

Legislation and Type of Parliament in Indonesia

By Mohammad Fajrul Falaakh
Gadjah Mada University Law School, Yogyakarta.

Presidential, representative government

- ❑ Sovereignty belongs to the Indonesian people; it is implemented in accordance with the Constitution.
- ❑ The Indonesian people are represented in the parliament.
- ❑ The Indonesian parliament is unique. It functionally consists of an assembly and a legislature.
- ❑ The assembly is called People's Consultative Assembly (MPR, *Majelis Permusyawaratan Rakyat*) consisting of fully-elected members of the House of Representatives (DPR, *Dewan Perwakilan Rakyat*) and members of the House of Regional-Provincial Representatives (DPD, *Dewan Perwakilan Daerah*).
- ❑ MPR is a separate assembly and (super-) parliament with specific (*ad hoc*) functions, i.e.: (1). Inaugurate the elected President and Vice-President; (2). Remove the President and or Vice-President based on well-grounded impeachment charge(s) initiated by the DPR; and (3). As a constituent assembly, amend the constitution.

Legislature: Asymmetric bicameralism

- ❑ There is a two-chamber legislature: DPR (House) and DPD (Senate)
- ❑ DPR: House of Representatives with membership entirely elected by the people from party-list nomination according to Open PR system of election (PR: proportional representation).
- ❑ DPR is a full legislature holding many powerful functions: legislation, budgeting, and oversight; It also holds power to give consideration on the appointment of ambassadors, to select all justices of the Supreme Court and 3-justice of the Constitutional Court.
- ❑ DPD: House of Regional Representatives with membership entirely elected by the provincial constituent through multi-member district electoral system.
- ❑ DPD has powers to, e.g.: (1). Initiate bills on center-region relationship; (2). Provide consideration to DPR on national budget items of taxation, education and religion; (3). Send consideration in overseeing the executive, especially with regard to the policy implementation on center-region relation, administration of economic resources, state budget, taxation, education and religion.
- ❑ DPD has no decision making power: Asymmetric and soft bicameralism.

Legislation

- ❑ A bill may be proposed by the President (who is directly elected by the people), DPR or DPD;
- ❑ The executive and the legislature merge in legislation since any law must be deliberated and consented by both the DPR and the President. It is a

parliamentary-type of legislation, but both institutions have equal vote and the DPD has no vote.

- ❑ President has no veto power, although s/he may defer the promulgation of any agreed bill for at most 30 days. Any agreed bill becomes law subsequently.
- ❑ National legislation may be reviewed by the Constitutional Court (CC) and declared unconstitutional, therefore becomes null and void. Inferior regulations are reviewed by the Supreme Court.

Constitutional development in 2013

- ❑ Due to the nature of multiparty and the practice of legislation, deliberation of bills took place with factions (currently 9) delivering their views against each other and towards the DPD or the executive. Bills deliberation became an 11-faction legislative process.
- ❑ This practice was regulated by parliamentary act consented by the DPR and the President. The act was finally brought by DPD to the CC. It has judicial review power with final and binding decision over parliamentary act.
- ❑ CC decision Nr. 92/PUU-X/2012 of 27 March 2013 declares such practice unconstitutional and 'regulates' that the views of the DPR political factions be formulated as their internal, institutional view *viz-a-viz* the DPD and the President.
- ❑ Therefore: (1). Indonesia's legislative process becomes a 'tri-chamber parliamentary type of legislation' (ref. my column in *Kompas* daily, 13 June 2013); (2). Such legislation takes place within the context of asymmetric bicameralism, i.e. without the DPD (Senate) having vote; but (3). With the president-executive and the DPR having votes to conclude the bills; and (4). In the supposedly presidential system of government.