

Legal Certainty in The Role of The DPRD Functions in Implementing the Right of Interpelation Based on Constituonal Practices

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Abstract

The Regional People's Legislative Council (DPRD) is a legislative institution which is an element of the constitutional structure in our country. This institution functions as a policy initiator, policy supervisor, and works together with the executive to develop joint policies for the welfare of the people. DPRD has many rights in carrying out its duties and functions, one of the many rights is the right of interpellation. The right of interpellation is the right of the DPRD to request information from the government regarding strategic policies that have an impact on social life which certainly affects the development of the nation. The right of interpellation is the right of the DPRD to ask the government for information regarding important and strategic policies that have an impact on people's lives and the dynamics of the nation. That in forming a Law, the DPRD cannot act alone without the approval of the Regional Head. Both, the DPRD and the Regional Head must agree, Both must walk hand in hand to agree together.

I. Introduction

The House of Representatives is an institution that is known as an intermediary that connects people's hopes to be realized through policies made by the government through the contents of rules based on the provisions of the applicable constitution. DPRD is a Regional People's Representative Body which is domiciled as an element of Regional Government administration. As a representative of the people, the DPRD has the function of forming regional regulations, budgeting and oversight. DPRD has the following duties and authorities:

1. Form a Regional Regulation with the Governor;
2. Discuss and approve the Raperda regarding the APBD proposed by the Governor;
3. Carry out supervision of the implementation of regional regulations and regional budgets;
4. Propose the appointment and/or dismissal of the Governor and/or Deputy Governor to the President through the Minister of Home Affairs to obtain approval for his appointment and/or dismissal;
5. Choose the Deputy Governor in the event of a vacancy in the position of Deputy Governor;
6. Provide opinions and considerations to the Provincial Government regarding plans for international agreements in the regions;
7. Give approval for plans for international cooperation carried out by the Provincial Government;
8. Ask for a report on the accountability of the Governor in the administration of regional government;
9. Give approval for cooperation plans with other regions or with third parties that burden the community and the region;
10. Strive for the implementation of regional obligations in accordance with the provisions of laws and regulations;
11. Carry out other duties and authorities based on the provisions of laws and regulations.

The DPRD has the right of interpellation, inquiry and expression of opinion while DPRD members have the right to submit Raperda, ask questions, submit suggestions and opinions, vote and be elected, defend themselves, immunity, follow the orientation and study of duties, protocol rights, financial and administrative as well as having a work space. Leaders and members of the DPRD obtain protocol status in official events and receive respect according to respect for government officials

2. Research Method

The method used in this research was qualitative research. This research uses a normative juridical approach, which is carried out by examining literature which is secondary data. , judicial review, legality principle, legal interpretation and legal certainty.

In addition to using normative juridical methods, to answer the problems studied, researchers also use empirical approach methods. Because the problems under study cannot be answered only by using normative matters (law as written in a book). To answer questions related to implementation practices, non-legal

matters are also needed which can be in the form of social phenomena related to human behavior. Empirical research or socio-legal research is an approach model that views law as not limited to a prescriptive and applied discipline but something empirical or a legal reality.

This study also uses a comparative method to find out how the mechanism for judicial review of criminal law norms in various countries develops. Because if Indonesian criminal law is based on legal sources according to Article 1 paragraph (1) of the Criminal Code it is classified as a civil law system

3. Results and Discussion

In its implementation, the right of interpellation must go through the following mechanisms:

- i. At least 13 members can submit suggestions to the DPRD to use the right of interpellation regarding a government policy that is important and strategic and has a broad impact on the life of society and the state.
- ii. Proposals are prepared in a concise and clear manner and submitted in writing to the leadership of the DPRD accompanied by a list of names and signatures of the proponents as well as the names of their factions.
- iii. In the next Plenary Meeting after the interpellation proposal has been received by the DPRD leadership, the DPRD leadership notifies members about the entry of the interpellation proposal and the proposal is then distributed to all members.
- iv. In the Bamus Meeting which discusses determining the time for discussing interpellation proposals at the Plenary Meeting, the proposer is given the opportunity to give a brief explanation of his proposal.
- v. In a predetermined Plenary Meeting, the proposer provides an explanation of the intent and purpose of the proposed interpellation.
- vi. The plenary meeting decides to approve or reject the proposal.
- vii. As long as the interpellation proposal has not been decided to become DPRD interpellation, the proposer has the right to propose changes or withdraw his proposal again.
- viii. Notification regarding the amendment or withdrawal of the proposal must be signed by all proponents and submitted in writing to the leadership of the DPRD, which is then distributed to all members.
- ix. If the number of signatories to the interpellation proposal that has not yet been discussed at the Plenary Meeting turns out to be less than 13 people, additional signatories must be made so that the number is sufficient.

- x. If up to 2 times the Trial Period the number of signatories referred to is not fulfilled, the proposal will be null and void.
- xi. If the interpellation proposal is approved as a DPRD interpellation, the DPRD leadership will submit it to the Governor/Regent and invite the Governor/Regent to provide information.
- xii. With regard to the statement by the Governor/Regent, an opportunity is given to the proponents and other Members to express their opinions.
- xiii. On the opinion of the proposer and/or other Members, the Governor/Regent provides the answer.
- xiv. Statements and answers from the Governor/Regent can be represented by the Regional Secretary.
- xv. Against the statements and answers of the Governor/Regent, Members can propose a statement of opinion.
- xvi. If by the closing time of the Session Period in question it turns out that no opinion proposals have been submitted, the discussion regarding the request for information from the Governor/Regent is declared complete at the Plenary Meeting closing the Session Period concerned.

The above mechanism as the holder of the exercise of the right of interpellation which is based on constitutional provisions, indicates that anything carried out by government institutions may not be carried out arbitrarily. Legal Certainty on the Implementation of the Right of Interpellation by DPRD against Government Policy. The right of interpellation that has been discussed previously has important points that can be drawn from a common thread, namely the right of interpellation is a special right that is owned by the legislature as a pill that can be used in certain situations that affect the stability of people's lives through juridical dynamics. However, questions will arise regarding the right of interpellation held by this legislative body. These questions usually arise from the grassroots or ordinary people, is this right of interpellation really carried out with full discretion and in accordance with the mandate of the constitution? Legal certainty is a principle that contains an element of clarity for its subjects so that they can adjust their behavior in accordance with established policies, besides that legal certainty will regulate the behavior of the government or the state so that it is not arbitrary in exercising power. In addition, legal certainty in general contains several significant elements:

- Laws and court decisions must be accessible to the public;
- Laws and court decisions must be clear and not ambiguous;
- Court decisions must be considered binding;
- Laws and decisions that apply retroactively must be limited; And
- Legitimate interests and expectations must be protected.

These points indirectly prove that the principle of legal certainty is one of the main elements in the rule of law concept. Furthermore, legal certainty in the exercise of the right of interpellation must also give birth to a legal product, such as a policy or rule that is expected to be wise for the interests of society and the state so that the vision of this interpellation is achieved properly. Apart from that, a question must arise as to how to follow up on this right of interpellation so that it can be said to contain a principle of legal certainty? Follow up da

4. Conclusion

The right of interpellation is a right that belongs to the legislature, as a weapon for oversight of policies and budgets carried out by the executive branch. With the special rights possessed by the DPRD, this institution should be able to work well through policies made by the government which involve the DPRD. The rights owned by the DPRD can be implemented as a sign that in our country we adhere to the Triassic ideology. politica, in which the three institutions collaborate well in running the wheels of government and statehood. The right of interpellation is a legal politics that is processed through the dynamics of government with the intermediary of several authorized institutions. Legal politics must give birth to benefits, justice and legal certainty for the subjects. Legal certainty will be achieved if each of the government institutions pays attention to cases that occur in the social and considers them with the applicable constitutional provisions.

The executive branch must cooperate well with oversight institutions, through harmonious and wise political communication, so that a government space is created that benefits the community. The DPRD must also be firm in exercising its rights which are mediated by legal political activities, so as to avoid the politicization of legal products which will later have the impact of collapsing people's welfare. In addition, the central government should reinforce the rights possessed by the legislature through concrete derivative regulations, so that these rights can be interpreted properly and can be implemented wisely in accordance with the constitutional mandate.

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