

Should the DPD Republic of Indonesia be Preserved?

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ABSTRACT

After the reform, amendments were made to the 1945 constitution. One of the fundamental amendments was the formation of the Regional Representatives Council (DPD), which complements the House of Representatives (DPR). However, DPD has many problems. The DPD never carried-out its task of double-checking the legislation process. DPD membership is also connected with political parties. This study aimed to reexamine the need for the DPD and determine whether the DPD should be preserved or dissolved. This study was limited and focused on the 2004-2019 period and used the literature study and the descriptive method in collecting relevant information. The approach used in this study was a qualitative approach, which was appropriate since the existence of DPD was considered to be multidimensional. The results of the study showed the importance of revitalizing the authority of the DPD. There were a significant gap and inequality of authority between the DPR and the DPD, which was not in line with the bicameral system in other countries. The DPD's affiliation with political parties was very strong, due to multiple interpretations of Law No. 7 of 2017 concerning Elections on the requirements for DPD membership. As such, it is very urgent to optimize the DPD role. The role of the DPD, as a channel for the region's political and economic aspirations and needs in the national policy, should be repositioned according to the demands of the law. However, if this role is not achieved, this nation should decide to dissolve the DPD. Of course, it should be conducted through a constitutional mechanism, via amendment of the 1945 Constitution.

Keywords: DPD, legislative, constitution, bicameral

ABSTRAK

Setelah reformasi, amandemen dibuat untuk konstitusi 1945. Salah satu dasar amandemen adalah pembentukan Dewan Perwakilan Daerah (DPD), yang melengkapi Dewan Perwakilan Rakyat (DPR). Namun, DPD memiliki banyak masalah. DPD tidak pernah melakukan tugasnya dalam double-checking proses legislasi. Keanggotaan DPD juga terhubung dengan partai politik. Penelitian ini bertujuan untuk menguji kembali kebutuhan akan DPD dan menentukan apakah DPD harus dilestarikan atau dibubarkan. Penelitian ini terbatas dan fokus pada periode 2004-2019 dan menggunakan studi literatur dan metode deskriptif dalam mengumpulkan informasi yang relevan. Pendekatan yang digunakan dalam penelitian ini adalah pendekatan kualitatif, yang sesuai karena keberadaan DPD dianggap multidimensi. Hasil penelitian menunjukkan pentingnya revitalisasi kewenangan DPD. Ada kesenjangan yang signifikan dan ketimpangan kewenangan antara DPR dan DPD, yang tidak sejalan dengan sistem bikameral di

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negara lain. Afiliasi DPD dengan partai politik sangat kuat, karena berbagai interpretasi UU No. 7 tahun 2017 tentang Pemilihan persyaratan keanggotaan DPD. Karena itu, sangat penting untuk mengoptimalkan peran DPD. Peran DPD, sebagai saluran untuk aspirasi dan kebutuhan politik dan ekonomi daerah dalam kebijakan nasional, harus ditempatkan kembali sesuai dengan tuntutan hukum. Namun, jika peran ini tidak tercapai, bangsa ini harus memutuskan untuk membubarkan DPD. Tentu saja, itu harus dilakukan melalui mekanisme konstitusi, melalui amandemen UUD 1945.

INTRODUCTION

This study is about the Regional Representatives Council (DPD) of the Republic of Indonesia. The DPD referred to in this study is one of the Legislative Branch in the Indonesian constitutional system whose members are elected through general elections as representatives of each province, in accordance with the 1945 constitution. The study questioned the existence and performance of the DPD, which was seen as less than good ([Muhtarudin, 2019](#)), although the public expectations after the 1998 reform was quite high. This study aimed to reexamine the need for the DPD and determine whether the DPD should be preserved or dissolved. This study was limited and focused on the 2004-2019 period.

DPD was born as a result of the reform, through amendment of the 1945 constitution between 1999 and 2002. One of the fundamental amendments was the formation of the Regional Representatives Council (DPD) to complement the House of Representatives (DPR). The objective of establishing a DPD within the framework of the Indonesian parliamentary system is to form a bicameral two-chamber structure. With a bicameral structure, it is expected that the legislative process can be carried out with a double-check system that allows the representation of all the people in a relatively comparable manner on a broader social basis ([Pirmansyah, 2015, pp. 163–184](#)). DPR is the political representation, while the DPD reflects the territorial principle or regional representation.

The formation of DPD to represents the regional aspirations in the policy formation process at the central level is contained in Article 22D of the 1945 Constitution. The Constitution states

that the DPD's authority is in the field of legislation: the submission and discussion of certain Draft Laws (RUU) with the DPR; oversight of the implementation of the Law that mainly related to regional autonomy, central, and regional relations; the formation, expansion, and merging of regions; management of natural resources and other economic resources; and financial balance between the central and regional government.

DPD also has the right to provide views and opinions on certain draft of law, considering the draft of law on the state budget and taxes, education, and religion, as well as oversight of the implementation of certain laws ([Rosidi, 2015, pp. 282–238](#)).

In summary, the DPD may arrange a law formation program (prolegnas) within the DPD authority; may submit a particular draft of law as a the DPD initiative proposal that will be treated the same as the draft of law from the DPR and the government; participate in discussing certain draft of law up to the second level discussion/ decision making with the discussion mechanism carried out (supposedly) by the tripartite body (DPD, DPR, and Government) that has equal power.

This was reinforced by the decision of the Constitutional Court (MK) through Decision No.79/PUU-XII/2014 for judicial review of Law No. 17 of 2014 concerning MD3. The hope of strengthening the DPD was felt when the People's Consultative Assembly (MPR) 2009-2014 through MPR Decree No. 4/MPR/2014, recommended amendments to the 1945 Constitution, and one of the materials was the strengthening of the DPD as the second chamber of the legislative body(Dermawan, 2014).

But the DPD has many problems. First, the DPD task of double-checking the legislation process has never been carried out. Some parties also said, since its inception, the DPD was like a baby born with disabilities ([tempo.co, 2017a](#)), because, it does not have a determinative authority. The DPD has the authority in the field of legislation, but the approval depends on the DPR and the President. That authority is very weak([Ruliah, 2018, p. 392](#)),, despite the selection process of DPD members that is

through general elections and the objective of representing their regions. Without strong authority, that goal cannot be achieved.

Second, in the 2014-2019 period, the criteria of DPD members have also questioned because it was considered to be affiliated with political parties (kompas.com, 2017). The regulation concerning DPD members was first stated in Article 63 Letter b of Law No. 12 of 2003 concerning the Election of the DPR, DPD, Regional People's Representative Council (DPRD). This article states that one of the requirements for a DPD candidate is that the candidate is not a party official for at least four years before their candidacy. However, in 2008, the decision of the Constitutional Court No. 10/ PUU-VI/2008 changed that.

In this decision, the Constitutional Court states that members of political parties may participate in the election as DPD candidates. Thus, the regulation prohibiting party officials from becoming a DPD member experiencing a legal vacuum.

As an implication of the Constitutional Court's ruling, in the 2014-2019 period, there were at least 70 DPD members affiliated with political parties. Eight of them are also as party officials. Most of them also nominate themselves as DPD members because they are no longer nominated by political parties (tribunnews.com, 2019). Allowing members of political parties to become DPD members is indeed a constitutional right for every citizen. However, in reality, DPD members who were also party members, especially those who were party officials, cannot avoid conflicts of interest between their political parties and the interests of the region that they represent.

This can be seen during the revision of the 2017 DPD code of conduct which revised the term of office of the DPD leadership from five years to two years and six months. At the time of the deliberation, there was chaos in between the DPD members, although ultimately the code was issued. This new code of conduct resulted in the emergence of factions within the DPD, where each faction wants to seize power, especially factions in which the members were from political parties. An indication

of political interests in the DPD can be seen when 28 DPD members became the management of the Hanura Party. In fact, in the 2017-2019 period, the DPD was led by the Chairman of the Hanura Party, Oesman Sapta Odang ([detik.com, 2017](http://detik.com)). It changed the original intent of the establishment of the DPD as a regional representation into political representation.

In the end, the Constitutional Court granted the petition for the examination of Article 128 letter l of Law No. 7 of 2017 concerning General Elections of the 1945 Constitution ([kompas.com, 2018](http://kompas.com)). With the granting of the request, the political party management was prohibited from becoming a DPD member. However, that does not mean the problem was solved. The DPD chairman was still reluctant to give up his position in the Hanura Party. He continued to run as a DPD candidate in April 2019 election ([detik.com, 2019](http://detik.com)).

Third, the legislative products produced by the DPD are also limited because of its limited authority in legislation. In 2019, according to the DPD Deputy Chairman at the time Akhmad Muqowam, the DPD only submitted ten drafts of law as part of the 2019 National Legislation Program (Prolegnas) to the Legislative Body of the DPR. In 2018 the DPD produced a Prolegnas proposal and 23 reports of DPD oversight of the implementation of Laws. The DPD has also produced six considerations related to the budget and the Election of Members of the Supreme Audit Board (BPK), eight views, opinions, and considerations of draft laws, as well as three recommendations on community and regional problems. The legal products were the DPD's responsibility in carrying out its mandate under the Law ([mediaindonesia.com, 2018](http://mediaindonesia.com)).

The Chairperson of the Law Drafting Committee (PPUU) at the time, I Gede Pasek Suardika, also emphasized that the DPD only targeted ten laws each year out of the 57 drafts of law discussed by the DPD in the five years (2014-2019) period. Particularly related to regional autonomy, the balance of central and regional finances, village budgets, road infrastructure, agricul-

tural irrigation, fishermen, and others. At the time, the central government failed to portrayed many regions as a whole. (beritasatu.com, 2014).

During its fifteen years of existence, the DPD has tried its best to participate in answering and solving various problems of the nation. However, as a relatively young state institution compared to the DPR that has existed since the beginning of independence, not much can be done(neraca.co.id, 2015). The 2019 Data from the DPD Secretariat General showed that since its inception, the DPD only produced 734 decisions, consisting of 103 proposed drafts of the law, 263 views and opinions, 24 considerations, 85 budget-related considerations, 236 monitoring results, 10 Prolegnas proposals, and 13 recommendations.

Study on the DPD has actually been widely carried out. For example, ([Wibisono, 2018](#)),([Neta, 2014](#)), and ([Zada, 2015](#)), concluded that the function of the DPD was not fulfilling the people's expectations, both in terms of the quantity and quality of regulations produced. Although the establishment of the bicameral system was intended to double-check the legislation process, budgeting, and supervision. The formation of laws was not carried out in a tripartite manner between the DPR, DPD, and the President, even though the DPD has the same authority as the DPR and the President.

Related to the limited authority of the DPD, a study by ([Maiyestati, 2017](#)) and ([Rosidi, 2015](#)) is quite interesting. The study stated that the limited authority of the DPD was intentional. There was a tug of war between the parties that agree and the parties that do not agree with the formation of the DPD. The birth of Article 22D of the 1945 Constitution was a compromise or middle ground to accommodate both parties. Between the parties who wanted stronger DPD legislative authority as a representation of regional interests, and parties who were worried that the stronger DPD would lead to the federal state, thus endangering the survival of the Unitary Republic of Indonesia. ([Handoyo, 2018](#)), ([Andryan, et al, 2015](#)), and ([Mastu, 2017](#)) In

his study suggested that several important issues need to be revised in strengthening the DPD. Amendments need to be made to the 1945 Constitution to clarify the Indonesian parliamentary system, which is not clear whether it is unicameral, bicameral, or tricameral. The arrangement for selecting the DPD members must also be adjusted following the constitutional provisions. He refers to Article 22E paragraph (3) of the 1945 Constitution, which stipulates that the general election participants of the DPR and DPRD members are political parties.

For a comparison with some studies about DPD mentioned earlier, previous studies on a similar institution as the DPD in several countries that adhere to the two-chamber parliamentary system also needs to be explored. Volden and Wiseman (2018) conducted a study on the effectiveness of the Senate (an institution in the United States that is similar to the DPD in Indonesia) in making laws. The study was conducted on the US Congress from the period 1973 to 2015. The study concluded that the US Senate was more egalitarian and independent in the process of making laws than the relatively hierarchical DPR. Egalitarianism and individualism underlie lawmaking activities in the US Senate rather than the DPR.

A Study on the US Senate was also carried out by [Lynch et al., 2018](#)). In Lynch's study, the US Vice President, who is also the Senate leader, was not always considered important by the majority of the senate because the Senate Leader does not always side with the majority and was considered unreliable. The Majority of the Senate did not put the Senate power in the hands of the Senate Leader since he was considered less accountable. The implications were that the center of authority was not always directed to the Senate Leader (Vice President).

Unlike the American bicameral parliamentary system, the Senate in Pakistan is almost similar to Indonesia. A study by [Khan, 2017](#)) stated that the Senate in Pakistan was not functioning well, even though the bicameral parliamentary system has been in place since 1973. Senate in Pakistan had no power over

the federal budget. Some provinces in Pakistan also did not have Senate representation.

Not much different from the Senate in Indonesia and Pakistan, the Senate in Spain was also considered not having an important role in the legislature, even considered as failing to realize the wishes of the people ([Fernandez, 2015](#)). The Senate failed to deliver the demands of the people of Catalonia to become a federal state and was considered to be a barrier that was unable to articulate people's demands. ([Fernandez, 2015](#)) suggested a constitutional design with more balanced procedures.

A study on the Senate also carried out by ([Mahmood, 2015](#)). He compared the functions of the Senate in the United States with those in Pakistan. Mahmood found the US Senate had a strong position in which its decision was almost binding on the government. The Senate was able to fully influence the legislative, investigative, and administrative oversight functions, whereas the Senate in Pakistan was the opposite. The Decision and suggestion by the Pakistani Senate was merely a recommendation. Even worst, the executive branch was able to influence the Senate

From some of the above studies, it can be concluded that some countries with a federal government system similar to the US, with a bicameral system (the Senate) which represents its region, has a weak role in defending the interests of its region. In many countries, the emergence of such dysfunction was due to structural problems and forced needs([Cerro,2013](#)).

The Study from ([Wibisono, 2018](#)), ([Neta, 2014](#)), and ([Zada, 2015](#)) only concluded the function of the DPD, without providing a concrete solution for strengthening the DPD. Likewise with study conducted by Maiyestati(2017) and Rosidi(2015) who look more in terms of the interests of the DPR in tackling the DPD so far. The study of ([Handoyo, 2018](#)), ([Andryan et al, 2015](#)) and ([Mastur, 2017](#)), indeed provides a solution to strengthen the DPD, but only provides advice by amending the constitution. In addition, several studies conducted by ([Volden and Wiseman,2018](#)),

([Khan, 2017](#)), etc, are clearly different because of the practice of the constitution or DPD in Indonesia.

This study was important and interesting because few studies specifically review the existence and performance of the DPD, mainly related to its authority, its affiliations with political parties, and its legislative products, and provide concrete solutions related to what needs to be done to strengthen the DPD. This study was aimed to fill the gap. It was also focused on discussions on revitalizing the DPD's authority to optimize its role in the bicameral system, DPD affiliation with political parties, and the dynamics of the DPD.

METHOD

This study was limited and focused on the 2004-2019 period, using a combined descriptive and the desktop study method. The descriptive method is intended to describe the DPD situation in the period of 2014-2019 as an analysis unit based on facts as they are presented ([Sugiyono, 2015](#)). While the desk research method is intended to gather relevant information on the existence and performance of the DPD. This information was obtained through reviewing books, scientific works, thesis, dissertations, encyclopedias, internet, and other sources ([Zed, 2004](#)). The approach used in this study is a qualitative approach. This approach was appropriate since the existence and performance of DPD was considered to be multidimensional ([Alwasilah, 2003](#)). The collection of facts and data was conducted by tracing the news in mainstream mass media to enrich the analysis. This research was conducted throughout March-August 2019.

RESULT AND DISCUSSION

In 1999-2002, the amendment to the 1945 Constitution changed the representative body from monocameral to bicameral (two chambers), consisting of the DPR representing political parties and the DPD representing regional interests ([Thaib, 2016](#)). The change was made with several considerations.

First, the two-chambers system was intended as a mechanism of checks and balances between the two chambers in one representative body.

Second, the simplification of the representative body. One representative body at the central government level, consisting of two elements, the element that directly represents all the people and the element that represents the region. Group representation was not needed. The interests of groups were represented and channeled through elements that directly represent the people.

Third, regional representatives become part of carrying out parliamentary functions, such as forming laws, overseeing the government, and establishing the state budget ([Manan, 2003](#)). Thus, all regional interests are integrated and can be carried out daily in parliamentary activities. This is one of the factors to strengthen unity and avoid the disintegration of the nation.

Fourth, the two-chambers system will be more productive. All tasks and authorities can be done by each chamber. There is no need to wait or depend on one body, such as the (then) DPR.

According to ([Patterson and Mughan, 1999](#)), apart from being born from a long tradition and history, the bicameralism in the system of representation in various countries is generally based on two considerations. First, the need for broader representation than one that only based on the population. In this case, the most important is the consideration of regional representation. Second, there needs to be a system that guarantees that important political decisions were discussed in layers so that various interests are considered carefully and deeply.

REVITALIZATION OF AUTHORITY

In the context of bicameralism in Indonesia, there is a striking authority gap between the DPR and DPD. The DPR role is very broad. It includes the formulation of laws, oversight of the implementation of laws by the president, and preparation of the draft state budget. Even in the dismissal of the president,

the House of Representatives' role is very instrumental. Starting from the submission to the Constitutional Court, until the decision making in dismissing the President in the MPR session, since more than 3/4 of the MPR members consist of DPR members.

DPD only has a complementary role in the preparation of laws, oversight of the government, and the preparation of the state budget. Thus, there are no checks and balances in the legislative body. Instead, the dominance of the DPR over the President in the legislative forum is increasingly stronger in the constitution. To reach the original objective of the establishment of a second chamber, which is to prevent a hasty and careless formulation of laws, the involvement of a second chamber in the approval of the Law is needed.

For comparison, in Germany, the upper house (the Bundesrat) has the authority to approve and veto (reject) a draft law. The Basic Law has determined which draft of laws are required to obtain the Bundesrat approval, which are draft of the law to amend the constitution, relating to the administration of the states, as well as one that affects the state's financial condition ([Niedobitek, 2018](#)). The rejection (veto) of the Bundesrat against the draft of laws specified in the Basic Law to obtain the Bundesrat's approval is known as the absolute veto. This type of veto cannot be overruled by the Bundestag (lower house).

Whereas in the UK, the function of the House of Lords (the Lords) is similar to the function of the Commons in terms of legislation, discussing issues, and questioning the executive branch. However, the two important distinctions are: first, the members of the Lords do not represent the constituents; second, they are not involved in matters relating to tax and finance. The role of the Lords is generally understood as the addition of what has been carried out by the Commons, which is as a reviser of a draft of law considered very important and controversial. All draft of laws must go through both chambers ([Prime Minister, 1998](#)).

In the United States Congress, which consists of the House of Representatives (the House) and the Senate, both the House and the Senate have the opportunity to check all draft of laws before they are submitted to the president. Thus, in its legislative function, the Senate has relatively equal authority with the House ([Congress, 2014](#)).

The inequality of authority and position between the DPR and the DPD happened since the start of the amendment process. In 1999 (the first amendment of the constitution), the legislative and political role of the legislative body was only mandated to the DPR. The exercise of the DPR very powerful authority made it seems like that the DPR was too dominating over the president. As such, in 2001, at the start of the process of the third amendment to the constitution, the idea for a balancing institution over the authority of the DPR appeared, and the DPD was born.

At the time, the DPD's authority - which was constructed as a regional representative institution - was already mandated to the DPR, from the drafting of laws, approval of the budget, mechanism for dismissing the president, and even the selection processes for state institutions: General Election Commission (KPU), Corruption Eradication Commission (KPK), Judicial Commission (KY) and other independent institutions (Ulya, 2016, p. 174). Therefore, the DPD's authority was forced into the Constitution, but not optimally. For example, in Article 22D Paragraph (1) of the 1945 Constitution stated, that the DPRD's authority is in the field of legislation: a) the submission and discussion of certain Draft Laws with the DPR; b) oversight of the implementation of the Law, that mainly related to regional autonomy, central and regional relations; c) the formation, expansion, and merged of regions; d) management of natural resources and other economic resources; e) and central and regional financial balances, while Article 5 paragraph (1) of the 1945 Constitution stated that The President has the right to submit a draft of law to the DPR.

With the authority that is not optimal, the first generation DPD seeks an increase in DPD authority through a proposed amendment to the Constitution. In 2008, all members of the DPD initiated an amendment to the Constitution. However, the proposal failed since they cannot get the support of at least one-third of the total number of MPR members. The failure of the proposed amendment was due to a lack of support and the substance of the proposal, which focused more on optimizing the DPD's authority, duties, and position (Hukumonline.com, 2007).

Failed to improve its role and authority through an amendment to the constitution, in 2013, the DPD sought to improve its role through the intervention of the Constitutional Court. On March 28, 2013, the Constitutional Court through Decision No. 92/PUU-X/2012 granted the petitioners' request (DPD) for some of the articles in Law No. 27 of 2009 concerning the MPR, DPR, DPD, and DPRD which conflicted with the 1945 Constitution. In essence, the DPD now has equal authority with the DPR and the President in drafting laws. However, the approval mechanism of the draft of the law is still carried out jointly by the DPR and the President. It means that even though the position and authority of the DPD in drafting the law is better based on the Constitutional Court's decision, but its position is still below the DPR and the President.

The DPD should propose a draft amendment not only in the interests of optimizing the DPD institution in the field of legislation but in the broader interest, to move toward a real presidential system that is not interfered with by another government branch ([Marzuki, 2008](#)). If it is only for strengthening and optimizing the DPD position to make it equal to the DPR, it will be rejected by the MPR, since the MPR mostly consists of the DPR members and by increasing the DPD position, the DPR is giving up some of its power to the DPD.

The construction of a presidential system in the 1945 Constitution is indeed stronger than before. It can be seen from the

procedures for electing the President and Vice President and also the term of office. The President and the Vice President is directly elected by the people. Their term of office is limited to a maximum of two periods of government (10 years). The limitation of office term is designed to avoid the increasing power of the president, as occurred to two previous presidents, Soekarno 1945-1966 and Suharto 1966-1998, also to guarantee leadership regeneration. The other improvement is the mechanism of terminating the President. Termination is carried out through three stages. First stage: the DPR must declare its opinion that the President violated the 1945 Constitution of the Republic of Indonesia. Second stage: the Constitutional Court must examine the DPR opinion. Third stage: the MPR made a political decision to terminate the president. This mechanism is better than the previous mechanism, which was only carried out by the DPR and the MPR.

However, based on the doctrine of Trias Politica, governmental power in a country must be strictly divided between the executive, legislative, and judicial ([Karya & Savitri, 2015, p. 21](#)). The strict separation of the three institutions of power is referred to as the presidential government system. This characteristic is not in the 1945 Constitution yet, because the president, as executive power, also has the power in the legislative field. The checks and balances on the drafting of the law take place between the President and the DPR. It should be between DPD and the DPR. The DPD should socialize the idea of amending the Constitution to reflect a real presidential system.

Another problem related to the DPD is the inability in producing legal products that are in line between those produced at the Central government level and the regional level. DPD unable to be a bridge, between the central government and regional governments in formulating regional regulation. They currently don't even have a strategic role to play ([Nugroho, 2007](#)). The DPD should have a specific area, regarding regional autonomy, all kinds of laws relating to the central and regional

levels, and it has a role to create good quality regional legislation formation and in line with legal development at the central level.

The less than ideal institution made it unable to play an important role as a balancing force in the legislative functions as a channel for the aspirations of local governments (Putra, 2008). As a result, there are many problems between the central and regional governments. In terms of legal products, for example, there is plenty of overlapping of authority between central and regional regulations. When the regional legal products are revoked, it undermines the regional autonomy. Other problems occur in terms of fiscal and budgetary matters, for example, in terms of regional management or the management of regional government units (or known as the regional expansion, border areas, regional spatial planning).

This situation has influenced the poor achievement of the overall regional autonomy. From the perspective of community empowerment, the transformation of the community to be a group that is capable of building supports and demands for the regional executive and legislatures has not occurred. Thus, a healthy checks and balances mechanism is not established in the region instead, a strong collaboration of the interests of a handful of executive and legislative elites in the regions continue to appear (dpd.go.id, 2010).

Thus, healthy checks and balances mechanism is not established in the region. Instead, a strong collaboration of interests by a handful of executive and legislative elites in the regions continues to appear. This situation can be seen as weak coordination and synergy between local policies in the regions and policies in the central government and the region's limited accessibility to the centers of economic growth in its area ([Hanafi et al., 2018](#)). These factors made the DPD's role in the implementation of the accelerated development program in the regions very urgent and vital. At least in terms of the formulation of laws relating to the legislative authority of the DPD.

But in reality, the DPD cannot align all the central policies with the region's policies and programs, even though it is mandated in the constitution ([Elang, 2019](#)). DPD occupies a central position in regional development. When there is no other way to change the pattern of development in the region by the central government, plus the absence of an affirmative strategic work program on accelerating regional development, carrying out the monitoring function is one that can be the DPD can do. On the other hand, the attachment between the DPD and political parties is another problem. Some regulations related to DPD still cause various understandings.

DPD AFFILIATION WITH POLITICAL PARTIES

Arrangements regarding candidates for DPD members are stated in Article 63 letter b of Law No. 12 of 2003 concerning Elections of the DPR, DPD, DPRD. This article states that one of the requirements for a DPD candidate is not to be an official of a political party for at least four years before the candidacy. But in 2008, the decision of the Constitutional Court No. 10/PUU-VI/2008 changed the regulation. The Constitutional Court stated that members of a political party may participate as an individual candidate in the election of DPD members. Thus, the regulation which states that the management of political parties is prohibited from becoming DPD members experiences a legal vacuum ([Putranto, 2018](#)).

Article 182 letter l of Law No. 7 of 2017 concerning Elections explains that DPD members must be willing to not practice as public accountants, advocates, notaries, land deed-making officials, and not carrying out the work of providers of goods and services relating to state finances and other work that can create a conflict of interest with the duties, authorities, and rights as a DPD member under the provisions of the laws. The phrase "other work" raises multiple interpretations and legal uncertainties, especially regarding whether political party officials are also included in the phrase "other work." This is why, in the 2014-

2019 period, there were at least 78 DPD members affiliated with political parties, and eight of them were also the officials of their political party.

TABLE 1. NUMBER OF THE DPD MEMBERS FOR THE PERIOD OF 2014-2019 AFFILIATED WITH POLITICAL PARTY

No.	Political Party	Number of DPD Member	Percentage
1	Hati Nurani Rakyat (HANURA)	28	
2	GolonganKarya (GOLKAR)	14	
3	Persatuan Pembangunan (PPP)	8	
4	Keadilan Sejahtera (PKS)	6	
5	Amanat Nasional (PAN)	5	
6	Demokrat	3	
7	KebangkitanBangsa (PKB)	3	
8	Demokrasi Indonesia Perjuangan (PDI-P)	2	60,6%
9	Aceh	2	
10	Nasdem (NasDem)	1	
11	Gerakan Indonesia Raya (Gerindra)	1	
12	Damai Sejahtera (PDS)	1	
13	Buruh	1	
14	Nasional Indonesia Mahaenisme (PNI Marhaenisme)	1	
15	Perjuangan Indonesia Baru (PPIB)	1	
16	Idaman	1	

Source: From various sources

However, to understand DPD's affiliation with political parties, we have to see beyond the laws and regulations. There are at least five reasons for the situation. First, DPD was not originally designed as a co-legislator on par with the DPR, which caused them to feel inferior, and they would like to be seen as a DPR member instead. Second, the definition of regional representation in the DPD is not clearly defined. If a regional perspective is only needed for a consultative process in the formation of laws, then there is no need for a DPD to be formed. It is sufficient to absorb regional aspirations through the regional governments or DPRD. Third, there is no barrier of candidacy between DPD and DPR, which allow the candidates to be nominated between the two institutions. What happens is revolving door politics that allows politicians to move in and out of both

institutions freely. Many DPD members join the party and elected as members of the DPR in the next election. It is seen as an “upgrade.” On the other hand, a senior politician who had been a member of Parliament continued his career as a DPD member to protect his political constituents.

Fourth, DPD members fully understand that efforts to strengthen the DPD need acceptance from the DPR. The DPR has always narrowed down the scope of the DPD’s involvement in the legislation process. Some small victories were obtained by the DPD through judicial review to the Constitutional Court, but that was not enough to balance the power between the two chambers. The idea of a fifth amendment to strengthen the role of the DPD would never be achieved without the support of political parties in the DPR. Fifth, the DPD leadership lack the motivation to fight for the strengthening of the DPD, which caused dissatisfaction among the DPD’s members. Considering the above issues, the DPD members’ move to join into political parties that have direct connections with the DPR was an alternative for strengthening the DPD. It can be seen as a response to the dilemma of the DPD’s position in the Indonesian constitutional system. However, it also has some risks.

Although allowing members of political parties to become DPD members is indeed a constitutional right for every citizen, but DPD members from political parties, especially those who are political party officials, cannot avoid conflicts of interest between the political parties and their region. This conflict can be seen during a revision of the 2017 DPD rules, which revise the term of office of the DPD leadership from five years to two years and five months. During the discussion sessions, there was chaos between the DPD’s members, even though the rule was finally issued (republika.co.id, 2016). The new rules created factions in the DPD. Each faction seeks to seize power in the DPD, especially those from political parties. An indication of political interests in the DPD can be seen from the move of more than twenty DPD members to be the Hanura Party officials. The po-

litical interest also can be seen from the fact that the DPD was led by the Chairman of the Hanura Party, Oesman Sapta Odang, in 2017-2019. This resulted in changes in the original intent (of DPD creation) (tempo.co, 2017b).

The many DPD members who became political party members ([see Purwaningsih & Singka Subekti, 2017](#)), changed the role of the DPD. By becoming a political party member, the DPD member tends to prioritize the interests of the party rather than the interests of the people in the regions who have elected them to be the DPD member, although DPD is intended to be representatives of their region, not the representative of political parties ([Wasti, 2017](#)). DPD was formed to fight for the aspirations of the people who are unable to be represented in the DPR since DPR members are members of the political parties. For example, the aspirations of indigenous peoples and minority groups are not the interest of political parties in the DPR. The boundary between the DPR and DPD has collapsed, allowing politicians to enter and exit the DPD easily. On the one hand, this provides a slight chance to strengthen the DPD institution, changing the form of the DPD from within the DPR. However, on the other hand, this experiment paved the way for the migration of DPD members to the “next-door office.”

The move of DPD members to join the political parties led to an imbalance. The aspirations of indigenous peoples and minorities are no longer represented by the DPD and the DPR, and both cannot carry out their respective functions. DPD and DPR cancel each other and recruit from one another ([Fachrudin, 2017](#)). Both the DPR and DPD are the embodiment of the people’s voice. The DPR represents the aspirations of the people, while the DPD represents the regional voice. If the DPD is taken over by political parties, there will no longer be a regional representative. DPD members who become political party members and officials must be bound to the regulations and policies of their parties and can no longer voice the aspirations of an independent region.

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This situation was further complicated when Oesman Sapta Odang, a DPD member from West Kalimantan, was elected as the Chairman of the DPD. He changed the dynamics of the DPD. Oesman has long sought to appear significant in the national political arena. Previously through the Regional Unity Party (2002-2010), and the National Unity Party (2011-2016). Finally, he gained a position as Deputy Chair of the MPR (2014) and Chair of the Hanura Party (2016). Oesman attracted DPD members who were troubled by the dilemma faced by the DPD. They want a change from within. The situation raised concerns that the DPD would become an extension of the political party faction. Many DPD members view their position in the DPD as a transit point in their political trajectories. Some of them plan to run in the next election for the DPR seat or become regional heads. Some are consistent with their noble duties as regional representatives.

Thankfully, the Constitutional Court in decision No. 30/PUU-XVI/2018 dated July 23, 2018, officially forbade the officials of political parties from running for the DPD representative. The Constitutional Court viewed that the ban was needed to avoid political distortion. The distortion was in the form of a double representation of political parties in the legislative body. This also includes important political decisions, such as the decision to amend the Constitution. The Constitutional Court stated that Article 2 Paragraph 1 of the 1945 Constitution stated that the MPR consisted of members of the DPR and DPD. Article 3 Paragraph 1 of the 1945 Constitution stated that the MPR has the authority to amend and issue the amendment to the constitution. Thus, if a DPD member is allowed to be a political party official, there will be a double representation of the party in the MPR, where political parties that are already represented in the DPR membership are also represented in the DPD membership. This situation would indirectly change the design of the state administration related to the membership of the MPR mandated in the 1945 Constitution, that the MPR is formed by

political representation and regional representation.

CONCLUSION

The underlying reason for creating the DPD is the desire to better accommodate regional aspirations while also give a greater role to the region in the political decision-making process, especially in matters directly related to the region, without having to adhere to the political preferences of the political parties.

Ideally, the DPD has the authority to be involved in the legislative process and the preparation of regional budgets. The level of difficulty in the selection mechanism of the DPD members as a state institution should be directly proportional to their authority.

This did not reflect the current DPD. The DPD selection mechanism is extraordinarily difficult, but its authority is minimal. In the United States, the Senate is directly elected by the people, two senators per state, as such, the Senators have great authority. But in England, for example, the Upper House has less authority because it is merely appointed. In Indonesia, the authority of the DPD is minimum, similar to the Upper House in England, but they are elected by the people, similar to the United States' senators. In the United States and Britain bicameral parliamentary structure, the Senate and Upper House have functions similar to the DPD in the Indonesia

In essence, the role and function of the DPD are never at the expected point. From time to time, complaints about the powerless DPD surfaced. The budget spent by the state through the state budget for the DPD is always in the range of one trillion, a figure that cannot be considered as small. However, that number did not correlate proportionally to DPD's performance and contribution to the development of the nation and state.

Therefore, changes must be made to clarify the system of representation and improve the quality of policies by ensuring the representation in each formation of legislation. The main idea is to clarify the bicameralism and patterns of relations be-

tween them, in particular, to clarify the position and authority of the DPR and DPD so that a complete check and balance system is performed. This is carried out to prevent the domination of the DPR on the Indonesian Government system. At the same time, it aims to strengthen the implementation of the regional autonomy system, in which all regions - densely populated and scarcely populated regions, natural resource-rich and natural resource-poor areas, are treated fairly.

Optimizing the role of the DPD is a very urgent matter. The important role of the DPD as a channel for regional political and economic aspirations and needs in the national policy should be repositioned according to the demands of the law. However, if this role is not achieved, this nation should decide to dissolve the DPD. Of course, it should be conducted through a constitutional mechanism, via amendment of the 1945 Constitution. That choice is the best rather than preserving a powerless DPD.

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