

Reimagining Legislative Representation in Indonesia: Integrating Regional Interests within Constitutional Checks and Balances

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Article Info

Received:2022-08-12

Revised:2023-02-21

Accepted:2023-03-31

Keywords:

Constitutional
Reconstruction,
Constitutional
Amendment, Checks and
Balances, Regional
Representation,
Bicameralism.

Abstract

The Regional Representative Council (DPD), established after Indonesia's third constitutional amendment, was designed with dual missions: providing checks and balances against the House of Representatives (DPR) and channeling regional aspirations into central government policies. However, the DPD's limited authority has compromised its effectiveness in fulfilling these missions.

This study examines whether the DPD's current regulatory framework reflects balanced power relations and effective checks and balances while representing regional interests in central government policies. It also explores potential restructuring of DPD-DPR authority to achieve these objectives.

Using juridical-normative methodology, this research reveals that Indonesia's post-amendment representative system reflects asymmetric weak bicameralism, failing to achieve balanced DPD-DPR power relations or effective checks and balances. This weakness consequently undermines regional interest representation in central policy-making. The study proposes asymmetric strong bicameralism as a solution for achieving balanced power relations while ensuring regional representation. This reconstruction necessitates amending Law Number 17 of 2014 to strengthen the DPD's position as a regional representative institution.

I. Introduction

The 1988 Reform movement demanded amendments to the 1945 Constitution of Indonesia. Several critical factors necessitated these constitutional amendments. First, the constitution had enabled executive power dominance within the state system.¹ Second, it lacked adequate power limitation mechanisms, such as restrictions on presidential terms and parliamentary membership duration.² Third, the recognition and protection of human rights and citizens' rights were not adequately addressed within Indonesia's constitutional framework.³ Fourth, mechanisms for mutual oversight and balance (checks and balances system) among branches of power were absent from the constitution. The power structure within the 1945 Constitution did not establish a checks and balances system among power branches to prevent abuse of authority.⁴ Fifth, presidential power in legislation was extraordinarily extensive.⁵ Sixth, the constitution did not establish institutions authorized to review and nullify laws.⁶

The inherent weaknesses of the 1945 Constitution prevented it from fostering democratic governance. Moreover, these constitutional deficiencies were manipulated to establish an autocratic regime. During the New Order era, constitutional weaknesses were exploited for personal and group interests. The New Order's method of constitutional manipulation centered on an appealing slogan: "implementing the constitution purely and consistently." This slogan was merely wordplay, serving as a facade to manipulate the constitution for power preservation.

The regime skillfully engineered and manipulated this slogan as a pretext to build power hegemony while simultaneously rejecting any attempts at constitutional reform. For the New Order, the constitution became an ahistorical "sacred" object, immutable to temporal changes, preserved solely for maintaining power. However, from a constitutional theory perspective, constitutional amendment is both ordinary and historically necessary, requiring adaptation to evolving times.

The momentum for constitutional amendments emerged in 1998, when the reform movement successfully initiated a late 20th-century political transformation through the dramatic downfall of Soeharto from power on May 21, 1998. At that time, no one had envisioned such a dramatic collapse of

¹ Moh. Mahfud M. D, *Perdebatan Hukum Tata Negara Pasca Amandemen Konstitusi* (Jakarta: LP3ES, 2007), hlm. 65, <https://books.google.co.id/books?id=S1aWAAAAMAAJ>.

² Moh. Mahfud M. D, *Demokrasi Dan Konstitusi Di Indonesia : Studi Tentang Interaksi Politik Dan Kehidupan Ketatanegaraan* (Jakarta: Rineka Cipta, 2000), hlm. 141.

³ *Ibid.*

⁴ Bagir Manan, *Teori Dan Politik Konstitusi* (Yogyakarta: FH-UII Press, 2003), hlm. 13.

⁵ Mahfud M. D, *Perdebatan Hukum Tata Negara Pasca Amandemen Konstitusi*, hlm. 65.

⁶ *Ibid.*, hlm. 65-66.

Soeharto's regime.⁷ The authoritarian regime, which had ruled for approximately thirty-two years, unexpectedly fell. The fall of the New Order regime shattered the myth of a "sacred" constitution considered "taboo" to amend and opened the door for constitutional reforms and other societal transformations. However, before reordering the broader system, the constitution itself needed to be overhauled.

The primary goals of the constitutional amendments included limiting the presidential term of office and membership in the House of Representatives (DPR), reducing the President's power in the legislative process, and establishing a state institution responsible for judicial review, among other objectives. All of these aspects are encapsulated in the broader discussion on restructuring the distribution of power. Through various changes pertaining to the regulation of power, it was hoped that the Indonesian constitution would give rise to a democratic constitutional system. Regarding this, Valina Singka offered the following commentary:

"The downfall of Soeharto on May 21, 1998, served as a turning point for reforming every aspect of our national life Reform must begin by amending the 1945 Constitution because, de facto, the 1945 Constitution was never able to establish a democratic government."⁸

Specifically, the constitutional amendments were expected to reorganize the representative system so that it could accommodate regional aspirations and interests in central government policies.⁹ The Indonesian Constitution was anticipated to create a democratic state system with a balanced power structure among representative institutions, thereby establishing checks and balances.¹⁰ The formation of a democratic representative system was intended to fulfill the demands of regional communities' aspirations and interests in central government policies.

A bicameral representative system is deemed the most suitable format for Indonesia's needs, according to experts. Mahfud MD commented as follows: "Initially, these two institutions (DPD–DPR . . . ed.) were envisioned to operate like a parliament comprising a House of Representatives and a Senate, each with legislative, oversight, and budgetary functions."¹¹

⁷ Valina Singka Subekti, *Menyusun Konstitusi Transisi Pergulatan Kepentingan Dan Pemikiran Dalam Proses Perubahan UUD 1945* (Depok: RajaGrafindo Persada, 2008), hlm. 49-50.

⁸ *Ibid.*, hlm. 4.

⁹ Tubagus Muhammad Nasarudin, "PERAN DPD SEBAGAI LEMBAGA NEGARA DALAM SISTEM KETATANEGARAAN REPUBLIK INDONESIA (UUD 1945 PASCA AMANDEMEN)," *FIAT JUSTISIA: Jurnal Ilmu Hukum* 10, no. 1 (2017), <https://doi.org/10.25041/fiatjustisia.v10no1.644>.

¹⁰ Arafatus Syahidah, "ANALISIS PERAN DAN KINERJA DEWAN PERWAKILAN DAERAH SELAMA EMPAT PERIODE" 6, no. 1 (2024): 24–30.

¹¹ Mahfud M. D, *Perdebatan Hukum Tata Negara Pasca Amandemen Konstitusi*, hlm. 66.

This bicameral system was proposed to ensure the representation of regional aspirations and interests in central government policies, similar to the role previously played by the Regional Delegates (Utusan Daerah) in the People's Consultative Assembly (MPR) before the amendments. The function of accommodating regional aspirations and interests in national policies was entrusted to one of the representative bodies. In discussing other functions, Solly Lubis offered the following perspective on the Regional Representative Council (DPD): "The DPD will be established and presented as one of the people's representative institutions that will bridge (policy) and regulations on a national scale, carried out by the central government on the one side and the regions on the other."¹²

Andrew Ellis explained that the constitution drafters' decision to adopt a bicameral system had two objectives: to establish a checks-and-balances mechanism and to accommodate regional aspirations and interests within the parliament.¹³ According to experts, preserving the representation of regional aspirations and interests in central government policies remains essential in the post-amendment era, which calls for a bicameral design that differs from the pre-amendment system.

However, in the aftermath of these amendments, the Indonesian Constitution produced a representative framework whose structure is unclear when viewed from the perspective of constitutional theory and constitutional law. In particular, the role of the DPD in the representative system remains ambiguous because its authority is not clearly defined.

In line with the explanations and arguments presented above, the research question for this study is as follows: What kind of representative system would be most appropriate for Indonesia, a country with a vast territory and a diverse, pluralistic society?

2. Research Method

The research method used in this study is a normative juridical approach. The norms examined are those of positive constitutional law. In order to understand the configuration of these positive constitutional law norms, the researcher employs interpretative methods. Legal logic (reasoning) is utilized as a scientific thinking tool for two main purposes. First, to identify the research problems. Second, to construct legal arguments capable of producing legal knowledge in

¹² Muchtar Herman Putra, "FUNCTIONS AND ROLES OF THE REGIONAL REPRESENTATIVE COUNCILS (DPD) OF THE REPUBLIC OF INDONESIA IN STRENGTHENING REGIONAL AUTONOMY IN THE BICAMERAL GOVERNMENT SYSTEM," *International Journal of Social Science and Public Policy*, 2020, <https://doi.org/10.33642/ijsspp.v2n10p1>.

¹³ Bambang Ariyanto, "REFORMASI STRUKTUR PARLEMEN, LANGKAH PENGUATAN DPD," *Perspektif Hukum* 20, no. 1 (2020), <https://doi.org/10.30649/phj.v20i1.246>.

the field of constitutional law, particularly concerning the DPD as a state institution within Indonesia's bicameral representative system.

3. Results and Discussion

Between 1999 and 2022, Indonesia embarked on a new chapter in its national life through constitutional amendments. Following Amendments I–IV, the Indonesian Constitution underwent extensive changes in various aspects.¹⁴ Presidential powers were curtailed in multiple ways. The presidential term of office was limited to a maximum of two consecutive terms. The President's authority to initiate legislation was transferred back to the House of Representatives (DPR). The constitution also established a state institution with the authority to review and annul any laws deemed contradictory to the constitution.¹⁵ Moreover, the recognition and protection of human rights were explicitly included in the constitution. Although these amendments significantly addressed many of the constitution's shortcomings, they still left several constitutional issues that warrant further discussion.¹⁶

Several authors have criticized the outcomes of the constitutional amendments from various perspectives, underscoring the constitution's weaknesses. Donald L. Horowitz describes these weaknesses as follows: "Indonesian constitutional reformers have disappointed many people's expectations about the general pattern of democratic transition in the making of a new constitution."¹⁷ The rationale is that the post-amendment state and political systems under the 1945 Constitution exhibit numerous flaws. Mahfud MD highlights these constitutional weaknesses in the following statement:

"Upon further scrutiny, the amended 1945 Constitution is indeed unsatisfactory when viewed from the standpoint of constitutional theory, both in terms of its content and structure. This happened because the amendments to the 1945 Constitution placed greater emphasis on political aspects rather than constitutional logic."¹⁸

Another scholar points out that the 1999–2002 amendments still contain numerous weaknesses, both quantitatively and qualitatively.¹⁹ These shortcomings are

¹⁴ Septi Nur Wijayanti, "Studi Evaluasi Terhadap Amandemen Uud 1945 (Amandemen Sebagai Upaya Pemenuhan Kebutuhan Hukum Masyarakat Indonesia)," *Jurnal Media Hukum* 16, no. 2 (2009).

¹⁵ Ricca Anggraeni and Indah Mutiara Sari, "MENELISIK TERTIB HUKUM PERATURAN PEMERINTAH PENGANTI UNDANG-UNDANG MELALUI VALIDITAS SUATU NORMA HUKUM," *CREPIDO* 2, no. 1 (2020), <https://doi.org/10.14710/crepido.2.1.35-45>.

¹⁶ Junior B Gregorius, "HAK ASASI MANUSIA (HAM) ATAS LINGKUNGAN HIDUP1 (Suatu Refleksi Sosio-Yuridis Atas Implementasi Penyelesaian Sengketa Lingkungan)," *Jurnal Hukum & Pembangunan* 39, no. 3 (2017), <https://doi.org/10.21143/jhp.vol39.no3.1513>.

¹⁷ Donald L. Horowitz, *Perubahan Konstitusi Dan Demokrasi Di Indonesia Atau Constitutional Change and Democracy in Indonesia* (Yogyakarta: Pustaka Pelajar, 2014), hlm. 12.

¹⁸ Mahfud M. D, *Perdebatan Hukum Tata Negara Pasca Amandemen Konstitusi*, hlm. 19.

¹⁹ Wijayanti, "Studi Evaluasi Terhadap Amandemen Uud 1945 (Amandemen Sebagai Upaya Pemenuhan Kebutuhan Hukum Masyarakat Indonesia)."

attributed to the very short timeframe allocated for the amendments and the vested, transactional interests of those involved. In other words, according to various experts, an extremely brief amendment process—which was intended to shape the nation’s future—may not have yielded optimal results. Moreover, the drafters, who were heavily influenced by their own interests, did not necessarily represent the aspirations and interests of the entire Indonesian population. Samsuharto remarks:

“We have collectively failed after the reform era, because we underwent a very short reform process, entrusted to political parties in a transitional context. Secondly, much of our legislation—possibly including the 1945 Constitution—reflects an overreaction, sometimes shifting left and sometimes right.”²⁰

The weaknesses of the constitution resulting from the amendments include, among other things, the following. First, the timeframe was too brief to conduct a more thorough and well-considered analysis—particularly a philosophical examination. Second, the amendment process was reactionary (reactive), shaped by the political dynamics at the time of amendment.²¹ Third, short-term interests of the actors involved in the amendments were highly reactive and shifted in line with the prevailing political climate.²² A more in-depth study of the transactional dynamics during the constitutional amendment process would enhance understanding of these amendments and could confirm the validity of the above statements.²³ As a result, the amended constitution reflects a patchwork of compromises, yielding a representative system that does not align with constitutional theory or law.

One of the outcomes of the constitution’s third amendment was the establishment of the Regional Representative Council (DPD). Several factors underpinned the decision to create the DPD as a regional representative body. First, there was a democratic demand for the involvement of voters in selecting members of state institutions. The DPD was formed to replace the Regional Delegates and Functional Groups within the composition of the People’s Consultative Assembly (MPR).²⁴ Second, the formation of the DPD was tied to the increasing calls for regional autonomy, which, if mishandled, could escalate into separatist movements. In response to these demands, the DPD was created to represent regional aspirations and interests.²⁵ Based on these considerations, the DPD was envisioned as a regional representative institution responsible for channeling regional interests into central government policies and establishing a check-and-balance mechanism

²⁰ Janedjri (Editor) M. Gaffar, *Dewan Perwakilan Daerah Dalam Sistem Ketatanegaraan Republik Indonesia* (Jakarta: Sekretariat Jenderal MPR dengan UNDP, 2003), hlm. 51.

²¹ Wijayanti, “Studi Evaluasi Terhadap Amandemen Uud 1945 (Amandemen Sebagai Upaya Pemenuhan Kebutuhan Hukum Masyarakat Indonesia).”

²² *Ibid.*

²³ Singka Subekti, *Menyusun Konstitusi Transisi Pergulatan Kepentingan Dan Pemikiran Dalam Proses Perubahan UUD 1945*, hlm. 211.

²⁴ M. Gaffar, *Dewan Perwakilan Daerah Dalam Sistem Ketatanegaraan Republik Indonesia*, hlm. 32.

²⁵ L. Horowitz, *Perubahan Konstitusi Dan Demokrasi Di Indonesia Atau Constitutional Change and Democracy in Indonesia*, hlm. 12.

within the representative system. The creation of the DPD coincided with the political will to undertake constitutional reform aimed at fostering a democratic political system.²⁶

The reality of the third constitutional amendment's outcome differs significantly from the initial expectations. The DPD, as shaped by the constitutional amendments, does not fully align with what experts and national figures originally envisioned. Under the third amendment, the DPD was established as a regional representative body with unclear authority, as outlined in both the constitution and in legislation.²⁷ According to Article 22D of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), the DPD's powers include (1) proposing bills (RUU) to the DPR, (2) participating in discussions of bills, and (3) conducting oversight of the implementation of laws.

The DPD's authority does not carry significant weight in demonstrating and substantiating its role within the representative system, as it is not directly (and finally) binding. The DPD's authority remains incomplete (non-final), suggesting that it functions as a "pseudo" or "pretend" regional representative institution.²⁸ Accordingly, the DPD is not truly, or cannot be deemed, a state institution because it lacks autonomous, comprehensive (final) authority.²⁹ Unlike the President, the House of Representatives (DPR), the Supreme Court (MA), the Constitutional Court (MK), and other institutions, the DPD does not possess the authority to produce directly binding legal instruments.³⁰ Nor does it hold the autonomous authority of the aforementioned institutions to formulate legal products that have immediate binding force on the public.³¹

As a regional representative body, the DPD merely "assists (supports)" the DPR. In fact, as a "DPR assistant," the DPD operates within highly constrained freedom and holds only weakly binding authority.³² In the post-third amendment constitution, the DPD's latitude to act as a regional representative institution has been severely limited—leaving it with only a minimal degree of autonomy.³³ The DPD lacks the authority to serve as a "tool or instrument" that can concretize its role in governance. Due to the unclear construction of its powers, the DPD cannot

²⁶ John Pieris and Aryanthi Baramuli Putri, *Dewan Perwakilan Daerah Republik Indonesia Studi, Analisis, Kritik Dan Solusi Kajian Hukum Dan Politik* (Jakarta: Pelangi Cendekia, 2006), hlm. 28.

²⁷ Evi Purnama Wati, Budi Aspani, and Dewi Mulyati, "SISTEM LEMBAGA PERWAKILAN BIKAMERAL INDONESIA," *SOL JUSTICIA* 5, no. 1 (2022), <https://doi.org/10.54816/sj.v5i1.476>.

²⁸ *Ibid.*

²⁹ Wijayanti, "Studi Evaluasi Terhadap Amandemen Uud 1945 (Amandemen Sebagai Upaya Pemenuhan Kebutuhan Hukum Masyarakat Indonesia)."

³⁰ Grasica Junear Putrie Jamil, "Kedudukan Dewan Perwakilan Daerah Dalam Sistem," *Jurnal Judiciary* 11, no. 1 (2022).

³¹ Adventus Toding, "DPD Dalam Struktur Parlemen Indonesia: Wacana Pemusnahan Versus Penguatan," *Jurnal Konstitusi* 14, no. 2 (2017), <https://doi.org/10.31078/jk1423>.

³² Nasarudin, "PERAN DPD SEBAGAI LEMBAGA NEGARA DALAM SISTEM KETATANEGARAAN REPUBLIK INDONESIA (UUD 1945 PASCA AMANDEMEN)."

³³ *Ibid.*

effectively demonstrate or substantiate its contribution and role.

The DPD's very limited and weak authority is the product of constitutional engineering. Under the provisions of the constitution and statutory laws, the DPD's authority is narrowly defined in scope. Its authority is weak because it lacks direct binding force. The constitution thus establishes the DPD as an institution with no significant role in governance, merely a "helper" to the DPR. In fact, it functions as a "participant" body that need not possess autonomous or binding authority. The DPD's authority is deliberately minimized in order to marginalize its role in governance.³⁴ As a result, its powers are merely complementary. Ultimately, all of the DPD's efforts, roles, and activities as a regional representative institution depend on and are determined by the DPR.³⁵

The construction of the DPD's authority illustrates the imbalance between the DPD and the DPR. The DPR was designed to dominate the DPD as the regional representative body in a "pseudo" or "pretend" bicameral system.³⁶ Actors involved in the amendments, driven by vested interests, managed to engineer the constitution and effectively place the DPD on the "stage" of a deceptive democracy. The presence and role of the DPD in this "pseudo-democratic" arena are merely ornamental, complementing the narrative of governance.³⁷ It is considered necessary for the DPD to appear on this "democratic stage" solely to round out and animate the storyline of a "pseudo-democracy." The DPD's authority, as arranged, differs from that of other state institutions—such as the President, the People's Consultative Assembly (MPR), the Supreme Court (MA), and the Constitutional Court (MK)—which hold autonomous and directly binding powers.

In the post-third amendment bicameral system, the power dynamic between the DPD and the DPR does not reflect the ideal checks-and-balances relationship. One representative body (the DPR) dominates the representative system and governance.³⁸ The DPR's authority is more extensive and dominant, while the DPD's is limited and weak.

Consequently, Indonesia's representative system after the third amendment exhibits an imbalanced bicameral arrangement.³⁹ In such an unequal system, there is no mechanism for checks and balances between the two representative bodies. The asymmetry in power between the DPD and the DPR is indicative of the

³⁴ Wijayanti, "Studi Evaluasi Terhadap Amandemen Uud 1945 (Amandemen Sebagai Upaya Pemenuhan Kebutuhan Hukum Masyarakat Indonesia)."

³⁵ Jamil, "Kedudukan Dewan Perwakilan Daerah Dalam Sistem."

³⁶ Z. Ulya, "Kontradiksi Kewenangan Dewan Perwakilan Daerah Ditinjau Dari Segi Kemandirian Lembaga Dalam Sistem Bikameral," *Jurnal Hukum Samudra Keadilan* 11, no. 2 (2016).

³⁷ L H Huda and D Amnan, "Rekonseptualisasi Kedudukan Dan Fungsi DPD Ri Dalam Negara Kesatuan Republik Indonesia," *Jurnal Res Justitia: Jurnal Ilmu ...* 3 (2023).

³⁸ *Ibid.*

³⁹ Syahidah, "ANALISIS PERAN DAN KINERJA DEWAN PERWAKILAN DAERAH SELAMA EMPAT PERIODE."

constitution's weaknesses following the third amendment. As a result, various problematic (or "unhealthy") issues have emerged in the DPR-DPD power relationship within the representative system.

In a lopsided bicameral system, there is no balance of authority between the DPD and the DPR. The DPR dominates the bicameral representative framework in the governance process. The presence of a weak and limited DPD is the result of a compromise between factions that supported the DPD and those that opposed it.⁴⁰ The DPR's dominance over the DPD stems from transactional political dynamics among political forces. During the constitutional amendment process, certain political factions did not want balanced authority between the DPD and the DPR as representative institutions.⁴¹ These factions were unwilling to see the DPD included in a bicameral system with powers equal to those of the DPR. In other words, those opposing the DPD did not want regional aspirations and interests to be accommodated equally alongside the broader public's interests in central government policies.

Within the framework of Indonesia's bicameral representative system, the DPD is not regarded as a balancing representative institution vis-à-vis the DPR or as a conduit for regional aspirations, given its lack of binding authority.⁴² Because its powers are severely limited, the DPD cannot be expected to function effectively in counterbalancing the DPR for checks-and-balances purposes or in channeling regional interests into central government policies.⁴³ Consequently, from a constitutional theory perspective, the DPD's role and significance within the bicameral system remain unclear. The DPD was conceived through a "half-hearted" compromise, which has obscured its vision, mission, and objectives. As a result, the DPD lacks a positive self-image as a representative body that might genuinely serve as a counterweight to the DPR, establishing a mechanism for checks and balances and providing a means of incorporating regional interests into central government policies.⁴⁴

The constitutional arrangement only allows the DPD to function as a complementary state institution to the DPR. Its limited and weak authority directly influences its role and capacity in the representative system. This characteristic of the DPD's authority, naturally, affects its functions and actions. Within the bicameral system, the DPD merely acts as a participant representative body rather than a key actor in channeling regional aspirations and interests into central government

⁴⁰ Singka Subekti, *Menyusun Konstitusi Transisi Pergulatan Kepentingan Dan Pemikiran Dalam Proses Perubahan UUD 1945*, hlm. 211.

⁴¹ *Ibid.*

⁴² Toding, "DPD Dalam Struktur Parlemen Indonesia: Wacana Pemusnahan Versus Penguatan."

⁴³ Huda and Amnan, "Rekonseptualisasi Kedudukan Dan Fungsi DPD Ri Dalam Negara Kesatuan Republik Indonesia."

⁴⁴ Syahidah, "ANALISIS PERAN DAN KINERJA DEWAN PERWAKILAN DAERAH SELAMA EMPAT PERIODE."

policies.

In practice, the DPD has been unable to serve as a counterbalance to the DPR in this bicameral structure. The DPR overwhelmingly dominates its relationship with the DPD, resulting in a weak, asymmetric bicameral system.⁴⁵ The DPD's severely restricted authority as a regional representative institution engenders various negative consequences for governance.⁴⁶

From the standpoint of authority, the DPD's weaknesses not only prevent it from serving as a counterweight to the DPR in establishing a system of checks and balances, but also hinder it from functioning effectively as a regional representative body tasked with bridging and channeling regional aspirations and interests into central government policies. The DPR's dominance over the DPD in the representative system means that the interests accommodated in central policies are those aligned with political parties. As a result, the regional aspirations and interests supported by the DPD become marginalized due to the DPR's dominance and the DPD's weak and limited authority. The DPD thus fails to effectively accommodate regional aspirations and interests. Consequently, the third constitutional amendment has yielded little benefit in representing regional aspirations and interests in national governance.

The weakness of the DPD's authority, which is not on par with the DPR in the bicameral system, has drawn considerable criticism. Various experts have voiced concerns regarding the DPD's existence within the representative system. One comment criticizes, "...the DPD's presence is nothing more than a democratic accessory in the representative system..."⁴⁷ The term "democratic accessory" projects a negative self-image (performance) for the DPD, suggesting it functions merely as a supplement or decoration within Indonesia's democratic system.⁴⁸ Clearly, if the DPD is seen as nothing more than an accessory in Indonesia's representation and democracy, this indicates a negative perception of the DPD's role and also underscores a serious constitutional issue. The conditions described in the negative remarks above reflect constitutional problems surrounding the DPD that warrant further study to prevent and mitigate potential adverse effects on the state system.

The deliberately "stunted" (weakened) authority and functions have resulted in the DPD playing a weak and superficial role in governance. Since its inception, the DPD's role as a regional representative institution has not been clearly apparent to

⁴⁵ Nasarudin, "PERAN DPD SEBAGAI LEMBAGA NEGARA DALAM SISTEM KETATANEGARAAN REPUBLIK INDONESIA (UUD 1945 PASCA AMANDEMEN)."

⁴⁶ Jamil, "Kedudukan Dewan Perwakilan Daerah Dalam Sistem."

⁴⁷ Ria Casmi Arrsa, "Konstruksi Yuridis Politik Legislasi DPD Pasca Putusan Mahkamah Konstitusi Nomor 92/PUU-X/2012," *Jurnal Konstitusi* 12, no. 4 (2016), <https://doi.org/10.31078/jk1245>.

⁴⁸ Hezron Sabar Rotua Tinambunan and Dicky Eko Prasetyo, "REKONSTRUKSI KONSTITUSI DALAM REGIONAL REPRESENTATIVE DEWAN PERWAKILAN DAERAH TERHADAP FUNGSI LEGISLATIF," *Masalah-Masalah Hukum* 48, no. 3 (2019), <https://doi.org/10.14710/mmh.48.3.2019.266-274>.

the public. Indeed, most people have little knowledge about the DPD's track record and performance as a regional representative body in the governance process. Arafatus Syahidah describes these shortcomings as follows:

"The sad reality today is that the DPD's existence is like 'a grasshopper trying to grow on a rock'—it came into being but as though unwillingly, and it exists in a state of helplessness. Its presence seems half-hearted, yet there is hope it can yield major benefits for the welfare of the regions."⁴⁹

The imbalanced bicameral representative system produced by the Constitution's third amendment, as noted above, needs to be reconstructed for improvement. The idea (or proposal) for reconstructing the bicameral representative system must address the following question: What kind of representative system best meets the needs of the Indonesian nation? Several scholars tend to favor a strong bicameral system, each with its own justification.⁵⁰ However, in the author's view, the bicameral representative system suitable for Indonesia's needs is an asymmetric strong bicameralism. Of course, the decision to adopt an asymmetric strong bicameral model is based on a number of reasons and considerations, which are outlined below.

First, an asymmetric strong bicameral system can constrain power to prevent it from becoming concentrated within a single representative institution—thereby reducing the likelihood of abuse of authority.⁵¹ In an asymmetric strong bicameral system, the distribution of state power serves as a method to limit authority. Under such a system, power is proportionally allocated to two representative bodies. The first body can be referred to as the Lower House (DPR), while the second body can be called the Upper House (DPD) or given another designation. Each representative body holds proportionally distributed powers that are autonomous and directly binding. By allocating authority to both entities, the system effectively curtails each body's power, preventing any single institution from monopolizing authority.⁵²

In a bicameral system, concentrating power in a single institution must be avoided, as it can pave the way for abuses of authority for partisan or factional interests.⁵³ As noted above, such a tendency can be relatively neutralized in an asymmetric strong

⁴⁹ Syahidah, "ANALISIS PERAN DAN KINERJA DEWAN PERWAKILAN DAERAH SELAMA EMPAT PERIODE."

⁵⁰ Achmad Labib Chidqi, "PERLUASAN KEWENANGAN DEWAN PERWAKILAN DAERAH DITINJAU DARI BIKAMERAL YANG IDEAL," *Jurnal Ilmu Hukum: ALETHEA* 4, no. 1 (2020), <https://doi.org/10.24246/alethea.vol4.no1.p75-94>.

⁵¹ Miki Pirmansyah, "Eksistensi Dewan Perwakilan Daerah Dalam Sistem Bikameral Di Indonesia," *Jurnal Cita Hukum* 2, no. 1 (2014): 163–84, <https://doi.org/10.15408/jch.v1i1.1461>.

⁵² *Ibid.*

⁵³ Devolta Diningrat, "ANALISIS PERLINDUNGAN HUKUM TERHADAP PENAHANAN TERSANGKA PADA TINGKAT PENYIDIKAN BERDASARKAN PERATURAN KEPALA KEPOLISIAN NEGARA REPUBLIK INDONESIA NOMOR 4 TAHUN 2015 (STUDI KEPOLISIAN RESOR LAMPUNG BARAT)," *JURNAL POENALE* 5, no. 3 (2017).

bicameral framework.⁵⁴ Conversely, the potential for power abuse in a bicameral system increases significantly if it is dominated by a single political force.⁵⁵ If a single political power commands and dominates the representative system without any counterweight, abuses of power can easily occur, given the lack of oversight from another institution. Yet, preventing the misuse of authority is crucial, as it leads to adverse consequences for governance. One strategy for averting power concentration in a representative system is to implement an asymmetric strong bicameral model. By distributing authority proportionally between two representative bodies, abuses of authority can be held in check through mutual oversight. This distribution of power diminishes opportunities for misuse, thereby fostering more democratic governance.

Second, an asymmetric strong bicameral system can foster a relatively and proportionally balanced power relationship and a check-and-balance mechanism between the two representative bodies.⁵⁶ In an asymmetric strong bicameral system, power is allocated proportionally to both representative bodies. The two bodies—DPD and DPR—hold autonomous and proportionally binding authority.⁵⁷ Their powers need not be symmetrical; one of the chambers (the DPD) may possess more limited authority. Nevertheless, by wielding autonomous and directly binding authority within its defined scope, both bodies (DPD and DPR) can establish an ideal power relationship, albeit within certain limits. With this ideal distribution of power, one body (the DPD) can serve as a counterweight to the other (the DPR).⁵⁸ Even if in a restricted manner, this balance of power enables one representative body (DPD) to exercise oversight and maintain checks and balances.⁵⁹

A power relationship that is balanced, albeit limited, along with a check-and-balance mechanism in the representative system ensures that neither representative body (DPD nor DPR) can dominate. Such a limited balance of power and the presence of checks and balances within an asymmetric strong bicameral system reflect a democratic distribution of authority. This democratic relationship between the two representative bodies (DPD and DPR) influences how they execute their functions—be it legislation, oversight, budgeting, or conveying the aspirations and interests of the people or regions they represent to the central government. One of these functions that warrants particular attention is the legislative (law-making) function.

⁵⁴ Pirmansyah, “Eksistensi Dewan Perwakilan Daerah Dalam Sistem Bikameral Di Indonesia.”

⁵⁵ Ratna Herawati, “PERAN ANGGOTA DEWAN PERWAKILAN DAERAH REPUBLIK INDONESIA DALAM RANGKA MENYERAP ASPIRASI DAERAH (STUDI KASUS DI PROVINSI JAWA TENGAH),” *LAW REFORM* 3, no. 2 (2010), <https://doi.org/10.14710/lr.v3i2.728>.

⁵⁶ Sunarto Sunarto, “PRINSIP CHECKS AND BALANCES DALAM SISTEM KETATANEGARAAN INDONESIA,” *MASALAH-MASALAH HUKUM* 45, no. 2 (2016), <https://doi.org/10.14710/mmh.45.2.2016.157-163>.

⁵⁷ King Faisal Sulaiman, *Sistem Bikameral Dalam Spektrum Lembaga Parlemen Indonesia* (Yogyakarta: UII Press, 2013), hlm. 26.

⁵⁸ Adhyatma Wikrama Maheswara, Ikhsan Permana, and Khairunnisa Andira, “Penerapan Sistem Strong Bicameralism Di Indonesia Sebagai Upaya Optimalisasi Kewenangan MPR,” 1945.

⁵⁹ Dewan Perwakilan Rakyat Indonesia, *Konstitusi Republik Indonesia Menuju Perubahan Ke-5* (Jakarta: Dewan Perwakilan Rakyat Indonesia, 2009), hlm. 216.

Third, an asymmetric strong bicameral system can enhance the quality of legislation. This is because each representative body (DPD and DPR) is empowered to reject a bill proposed by the other. This right of rejection is commonly referred to as a veto.⁶⁰ With veto rights held by both bodies (DPD and DPR), any law passed must be a product of mutual agreement. However, in an asymmetric strong bicameral system, the scope of the DPD's veto applies only to bills that concern or affect regional interests. This limitation aligns with the characteristic nature of local aspirations and interests that the DPD represents and advocates for. By possessing a veto, the DPD is equipped to undertake a range of positive functions in the representative system, the constitutional system, and the broader governance process.

In an asymmetric strong bicameral system, every law enacted by the representative bodies becomes a joint product. The approval of both institutions is mandatory, reflecting their shared involvement in law-making (a "double-check" system). Such a double-check mechanism can help reduce weaknesses in the legislative process. Under this model, laws are less likely to be dominated by partisan interests supported by political parties. The presence of a double-check system helps prevent legislation driven solely by partisan interests. As a regional representative institution, the DPD—tasked with fighting for and channeling regional aspirations, interests, and needs—can play an active role in ensuring that all enacted laws address regional concerns. This double-check review also curtails the hasty drafting of legislation, which could otherwise contain significant shortcomings.

The quality of legislation can indeed be improved when it undergoes a double-check process by two legislative bodies.⁶¹ Naturally, this mechanism helps minimize the weaknesses in laws, given that two representative institutions scrutinize each bill before its enactment. In other words, a strong bicameral system featuring a double-check approach is necessary in the legislative process to prevent the passage of flawed or hastily drafted laws.⁶² From another perspective, a bicameral system can reduce the DPR's tendency to rush legislation on pressing policy issues.⁶³ For instance, the Job Creation Law was enacted in haste due to the DPR's aggressiveness, and it was subsequently declared procedurally flawed when reviewed by the Constitutional Court. Such a scenario would have been unlikely if a double-check mechanism had been in place. Therefore, an asymmetric strong bicameral system with a double-check mechanism benefits both the substantive and procedural quality of legislation.

⁶⁰ Khamami Zada, "Kewenangan Legislasi Dewan Perwakilan Daerah Dalam Reformasi Kelembagaan Perwakilan Pasca Putusan Mahkamah Konstitusi," *JURNAL CITA HUKUM* 3, no. 1 (2015), <https://doi.org/10.15408/jch.v2i1.1839>.

⁶¹ Maheswara, Permana, and Andira, "Penerapan Sistem Strong Bicameralism Di Indonesia Sebagai Upaya Optimalisasi Kewenangan MPR."

⁶² Arrsa, "Konstruksi Yuridis Politik Legislasi DPD Pasca Putusan Mahkamah Konstitusi Nomor 92/PUU-X/2012."

⁶³ Pirmansyah, "Eksistensi Dewan Perwakilan Daerah Dalam Sistem Bikameral Di Indonesia."

Fourth, an asymmetric strong bicameral system broadens the base of public support and involvement in governance.⁶⁴ Not only does an asymmetric strong bicameral system channel political aspirations and interests into the representative framework and central government policies, but it also accommodates regional and functional group interests.⁶⁵ Ideally, a representative body should reflect three types of representation: population representation, regional representation, and a specific political description of representation.⁶⁶ In other words, in an asymmetric strong bicameral system, the representative institution can incorporate a wide variety of public aspirations and interests. All such diverse interests must be addressed in central government policies.⁶⁷ Accommodating and conveying this diverse range of aspirations and interests into central government policies can be achieved through either a symmetric or an asymmetric strong bicameral model.

In an asymmetric strong bicameral system, the DPR draws political support from the public based on partisan political views (convictions),⁶⁸ while the DPD represents regional interests that are non-partisan (spanning religions, political beliefs, ethnicities, and so forth).⁶⁹ These diverse aspirations and interests must be represented in the legislative system and incorporated into central government policy. Ideally, a legislative system should accommodate the variety of existing public aspirations and interests. It must not be dominated by or subject to partisan political interests alone, which could marginalize regional or other forms of interests from being channeled into and recognized by central government policies.

Ideally, these varied aspirations and interests must be brought into the legislative system and integrated into national policymaking.⁷⁰ Such objectives can only be achieved if both representative bodies possess autonomous, binding authority that is balanced in an asymmetric manner. A balanced power relationship results in “bargaining power” between the two representative bodies. This bargaining power enables each body to channel and promote the aspirations and interests it represents in central government policies. Bargaining power exists because both

⁶⁴ H Sucipto, “Rekonstruksi Kebijakan Pelayanan Kegawat Daruratan Medis Konsumen Kesehatan Berbasis Nilai Keadilan,” 2021, <https://search.proquest.com/openview/79f411877b15a1c491f9ff3f11cf406a/1?pq-origsite=gscholar&cbl=2026366&diss=y>.

⁶⁵ Herawati, “PERAN ANGGOTA DEWAN PERWAKILAN DAERAH REPUBLIK INDONESIA DALAM RANGKA MENYERAP ASPIRASI DAERAH (STUDI KASUS DI PROVINSI JAWA TENGAH).”

⁶⁶ Zada, “Kewenangan Legislasi Dewan Perwakilan Daerah Dalam Reformasi Kelembagaan Perwakilan Pasca Putusan Mahkamah Konstitusi.”

⁶⁷ *Ibid.*

⁶⁸ Imelda Imelda Sapitri, “EKSISTENSI KEWENANGAN DEWAN PERWAKILAN DAERAH DALAM MELAKUKAN PEMANTAUAN DAN EVALUASI RANCANGAN PERATURAN DAERAH DAN PERATURAN DAERAH BERDASARKAN UNDANG-UNDANG NOMOR 2 TAHUN 2018 TENTANG MPR, DPR, DPD DAN DPRD,” *EKSEKUSI* 1, no. 2 (2019), <https://doi.org/10.24014/je.v1i2.8223>.

⁶⁹ *Ibid.*

⁷⁰ Rizki Agus Saputra, “Konsep Perwakilan Fungsional Utusan Golongan Dalam Sistem Perwakilan Di Indonesia” 7, no. 1 (2024): 494–506.

bodies (DPD and DPR) enjoy comparable—though asymmetrical—authority. Consequently, an asymmetric strong bicameral system positively contributes to the legislative process by incorporating a range of public aspirations and interests into central government policy.

Fifth, an asymmetric strong bicameral system can prevent oligarchy within the representative system. If one legislative body dominates the process without any counterweight, oligarchy will likely emerge.⁷¹ Oligarchy occurs when a single representative body controls the legislative process to the extent that the other body becomes merely complementary, as is currently the case. Oligarchy also tends to reflect the dominance of certain partisan interests, which are then exclusively accommodated in central government policies. Such a situation is not indicative of a democratic representative system, since only a specific group's aspirations and interests end up being represented in national policies. However, when power is distributed asymmetrically between two legislative bodies, a balance of power can be achieved. Neither body can unilaterally dominate the entire political and legislative process.

4. Conclusion

In addition to the benefits mentioned above, an asymmetric strong bicameral system offers further advantages. It can help curb the aggressiveness of any single representative body and also reduce potential opportunities for corruption. However, these points are not the focus of this paper and thus are not discussed in detail.

In conclusion, based on the explanations and arguments presented, the most suitable representative system for Indonesia is an asymmetric strong bicameral system. Aligned with this conclusion, the author proposes a new round of amendments to the 1945 Constitution of the Republic of Indonesia.

⁷¹ Chidqi, "PERLUASAN KEWENANGAN DEWAN PERWAKILAN DAERAH DITINJAU DARI BIKAMERAL YANG IDEAL."

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