack of legal recognition from the state or government. The relevance of the DPD for indigenous peoples is understood to be that it acts as a bridge between the aspirations of regional communities, especially indigenous peoples, and the state or government. Several factors contribute to the challenges faced by indigenous peoples due to the eviction of customary lands, which leads to discrimination against the cultural values of the state that originate from indigenous peoples, causing them to become increasingly extinct. Customary history, which should be a social value for the state, has instead become an obstacle for the state.

Article 18B paragraph (2) of the 1945 Constitution explains the recognition of indigenous peoples. In this case, the state recognizes and respects the unity of indigenous peoples and their rights in accordance with the principles of statehood. Article 28I, paragraph (3) of the 1945 Constitution, also contains provisions protecting the rights of indigenous peoples related to cultural identity and ensuring the respect for their rights throughout the development process. The extinction experienced by indigenous peoples could certainly cause the Indonesian state to violate several values contained in Pancasila and the 1945 Constitution.

As a reference, the law governing the DPD should lead to the conclusion that it is indeed the DPD that conveys the aspirations of regional communities, including indigenous peoples, which includes the protection of the rights of indigenous peoples without qualification. In this case, the author uses the example of the indigenous community in Kalimantan, specifically the one in North Penajam Paser, related to customary land being used for the construction of the Capital City of Nusantara. The Maridan customary area, which at that time was covered with mangrove trees, also contained many ancient tombs, which were certainly a testament to Maridan civilization's history. The construction of the IKN has the potential to destroy these historic tombs.

History refers to ritual events such as those that occurred in the indigenous communities of Balik Sepaku, Batu Badok, and Batu Tukar Nondoi, which were destroyed due to the construction of the Sepaku intake dam. The area is now shrinking and being displaced by the IKN development project. There are several indigenous communities in Balik Pemalaun, Paser Maridan, and Balik Sepaku. Another example is the destruction and seizure of the Balik tribe's customary land by the timber company PT Weyerhaeuser, also known as PT The Long, and several other companies that have entered the Balik indigenous community's land. As a result, the rituals that were often performed by the indigenous community are no longer carried out because the entry of companies and the transmigration program have caused the Balik tribe to be discriminated against for being considered polytheistic and old-fashioned. The tragic impact of IKN development affects both the rights to customary land and the history of the customs themselves (Ayunda, 2025).

The authority of the DPD can address the impact of the IKN development on the local indigenous community. The DPD has the authority to protect regional rights and to accommodate and convey the aspirations of the regional community to the central government (Fakhrurozi & Syahrudin, 2022). It is hoped that the regional aspirations conveyed by the DPD to the central government will be implemented and fulfilled, and in fulfilling the rights of the community, the DPD can work together with Komnas HAM to emphasize the rights that should be protected for indigenous peoples and regional communities affected by the development of the IKN. In accordance with Article 22D of the 1945 Constitution, there is an explanation of the status of the DPD in regional autonomy, which certainly concerns the protection of the rights of indigenous peoples and regional communities. This refers to the functions of the DPD as stipulated in Article 22D of the 1945 Constitution (Wuryandau & Arifin, 2024).

The DPD can utilize this function to protect the rights of oppressed indigenous peoples who have been evicted from their ancestral lands. Land issues faced by indigenous communities, such as the Penajam Paser Utara, Maridan, Dayak, and others, mean that the DPD should be able to propose to the government not to make indigenous communities victims and spectators of IKN development, but rather to enable them to play an active role and ensure that land transfers are resolved fairly and benefit indigenous communities.

Based on Article 22D of the 1945 Constitution, which explains that the Regional Representative Council can participate in submitting proposals to the DPR regarding draft laws related to regional autonomy, central and regional relations, formation and expansion occurring in the regions, as well as the management of natural resources and other economic resources, and regional budgets. The DPD's encouragement in terms of indigenous peoples' regulations should continue to prioritize the aspirations of indigenous peoples.

However, indigenous communities in the IKN region, particularly the Balik and Paser tribes in Sepaku, East Kalimantan, face the threat of eviction and loss of customary rights due to development without adequate legal protection (Ayunda, 2025). The DPD RI, through its regional representatives, did not initiate a bill on the protection of customary land, despite having the constitutional authority to submit bills related to regional autonomy and natural resources. Its position is limited to providing input, and without legislative power, all recommendations are unable to influence central government policy significantly. As a result, the IKN Law was passed without any guarantee of implementation for indigenous peoples. At the same time, the Indigenous Peoples Bill has stalled in the DPR, despite being on the National Legislation Program (Prolegnas) for years. This procedural failure clearly highlights the weakness of the regional representation structure at the national level, as the DPD fails to fully fulfill its function of protecting the interests of indigenous communities in the IKN (Ulya et al., 2022).

3.4 Regulations related to the form of accountability for the DPD's duties

As contained in Article 95A of Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation, the DPD has the task of monitoring laws and coordinating with special organs in the field of law drafting, which in this case refers to ministers or heads of institutions in the field of implementing related government affairs. The results can be used as proposals in the National Legislation Program (Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation, n.d.).

The public has the right to formulate, submit, or propose opinions, either verbally or in writing, in every process of drafting legislation that is included in the bill. The stages of law formation focus on ensuring the rights of the public are fulfilled. This has led to various public consultation activities, including public hearings, visits, discussions, seminars, and other related activities (Manan, 2017).

The duties and authorities of the DPD are stipulated in Article 22D of the 1945 Constitution, which, according to the author, makes it challenging for the DPD to fulfill its duties and responsibilities. This difficulty arises because the limited authority and functions of the DPD can lead to questions from the public about the DPD's performance. There is a need for improvement and judicial review, because the imbalance between the DPD's heavy workload and the authority given to it creates ambiguity (Nisa', 2017).

Some of the DPD's activities in showcasing its performance to the public include coordinating with the Regional Representative Council (DPRD) and local governments, as well as conducting working visits. Although the DPD is supposed to embody the ideal of representing the people, it has not been able to do so. The mechanism of the relationship between the DPD and the DPR in implementing the principles of equality and balance of constitutional authority has not been achieved. The magnitude of

the aspirations considered burdensome, as well as the community the DPD fights for in synergy and harmony, are certainly reasons for the imbalance (Suryawan, 2020).

The accountability of the Regional Representative Council (DPD), which is elected to represent voters in the regions under Indonesian law, is regulated in several ways. However, there are still limitations. By definition, a member of the DPD is required to absorb the aspirations of their electoral district and matters related to regional interests into national policy. This accountability process includes reports from DPD members to the public, for example, during recesses and plenary sessions. This results in the absorption of aspirations from the follow-up actions that have been reported. However, the details explaining the rules regarding the accountability of DPD members have not been explained in detail.

This certainly has implications for how the public assesses the performance of DPD members, whether it is optimal or not. These implications arise because accountability to the public is not yet well structured. The mechanism for recalling or dismissing members of the Regional Representative Council (DPD) still exhibits various limitations in practice, particularly regarding the scope for public participation in the electoral district. Constitutionally, the regulation on recall is based on Article 22D of the 1945 Constitution, which confirms the position and function of the DPD, and is further detailed in Law Number 17 of 2014 concerning the MPR, DPR, DPD, and DPRD (MD3 Law). However, its implementation tends to be internal, as the oversight and decision-making processes are largely under the authority of the leadership and the DPD's Ethics Council (BK).

A comparison of the accountability mechanisms of the DPD and DPR is explained below:

1. Accountability of DPR members

Members of the DPR are directly bound to the political parties that nominated them in the elections, as stipulated in Article 22E paragraph # of the 1945 Constitution. DPR members are more accountable to their parties than to their constituents. This is emphasized in *the recall* mechanism regulated in Article 239 of Law No. 17 of 2014, which outlines the authority of political parties to withdraw their cadres, thereby ensuring the legal dominance of political parties in controlling their representatives.

2. Accountability of DPD members

DPD members are elected through an individual representation mechanism (Article 22C paragraph (1) of the 1945 Constitution), so theoretically their accountability should be directly to their regional constituents. However, in practice, the accountability mechanism of the DPD is still limited to internal oversight through the Ethics Council (BK), where the public can only submit complaints.

In terms of legal analysis, the author explains that members of the DPR have a recall mechanism controlled by political parties, and that *party accountability* can occur, in accordance with the logic of the system outlined in the Political Parties Law, which implies a violation of the principle of people's sovereignty. This differs from DPD members, who are conceptually bound by a principle called *constituent accountability*, as they are elected without party affiliation. However, in reality, the recall mechanism has not been regulated to channel the aspirations of the people in the regions.

Constituent participation in the recall mechanism remains very limited, typically taking the form of submitting reports or complaints to the DPD Ethics Council. This situation raises legal and political issues, including potential conflicts of interest and weak principles of transparency in the mid-term dismissal process. Therefore, from a constitutional law perspective, several studies have proposed that a more ideal recall mechanism should involve the local government, specifically the governor and the provincial DPRD, as institutions that have the legitimacy to submit proposals for mid-term dismissal based on the people's aspirations. Thus, the recall mechanism will be more in line with the principles of democracy, accountability, and the embodiment of people's sovereignty as emphasized in Article 1 paragraph (2) of the 1945 Constitution (SANTOSO, 2015).

However, in this case, the author raises the issue of the DPD's accountability in terms of performance, as DPD members are recognized as representing their regions from a territorial perspective. Among other things, DPD members must frequently be present in the regions, and the mission and vision of the DPD must align with the mission of the regions they represent. In this way, the existence of the DPD will be seen as building aspirations with non-governmental organizations and local governments, and the DPD can also be used to identify problems in the regions and foster potential political communication.

The accountability mechanism of members of the Regional Representative Council (DPD RI) to regional constituents reveals significant and fundamental shortcomings in the Indonesian governance framework. Legally, the 1945 Constitution of the Republic of Indonesia stipulates that DPD members are elected directly by the residents of each province (Article 22C paragraph (1)), but fails to explicitly describe the nature of political or legal accountability owed to voters (Tinambunan & Abrianto, 2021). The provisions contained in Law No. 17 of 2014 on the MPR, DPR, DPD, and DPRD (referred to as the MD3 Law) largely emphasize the duties, functions, and institutional powers of the DPD, neglecting to include formal mechanisms for individual accountability to their respective constituents (Imran et al., 2020).

The lack of provisions for the recall or revocation of mandates by constituents, as observed in certain other jurisdictions, further underscores the absence of formal channels through which the public can directly assess or evaluate the performance of DPD members. The dismissal of DPD members is only permitted in strict circumstances, such as legal violations, egregious ethical violations, or

resignation, as outlined in Article 239 of Law Number 7 of 2017 on Elections (n.d.). As a result, a legal vacuum exists that prevents constituents from holding DPD members accountable through democratic mechanisms, aside from the electoral process that takes place every five years.

The lack of a substantively strong accountability mechanism contributes to institutional ambiguity surrounding the DPD. While the DPD is intended to serve as a regional representative articulating local interests, it simultaneously lacks adequate political instruments, legislative frameworks, or accountability measures. Unlike members of the DPR, who have dual responsibilities to both their constituents and the political parties that facilitated their nomination, DPD members operate in a nonpartisan capacity and do not have an organizational structure that systematically monitors and evaluates their performance. As a result, the DPD's position has become relatively passive, showing a reduced drive to engage with pressing regional issues, as exemplified by its oversight of the rights of indigenous peoples in the development of the Capital Islands (IKN).

This comparative analysis of the DPD and DPR reveals that a handful of parliamentarians maintain their affiliation with political parties, which is often considered to compromise their independence. Paradoxically, such affiliations encourage a more transparent and organized accountability framework. Conversely, the DPD, which was ideally expected to serve as an advocate for regional aspirations, finds itself entangled in an institutional vacuum: lacking supporters, unbound by factional systems, and under no obligation to regularly account for its performance. This situation reinforces the idea that the structural deficiencies inherent in the DPD's institutional design are significant obstacles to its effectiveness in the national government system, particularly in the legislative process and oversight of central policies that have direct implications for regional interests.

4. CONCLUSION

The government's efforts to establish the DPD were aimed at achieving equitable national development and increasing regional participation within the Indonesian constitutional framework. However, in reality, the DPD still has limited power or authority, especially in its legislative function, which causes an imbalance with the DPR in the bicameral system. Because the current law does not give the DPD equal legislative power, its role in voicing regional aspirations, including the protection of indigenous peoples, has not been maximized. The DPD has not been successful in defending the rights of indigenous peoples. This imbalance of authority can create a constitutional dilemma and weaken the principle of checks and balances in the state administration system.

The policy recommendation to overcome the imbalance of authority between the DPR and the DPD is to revise the MD3 Law to strengthen the legislative function of the DPD. The government, together with the DPR, needs to immediately revise Law Number 17 of 2014 (MD3 Law) to give the DPD full

legislative authority in terms of making regulations that affect regional interests.

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