

CHAPTER I

INTRODUCTION

A. BACKGROUND

In Wednesday, March 27, 2013 the Constitutional Court decided an imperative decision. The decision was on the petitions of the Regional Representative Council (DPD), which argued that the DPD has equal authority to the House of Representative (DPR) in law making process regarding on the regional autonomy.

The DPD further contended that the provision of law number 27 of 2009 and law number 12 of 2011 has reduced its authority in the process of law making process regarding on regional interest.

Based on the Constitutional Court Decision Number 92/PUU-X/2012, the DPD has authority to be involved in purposing bill regarding regional autonomy, fiscal relations between the central and local government and the creation and expansion of new administration and management of natural resources. In addition, the DPD is also involved in the discussion on the bill related to the regional interest.

One of the most important developments after the third amendment of 1945 Constitution is the establishment of the DPD as new chamber in the Indonesian Parliament. Therefore, some scholars argued that by

establishing the DPD, Indonesian Parliament seems to be a bicameral system.

However, there is still a debatable on whether Indonesian Parliament is bicameral or tricameral. Others experts say that Indonesia is bicameralism, but another experts also argue that Indonesia is tricameral system with the existence of the People's Consultative Assembly (MPR), the House of Representative (DPR) and Regional Representative Council (DPD) in the Indonesian parliament.¹

The main point of the Fourth Amendment of the Indonesian 1945 Constitution is in section 2 point (1):

“The People's Consultative Assembly (MPR) shall consist of the members of the House of Representative (DPR) and the members of the Regional Representative Council (DPD) who have been elected through general elections, and shall be regulated further by law”.²

The DPR, the DPD and the MPR comprises chamber in the Indonesian parliament system. There are two important issues related to the chambers. First, the chambers have authority to law making process, budgeting and supervision functions which are stated in 1945 Constitutions. Second, the chambers have an equal position in the parliament. The results of the amendment of 1945 Constitution Republic of Indonesia have changed the system and structure of Indonesian Parliament. Before Amendment, Indonesian Parliament adopted the

¹Saldi Isra, and Zainal Arifin Mochtar, “Menelisik Model Kamar Parlemen (Catatan Untuk Penataan Kelembagaan DPD Indonesia)”, *Jurnal Media Hukum*, Vol. XIV, No. II, (Desember 2007), Page. 118.

²Bahan Tayang Materi Sosialisasi Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 dan Ketetapan MPR Republik Indonesia. Sekretariat Jendral MPR RI. Jakarta p. 8

unicameral system which is the DPR only exist in Indonesian Parliament and after the fourth amendment of 1945 Constitution, the Indonesian Parliament become a soft bicameral system. The existence of the Regional Representative Council (DPD) in Indonesian Parliament is to provide and accommodate of the interest of region in every province.

Nevertheless, in practice, the existence of the DPD is not yet in line with the ideal concept as in the text. There are some problems of the DPD in accommodating the regional interest.

One of the functions of the DPD is that legislations function. Legislation function of the (DPD) is they may propose the bills to the House of Representative (DPR) in the light of regional interest. In article 22D (1) of the 1945 Constitution, it states:

“DPD may propose to DPR bill of law related to the regional autonomy, relationship of central and local government, formations, expansion and merger of regions, management of natural resource and others economic resource and bill related to the financial balance between the center and regions”.

One of the problems is the limitation power of the DPD in the process of legislation. The term of “may propose” seems it is not a strong sentence that gives a clear authority to the Regional Representative Council (DPD). In the legislation process the DPD as a state organ in Indonesian parliament does not have an equal power to the DPR. The existence of Law Number 27 of 2009 about The People’s Consultative Assembly (MPR) the House of Representative (DPR) the Regional

Representative Council (DPD) and the Regional House of Representative (DPRD) has also made the DPD as sub-ordinate of the DPR.

This Law is not in line with the existence of the members of the Regional Representative Council (DPD) as the representative council of region. Irman Gusman, the Chairman of the DPD has brought the petition to the Constitutional Court regarding on Judicial Review of Law Number 27 of 2009 and Law Number 12 of 2011. The DPD argued that these laws are contrary to the 1945 Constitution.

Based on the previous paragraph, it is important to study further the Indonesian Parliament Type after the decision of Constitutional Court Number 92/PUU-X/2012.

B. RESEARCH QUESTION

How is the Indonesian Parliament Type after the decision of the Constitutional Court Number 92/PUU-X/2012?

C. OBJECTIVE OF RESEARCH

The objective of this research is to understand better the chamber system of Indonesian Parliament after decision of Constitutional Court Number 92/PUU-X/2012. The following objective of research, namely:

1. To conduct library research on the concept of Parliament, particularly in the type of Indonesian Parliament

2. To evaluate the Indonesian Parliament system after the Constitutional Court Decision Number 92/PUU-X/2012.
3. To give suggestion or recommendation for a better type of Indonesian Parliament system.

D. THE BENEFITS OF THE RESEARCH

1. Theoretically

The research will give more understanding on the Indonesian Parliament system as the state organs after the Decision of Constitutional Court Number 92/PUU-X/2012 this research may give a critical analysis on the weaknesses of the Indonesian Parliament system.

2. Practically

The research will propose recommendation on a better type of Indonesian Parliament system which strengthen the DPD position in