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Political Culture in the Indonesian Parliament

Analyzing Parliamentary Debates
on the Regional Parliaments 1999-2009



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Esitetään Jyväskylän yliopiston yhteiskuntatieteellisen tiedekunnan suostumuksella
julkisesti tarkastettavaksi yliopiston Historica-rakennuksen salissa H320
elokuun 15. päivänä 2015 kello 12.

Academic dissertation to be publicly discussed, by permission of
the Faculty of Social Sciences of the University of Jyväskylä,
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UNIVERSITY OF JYVÄSKYLÄ

JYVÄSKYLÄ 2015

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JYVÄSKYLÄ STUDIES IN EDUCATION, PSYCHOLOGY AND SOCIAL RESEARCH 528

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JYVÄSKYLÄ 2015

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Publishing Unit, University Library of Jyväskylä

URN:ISBN:978-951-39-6248-7

ISBN 978-951-39-6248-7 (PDF)

ISBN 978-951-39-6247-0 (nid.)

ISSN 0075-4625

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ABSTRACT

Adiputri, Ratih D.

Political Culture in the Indonesian Parliament: Analyzing parliamentary debates on the regional parliaments 1999-2009

Jyväskylä: University of Jyväskylä, 2015, 246 p.

(Jyväskylä Studies in Education, Psychology and Social Research, ISSN 0075-4625; 528)

ISBN 978-951-39-6247-0 (nid.)

ISBN 978-951-39-6248-7 (PDF)

The purpose of my research is to study the political culture in the Indonesian parliament, the *Dewan Perwakilan Rakyat* (DPR) through an analysis of parliamentary procedure and debates on bills related to the regional parliaments, the *Dewan Perwakilan Rakyat Daerah* (DPRDs) in the timeframe of 1999 - 2009.

The study looks at the parliamentary minutes and legislative procedures and analyzes the language used in parliamentary debates. The study offers an analysis of the Indonesian concepts of parliament, at both the national and regional levels. I argue that the distinctive features of the parliaments have been shaped by Indonesian political culture and by the legislative process. The results highlight distinctive features of Indonesian parliamentary culture: the forum-style of parliament; the seeking of an acceptable compromise in the deliberation process; legislation based on discussion; and different parliamentary features and traditions that shape the vague concept yet the ideal format of the regional parliaments. These combine to emphasize the elite status of the DPR as an institution and the important role of its leaders. This only confirms that parliamentary procedure in the DPR is still influenced by the legacy of the previous authoritarian regimes, especially in the legislative process.

This research is limited to a timeframe of one decade, 1999 - 2009, and 3 DPR periods: 1999; 1999 - 2004; and 2004 - 2009. The timeframe includes years when the parliament was under the authoritarian regime, the transition era, and the move towards democratization. The DPR's role in Indonesian democratization, as a parliament in a time of transition, is important, an importance that can also be seen in comparable cases in other countries that I discuss here, Malaysia and South Korea. The use of parliamentary debates as research material sheds new light on the democratization process in Indonesia. The legislative processes of each law that I examine here are outlined on the basis of the relevant documentation.

The research emphasizes that the political culture of parliament played a significant role in the forms the democratization process took, and offers a new interpretation of the failure of the DPRDs as regional parliaments. Although Indonesia has taken steps towards democratization in its political system, for the break with the authoritarian order to be fully realized, parliamentary procedures and practices need to be reformed.

Keywords: Indonesia, political culture, DPR, DPRD, parliamentary debate, parliamentary procedure, legislative process, rhetoric, democratization.

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ACKNOWLEDGEMENTS

Publishing this thesis shows not only that I am finally finishing my doctoral research, the highest education degree that I could ever have hoped to achieve, but also the length of time I have been living in Finland. We, my husband and I, took *the road less travelled* when we decided to leave our home country and resigned from our permanent jobs in order to be able to live together in this cold foreign country. It was a hard decision to make but it has been worth it. Of course, the decision was not without a plan: I had a four year work contract so we knew that we were going to be fine, at least financially, for that time. It was also driven by the human instinct to have a better life, as well as the temptation to experience the new adventure that we knew we would not get if we continued along the same road in Indonesia. Our daughter's education also contributed to the decision to move. The fact that Finland offers good education, even the best in the world, encouraged us to move here. It was indeed a sensible decision, as after 5 years we are happy that our daughter is growing into a happy talented little girl, with musical skills and skating hobbies - activities that are relatively so much easier when practiced in Finland!

Writing about Indonesian politics and in particular its parliaments is based on my 10 years of personal experience working in the secretariat of the Indonesian parliament and on parliamentary projects. A remark once said, that one way to understand one's own country's political system is to get outside it and then to look back critically, is definitely true in my case. I understand much better the system in the Indonesian parliament now that I am no longer working there. But at the same time, all the traditions and procedures in the Indonesian parliament that I encountered as a part of my normal daily routine before have become a valuable source of information in my academic research, as can be seen in this study.

I could not have got this far without the support and encouragement of many people. Special thanks are owed to both my supervisors, Prof. Kari Palonen and Prof. Pekka Korhonen. I am so grateful to have had them as my supervisors. Kari believed from the very beginning that I could do this research. I am indebted to him for his quick response, valuable discussion, and meticulous detail in reading my papers - the best kind of support that a student could receive from a supervisor. Pekka helped me framing the problems of the thesis and sharpened my arguments with his experience of Asia and its politics. His concern with my English motivated me to write as clearly as possible; obviously, there is still room for improvement in this respect. Pekka is also the first person who introduced me to the Finnish way of life when I came to Finland for the first time in early 2009, and this has enabled me to survive better ever since. Kari and Pekka helped make my life easier in many ways, with the Finnish bureaucracy, grant applications, and excellent letters of recommendation. Without their constant support, academically and financially, obviously this thesis would not have been possible. I also thank my reviewers, Prof. Timo Kaartinen

and Heino Nyyssönen, who gave positive feedback on how to improve the manuscript.

The University of Jyväskylä's Department of Social Sciences and Philosophy has provided a supportive academic environment and I am happy to be part of it. I thank all my colleagues there for their support and encouragement, and for their efforts to make my life and work easier, especially the PhD team under Kari's supervision: Anna Björk, Taru Haapala, Hanna-Mari Kivistö, Anna Kronlund, Onni Pekonen, and Evgeny Roschin; and to Eira Juntti, Anitta Kananen, Prof. Marja Keränen, Anu Kettunen, Katja Mäkinen, Salla Pykälämäki, Jouni Tilli, and Rasa Zakeviciute, colleagues in the department. They helped my work in many ways, including reading my papers and Finnish language homework, or sharing everyday life stories and Finnish life in friendly ways. Thank you, guys!

My special thanks also go to Budiarto Herman, a master's degree graduate (mobile technology) of the University of Jyväskylä, who also comes from Indonesia. Budi helped me with the figures and data management for this thesis.

To my best friend, Eila Romo-Murphy and her family, thank you for our friendship and our times together both in Finland and in Indonesia. You are always inspirational and special for us. Your help and support are so valuable in every aspect, from skating issues, Halloween costumes, berry picking, our introduction to Finnish farming life, to just listening to our problems. Without you, our life in Finland would have been more difficult. Eila and Patrick also helped me revise the English in many of my papers. *Kiitoksia paljon.*

I am also grateful to CIMO, which gave me a 9 month scholarship to start my doctoral study; to the Doctoral School of Contemporary Asian Studies/DAS (previously known as the Graduate School of Asian Studies), which provided funding for the following 4 years (2010 - 2014) to write my thesis; and to the Department of Social Sciences and Philosophy, University of Jyväskylä, for extending my work contract and providing a scholarship in the final year. I am also grateful for the generous Mobility Grants of the University of Jyväskylä, which gave me funding for research visits. I received funding from this mobility grant three times! The funding enabled me to carry out research at KITLV, the Royal Netherlands Institute of Southeast Asian and Caribbean Studies, Leiden, Netherlands in 2010; at KITLV, Jakarta, Indonesia in 2011; and at Gadjah Mada University (UGM), Yogyakarta, Indonesia in 2013, for around 3 months in each case, to collect parliamentary debates and references that I needed.

I also benefited from the DAS community, our doctoral school of Asian study, and to a group from FIRN - the Finnish Indonesian Research Network. To my colleagues at DAS: thank you for the time we spent gathered together in our annual seminars. I also wish to thank the DAS Board Members for reading the drafts of my thesis and giving me constructive comments and encouragement to move forward in the research. I thank all the FIRN members, too, who have shared my passion for Indonesian research.

I must extend my gratitude to former work colleagues and friends in Indonesia in the parliamentary secretariats of the MPR and DPR; to the former

USAID project team, LGSP-Local Governance Support Program; to UGM, Indonesia, especially in the Politics and Government Unit (*JPP-Sospol UGM*); to staff from KITLV, in both Leiden and Jakarta; and to those in the Department of Social Sciences and Philosophy of the University of Jyväskylä, especially to Aironiitta Pöllänen (Siukku) and Anu Lehtonen, who have given me tremendous administrative support. Their support, stories, and conversation developed my research in many ways. Huge support also came from the library of the University of Jyväskylä, especially from the inter-library loan section, which provided me with many references and books borrowed from libraries elsewhere, even when they were in the Indonesian language.

To my husband, Ruly Purwantoro, who always supports what I dream of in life and encourages me to push toward the limits even when I do not think I am capable of achieving it: *Terima kasih, sayang*. And to our children, Nadya Carissa Maharani [Nadia] and Rezvano Aditya Purwantoro [Reza], whose love and laughter have taught me to always enjoy life, even in busy times (working on the thesis), and to appreciate the little, simple things in life: thank you for those joyful moments, eating ice cream in the street, sliding down hills in winter-time, and even only strolling along the town streets - they are all more meaningful when done with you. These times gave me balance between working and being a mother.

Finally, my deep gratitude and respect are owed to my family back in Indonesia, my three brothers, Wisnu Martha Adiputra, Yudha Trinoegraha Adiputra, Prana Patrayoga Adiputra and their families: thank you for your unending support. Your unceasing love is my energy. To my mother, *Ibu* Titiek Rokhaiti and my late father, *Ayah* RS Adityawarman, I dedicate my research.

All translations from the Indonesian language are entirely my own. Although the list of those to whom I am indebted is long, any remaining errors in interpretation, translation, or opinion expressed in this research are, of course, my own responsibility.

Jyväskylä, 20 May 2015
Ratih

GLOSSARY

ABRI	<i>Angkatan Bersenjata Republik Indonesia</i> , Armed Forces of the Republic of Indonesia. This used to be named as TNI, <i>Tentara Nasional Indonesia</i> (Indonesian national army). In the 1999 and 2004 parliaments, the military form a faction used to be with the police force, PolRI, <i>Polisi Republik Indonesia</i> , namely as the military faction, abbreviated to FABRI or F-TNI/PolRI
<i>adat</i>	Indonesian customary laws
ADEKSI	<i>Asosiasi DPRD Kota Seluruh Indonesia</i> , Indonesian DPRD-city Association
ADIL	<i>Parti keADILan Nasional</i> , new opposition party in Malaysia, formed in 1998 and chaired by Wan Azizah, the wife of Anwar Ibrahim, the popular figure of reform during the time of Prime Minister Mahathir Mohamad
ADKASI	<i>Asosiasi DPRD Kabupaten Seluruh Indonesia</i> , Indonesian DPRD-district Association
APBD	<i>Anggaran Pendapatan Belanja Daerah</i> , Annual Regional Budget
APBN	<i>Anggaran Pendapatan Belanja Negara</i> , Annual State Budget
APEKSI	<i>Asosiasi Pemerintah Kota Seluruh Indonesia</i> , Association of the Indonesian Municipalities-city level
APKASI	<i>Asosiasi Pemerintah Kabupaten Seluruh Indonesia</i> , Association of Indonesian Regencies-district level
<i>asas kekeluargaan</i>	See 'family principle'
BA	<i>Barisan Alternatif</i> , Alternative Alliance, Malaysian opposition coalition
<i>Babinsa</i>	<i>Bintara Pembina Desa</i> , Village development non-commission officers, the military territorial command structure in the village
<i>Baleg</i>	<i>Badan Legislasi</i> , DPR Legislative Council
<i>Bamus</i>	<i>Badan Musyawarah</i> , DPR Steering Committee
<i>Banggar</i>	<i>Badan Anggaran</i> , DPR Budget Council
BKSAP	DPR Council for Inter-Parliamentary Cooperation
BURT	<i>Badan Urusan Rumah Tangga</i> , House Affairs Council
BN	<i>Barisan Nasional</i> , National Alliance, the government coalition in Malaysia, led by the country's state party, UMNO
BPK	<i>Badan Pemeriksa Keuangan</i> , Supreme Auditory Board
BPKD	<i>Badan Pemeriksa Keuangan Daerah</i> , Regional Auditory Board

BPKP	<i>Badan Pengawas Keuangan dan Pembangunan</i> , Auditory Board of Finance and Development
<i>bupati</i>	district chief or Regent, head of <i>kabupaten</i> / district
CDI	Center for Democratic Institutions, Australian-based NGO
Cetro	Center of Electoral Reform, one Indonesian NGO
DAK	<i>Dana Alokasi Khusus</i> , Special Allocation Fund
DANIDA	Danish International Development Agency
DAP	Democratic Action Party, an opposition party in Malaysia
<i>Dati I</i>	<i>daerah tingkat I</i> , Region Rank I, referring to a province. This term is not used again since 1999
<i>Dati II</i>	<i>daerah tingkat II</i> , Region Rank II, referring to district/city areas. This term is not used again since 1999
DAU	<i>Dana Alokasi Umum</i> , General Allocation Fund
<i>demokrasi ter-pimpin</i>	See 'guided democracy'
DIM	<i>Daftar Inventarisasi Masalah</i> , literally List of Problems (the DPR Secretariat translated as 'List of Outstanding Issues') but actually it is a list of editorial problems/correction resulted from a bill, compiled by a DPR faction (<i>fraksi</i>). The document is usually accompanied by <i>Naskah Akademis/NA</i> (academic draft)
DPA	<i>Dewan Pertimbangan Agung</i> (Supreme Advisory Body), an old institution whose tasks were among giving advice to the president on important state issues. This state institution was criticized on the grounds that it gave a position to Suharto's cronies and that its task was unclear and overlapped with those of other state institutions such as the DPR. After the constitution amendment, this institution was abolished
DPD	<i>Dewan Perwakilan Daerah</i> (Regional Representative Council), a new state institution established in 2004. It may look similar to an upper house (senate), but since its tasks is only to give input (recommendation) on certain bills related to the regions, the DPD does not act as a second chamber for legislation
DPOD	<i>Dewan Pertimbangan Otonomi Daerah</i> , Council for Considering Regional Autonomy
DPR	<i>Dewan Perwakilan Rakyat</i> (People's Representative Council), Indonesian parliament
DPRD	<i>Dewan Perwakilan Rakyat Daerah</i> (Regional People's Representatives Council), Indonesian regional parliament

<i>dwi fungsi</i>	dual function, the doctrine that the armed forces had a dual functions as defenders of the country and the element uniting society. The later function justified the military's controlling Indonesian social and political life, including sitting in the parliaments (both DPR and DPRD's)
FABRI	<i>Fraksi ABRI</i> , Indonesia Arms Forces Faction, including the police, the military faction in the DPR in 1998-1999 period
<i>family principle</i>	known in Indonesian as ' <i>asas kekeluargaan</i> ', the principle was based on traditional patriarchal Javanese culture, which made leaders (and the state) responsible for guiding social behavior and interaction to reach harmony and a united society
FBPD	<i>Fraksi Bintang Pelopor Demokrasi</i> , a faction established by a coalition of small parties in the DPR 2004-2009. The small parties were: <i>Partai Bulan Bintang</i> (11 members), <i>Partai Persatuan Demokrasi Kebangsaan</i> (4 members), <i>Partai Pelopor</i> (3 members), <i>Partai Penegak Demokrasi Indonesia</i> (1 member) and <i>PNI Marhaen</i> (1 member)
FKB	<i>Fraksi Kebangkitan Bangsa</i>
FKKI	<i>Fraksi Kesatuan Kebangsaan Indonesia</i>
FKP	<i>Fraksi Karya Pembangunan</i> , <i>Fraksi Golkar</i> in the DPR 1999
FPAN	<i>Fraksi Partai Amanat Nasional</i>
FPBB	<i>Fraksi Partai Bulan Bintang</i>
FPBR	<i>Fraksi Partai Bintang Reformasi</i>
FPDI	<i>Fraksi Partai Demokrasi Indonesia</i> (New Order era)
FPDIP	<i>Fraksi Partai Demokrasi Indonesia Perjuangan</i>
FPG	<i>Fraksi Partai Golkar</i> , <i>Fraksi Golkar</i> in the DPR 1999-2004
FPDS	<i>Fraksi Partai Damai Sejahtera</i>
FPDU	<i>Fraksi Perserikatan Daulatul Ummah</i>
FPKS	<i>Fraksi Partai Keadilan Sejahtera</i>
FPPP	<i>Fraksi Partai Persatuan Pembangunan</i>
FReformasi	<i>Fraksi Reformasi</i> , a faction of PAN and PK in the DPR 1999-2004
<i>fraksi</i>	Political grouping in the DPR, which should consist of a minimum number of DPR members, usually in accordance with the number of DPR working bodies and/or commissions
FTNI/Polri	<i>Fraksi TNI Polri</i> , the faction of military and police, the military faction in the DPR in 1999-2004
GBHN	<i>Garis-garis Besar Haluan Negara</i> , Broad Guidelines of State Policy

<i>golkar</i>	<i>Golongan Karya</i> , Functional Group. The state political party in the New Order regime (the regime refused to call <i>Golkar</i> as a political party). The group stood for the power of the state: the bureaucracy (through civil servants loyalty) and the military. In the post-Suharto's era, <i>Golkar</i> became a political party. <i>Fraksi Golkar</i> in the DPR, known as FKP, or FPG since 1999
<i>gotong royong</i>	mutual and reciprocal assistance, for the spirit of togetherness
Guided Democracy	the name of the political regime in Indonesia under Sukarno from 1957-1966
HAM	<i>hak asasi manusia</i> , human rights
IMF	International Monetary Fund
<i>kabupaten</i>	district, regency, the regional administrative level under the province, equal to municipality or city (<i>kota</i>)
<i>keppres</i>	<i>keputusan presiden</i> , presidential decision. It is one type of regulations under PP and above <i>Perda</i>
KKN	<i>Korupsi Kolusi Nepotisme</i> ; corruption, collusion and nepotism
<i>Kodam</i>	<i>Komando Daerah Militer</i> , military area command, the military territorial command structure at the provincial level
<i>Kodim</i>	<i>Komando Distrik Militer</i> , military district command, the military territorial command structure at the district
<i>Koramil</i>	<i>Komando Rayon Militer</i> , military city command, the military territorial command structure at the city
<i>Korem</i>	<i>Komando Resort Militer</i> , military regency command, the military territorial command structure to support the the provincial level
KNA	Korean National Assembly, South Korean parliament
KPU	<i>Komisi Pemilihan Umum</i> , General Election Commission
<i>kota</i>	city
LIPI	<i>Lembaga Ilmu Pengetahuan Indonesia</i> , Indonesian Institute of Science
MA	<i>Mahkamah Agung</i> , Supreme Court
MD3	Law on <i>Majelis Permusyawaratan Rakyat</i> , <i>Dewan Perwakilan Rakyat</i> , <i>Dewan Perwakilan Daerah</i> dan <i>Dewan Perwakilan Rakyat Daerah</i> (Law 27/2009), abbreviated from the first letter of each institutions, and previously known as <i>Susduk</i> Law
MCA	Malaysian Chinese Association
MIC	Malaysian Indian Congress

MK	<i>Mahkamah Konstitusi</i> , the Constitutional Court, a state institution established in 2004
MP	member of parliament
MPR <i>musyawarah</i>	<i>Majelis Permusyawaratan Rakyat</i> , People's Consultative Assembly compromise, usually written in longer version ' <i>musyawarah untuk mencapai mufakat</i> ' or deliberation to reach compromise or consensus. It is called an Indonesian style of decision-making, a mechanism or process which allows all actors (or <i>fraksi</i>) to deliver their opinions, so that minor opinions can be heard
<i>musyawarah mufakat</i>	deliberation to reach a compromise, a decision-making mechanism in DPR
NA or <i>naskah akademis</i>	Academic draft, a paper outlining a bill, before it is put forward to be deliberated
NABO	National Assembly Budget Office (Korean parliament)
NARS	National Assembly Research Service (South Korea)
NATV	National Assembly Broadcasting Station (South Korea)
national personality	Or ' <i>kepribadian bangsa</i> '. The policy introduced by President Sukarno to justify the authentic personality of Indonesian people, for whom Western liberal democracy is not suitable. See explanation in Chapter 2 on the Sukarno's era
<i>negara kekeluargaan</i>	a state based on the family principle
NEP	New Economic Policy (Malaysia)
NGO	Non-Governmental Organization
NU	<i>Nahdlatul Ulama</i> , used to be the name of Indonesian political parties. In the Suharto's era, this became a mass Islamic organization, without political affiliation, and known to be the biggest Islamic organization in the country, followed by <i>Muhammadiyah</i> organization
oligarchy	rule by the few, power and decision making are held by the group of elites in an institution
<i>Orde Baru</i>	New Order, the Suharto era 1966-1998
<i>Orde Lama</i>	Old Order, the Sukarno era 1945-1966
PAN	<i>Partai Amanat Nasional</i> , National Mandate Party

<i>pancasila</i>	The Five Principle, Indonesia's ideological foundation. <i>Pancasila</i> stated that Indonesia (1) believes in One God (<i>Ketuhanan yang Maha Esa</i>); (2) is committed to just and civilized humanitarianism (<i>Kemanusiaan yang Adil dan Beradab</i>); (3) is committed to the unity of Indonesia (<i>Persatuan Indonesia</i>); (4) emphasizes that people are governed by wise policies resulting from a process of consultation and consensus (<i>Kerakyatan yang Dipimpin oleh Hikmat Kebijaksanaan dalam Permusyawaratan/Perwakilan</i>); and (5) is committed to social justice for all the people (<i>Keadilan Sosial bagi Seluruh Rakyat Indonesia</i>).
<i>panja</i>	<i>panitia kerja</i> , working committee, a smaller group from a DPR committee, formed to scrutinized the content of DIM. Reported the result of discussion to the committee, or <i>pansus</i>
<i>pansus</i>	<i>panitia khusus</i> , a special committee in DPR. It is established when the scope of work is larger than the works of two commissions. <i>Pansus Susduk</i> was created when the <i>Susduk</i> bill was introduced (1999-2004 and 2004-2009) as the bill covers the topic of state institution (Commission III) and regional body (Commission II)
<i>parpol</i>	<i>partai politik</i> , political party
PAS	<i>Partai Islam se Malaysia</i> , an Islamic party in Malaysia
PAW	<i>Pengganti Antar Waktu</i> , member replacement if the previous one cannot complete his/her term of office in DPR or DPRD (usually from the same party)
PBB	<i>Partai Bulan Bintang</i> , Crescent Moon and Star Party
PBR	<i>Partai Bintang Reformasi</i> , Reform Star Party
PD	<i>Partai Demokrat</i> , Democratic Party
PDI	<i>Partai Demokrasi Indonesia</i> , Indonesian Democratic Party. The party did not exist again in reform era (after the 1999 election)
PDIP	<i>Partai Demokrasi Indonesia Perjuangan</i> , Indonesian Democratic Party of Struggle
<i>pemda</i>	abbreviated from <i>pemerintah daerah</i> , Regional Governance, also used for <i>Pemda</i> Law
<i>perda</i>	abbreviated from <i>Peraturan Daerah</i> , <i>Perda</i> is a regional regulation enacted by the regional government (DPRD and head of region)
<i>perpu</i>	<i>Peraturan pemerintah pengganti undang-undang</i> , Government decree/regulation replacing a law, a type of regulation - equal to a law, enacted by the president to provide a particular regulation needed in an urgent situation. This regulation should be discussed in the DPR in the next term to be enacted as a law

<i>pemekaran</i>	blossoming, term used to refer to the creation of new districts and provinces in Indonesia
<i>pilkada</i>	<i>Pemilihan Kepala Daerah</i> , a direct mechanism of electing the regional head
PKB	<i>Partai Kebangkitan Bangsa</i> , National Awakening Party
PKI	<i>Partai Komunis Indonesia</i> , Indonesian Communist Party, banned since 1965
PK	<i>Partai Keadilan</i> , Justice Party. Changed into PKS since 2003
PKS	<i>Partai Keadilan Sejahtera</i> , Prosperous Justice Party, an Islamic party, formerly called PK
PNBK	<i>Partai Nasional Benteng Kerakyatan</i> , National People Fortress Party
PNI	<i>Partai Nasional Indonesia</i> , Indonesian National Party, the party of former President Sukarno, which has not existed since 1966
<i>polri</i>	<i>Kepolisian Negara Republik Indonesia</i> , Indonesian National Police
PP	<i>Peraturan Pemerintah</i> , Government Regulation, guidelines to explain the technical content of the law
PPP	<i>Partai Persatuan Pembangunan</i> , United Development Party
PRM	<i>Parti Rakyat Malaysia</i> , the socialist party in Malaysia
<i>prolegnas</i>	<i>Program Legislasi Nasional</i> , National Legislative Program, DPR program undertaken to compile the bills discussing during the period
PSHK	<i>Pusat Studi Hukum dan Kebijakan Indonesia</i> , Indonesian Centre for Law and Policies Studies
<i>putra daerah</i>	native-son, or a native of the region, a sense of belonging and emphasizing one's origins in a tribe in the region, usually ignoring the merits of others from different tribal backgrounds
<i>rapat lobi</i>	Private meeting of leaders in the DPR (the DPR Leadership, leaders of <i>fraksi</i> , leaders of each commission or committee and sometimes with the party chairs) who discuss national issues of the moment or find a solution if deliberation of a bill is gridlocked. The meeting is especially for elites to lobby (as the term 'lobbying' implies) each other on a certain issue, so that the agreement will satisfy and accommodate all the parties' interests.
<i>reformasi</i>	reform, an era associated in the post-Suharto regime
RDPU	<i>Rapat Dengar Pendapat Umum</i> , public hearing
Rp	<i>Rupiah</i> , Indonesian currency

RUU	<i>Rancangan Undang-Undang</i> , a bill or law proposal
SARA	<i>Suku, Agama, Ras, Antar Golongan</i> ; matters regarding ethnic, religious, racial and group relations
SBY	Popular acronym for Susilo Bambang Yudhoyono, the Indonesian president 2004-2014
<i>susduk</i>	<i>Susunan dan Kedudukan</i> , structure and composition. This term refers to the Law of Structural Organization of MPR, DPR, DPD and DPRD, or known as the <i>Susduk</i> Law. The law regulates the organization of the elected institutions. The recent Law 27/2009 is known as Law MD3
TAP MPR	<i>Ketetapan MPR</i> , MPR Decree
<i>tatib</i>	abbreviated from <i>Peraturan Tata Tertib</i> , or a standing order, it is an internal regulation for the MPR, the DPR, the DPD and the DPRD. In the DPR, this book (usually the size of a small pocket book) is regarded as parliamentary procedure
<i>timcil</i>	<i>Tim Kecil</i> , small team under <i>panja</i> DPR
<i>timmus</i>	<i>Tim Perumus</i> , drafting team under <i>panja</i> DPR
<i>timsin</i>	<i>Tim Sinkronisasi</i> , synchronized team under <i>panja</i> DPR
TNI	<i>Tentara Nasional Indonesia</i> , Indonesian National Army
UGM	<i>Universitas Gadjah Mada</i> , Gadjah Mada University, a state university in the province of Yogyakarta
UI	<i>Universitas Indonesia</i> , University of Indonesia, a state university in the province of Jakarta
UMNO	United Malays National Organization, Malaysian state party
UNDP	United Nations Development Program
<i>Unhas</i>	<i>Universitas Hassanudin</i> , Hassanudin University, a state university in the province of Makassar-Southeast Sulawesi
<i>Unpad</i>	<i>Universitas Padjajaran</i> , Padjajaran University, a state university in the province of West Java
USU	<i>Universitas Sumatra Utara</i> , North Sumatra University, a state university in the province of North Sumatra
UU	<i>Undang-undang</i> , a law
UUD 1945	<i>Undang-Undang Dasar 1945</i> , the Indonesian 1945 Constitution
VOC	<i>Vereenigde Oost-Indische Compagnie</i> , United East India Company
<i>walikota</i>	mayor, the head of city government

ON INDONESIAN NAMES

In Indonesia, people are commonly known by their personal names and they do not have a family name (although in some tribes, such as in North Sumatra and provinces in the island of Sulawesi, people do have family names). A name is personal, it belongs to the person and does not reflect the name of a certain family. One may be named for a well-known figure, not necessarily blood-related. Therefore when international norms required people to state their family names, Indonesians usually give the *last name* of their personal name as their family name. However stating the last name is not popular in Indonesian style, and instead the first or full name is always used. For example, considering the name of Megawati Soekarnoputri, it is unusual to refer to her by her last name 'Soekarnoputri' as she has sisters who also use the same last name. In Indonesia, Megawati is called 'President Megawati' or 'President Megawati Soekarnoputri', and never called as 'President Soekarnoputri'.

It was also common for a person from Java to have only one name, especially for the older generation, before the use of proper Republican spelling (*ejaan republik*) was introduced in 1947. The first and second presidents had only one name, and in Indonesia their names were written as "Soekarno" and "Soeharto" (vowel [u] was written 'oe' and became 'u' after the new spelling was introduced). In this research, I use the names 'Sukarno' and 'Suharto' to refer to these Indonesian presidents, in accordance with international standards and for international readers.

In the post-Suharto era, the names of public figures have been written in full in official situations. However, at the same time the custom has spread of using their colloquial, shortened, and abbreviated names. President Abdurrahman Wahid was known by his nickname, 'Gus Dur' and he was thus called 'President Gus Dur'. President Susilo Bambang Yudhoyono is known mostly as 'Presiden SBY', and Vice President Jusuf Kalla is called 'JK' or addressed as 'Wapres JK'. Again, for international readers, I will here use their last names - President Wahid, President Yudhoyono, and Vice President Kalla - instead of using, Indonesian style, either their whole names or the abbreviation.

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1 INTRODUCTION

One of the things that everyone knows
but no one can quite think how to demonstrate is that
a country's politics reflect the design of its culture...
- Clifford Geertz, (1973/1993: 311)

This study is concerned with the Indonesian national parliament *Dewan Perwakilan Rakyat* or the People's Representative Council, known as the DPR, and the regional parliament, *Dewan Perwakilan Rakyat Daerah* or Regional People's Representative Council, also known as the DPRD. I am interested in the role played by political culture in the political process. Recent studies have taken up the concept, arguing that the Indonesian parliamentary culture obstructed the process of democratization¹. Studies on the process of democratization in Indonesia, including the parliamentary institution, have indeed identified the strong influence of the country's political culture. However, research focusing on the political culture inside parliament has not been available. This thesis offers a comprehensive analysis of aspects of political culture within parliament by examining the legislative process and minutes of bills related to the regional parliaments, the DPRD.

Why the DPRD? On 12 February 2007, members of the DPRD from all over Indonesia held a rally at the national parliament compound to ask for support from their "seniors", DPR members. Clearly something crucial had happened to it during the democratization process. The regional and national parliaments do not have the same powers and duties, but the powers and responsibilities of the DPRD have been changed frequently by legislation passed in the national parliament, DPR. For this reason, the laws discussing the DPRD and their legislative processes are discussed to examine the relations between the institutions. These laws are eminently suitable for analyzing the DPR's political culture because they show the changes in the concept of the DPRD, too. The issue of the impact of the DPRD rally on financial regulation will be discussed further in Chapter 6 of this study, but this rally marked a defining mo-

¹ See the DPR's assessments by Sherlock (2010) and Ziegenhain (2008).

ment in the existence of the DPRD, and their (legislative) relationship with the national level institution, the DPR.

The DPRD operates at the regional levels², below the central authority, both in provinces and districts/cities. Therefore, the number of DPRD is in line with the number of regions in Indonesia, which by the end of 2013 stood at 539³. The number of members at provincial DPRD (35 - 100 members) is bigger than at districts/cities (20 - 50 members) and depends on the regional population, as the scope of provincial works are larger and related to two or more districts and cities. DPRD members are drawn from members of the political parties elected through a general election, held once every five years⁴. As a regional entity, the DPRD and the regional executive (the head of the regional government) are regarded as the region's administrators and as such are bound by the regulations on regional affairs, such as the Law on Regional Governance (*Undang-undang tentang Pemerintahan Daerah, Pemda*) or the *Pemda* Law. Their works also falls under the direction of national ministries, particularly the Ministry of Home Affairs.

With their regional character, the common perception is that the DPRD do not stand in a hierarchal relation to the DPR⁵, but the truth is that the DPRD are always regulated by the law for elected institutions. This law is called the Law on Structural Organization of MPR, DPR, DPD, and DPRD (*Undang-Undang tentang Susunan dan Kedudukan Majelis Permusyawaratan Rakyat, Dewan Perwakilan Rakyat, Dewan Perwakilan Daerah, dan Dewan Perwakilan Rakyat Daerah*)⁶ known as the *Susduk* law. The DPRD are regulated by the *Susduk* law on the grounds that their members belong to political parties and voted in in a general election. Being regulated under the *Susduk* law suggests that the DPRD might regard themselves as being parliaments, similar to the DPR, only practicing at the regional levels (Wasistiono and Wiyoso, 2009: 36-37), and this led to an assumption that the DPRD would act as parliaments under a federal system of the government, in contrast to Indonesia's unitary system of government. The contents of both the *Susduk* and the *Pemda* laws regulate similar aspects of

² The regional governmental structure under the central government - organized in Suharto's era and continuing until today - consists of "local" governments working at four levels. They are at: (1) province, (2) district (*kabupaten*, for rural and semi-urban areas) or the city (*kotamadya*, for urban areas), (3) sub-district (*kecamatan*) and (4) village (*desa* for rural area or *kelurahan* for urban areas). See Pratikno (2005: 23). The DPRD only exist at province and district/city levels (the first two of the four levels above)

³ By the end of 2013, there were 539 regions altogether, divided into 34 provinces, 412 districts, and 93 cities (Government Publication. *Daerah Otonom....*, 2013).

⁴ (Legislative) elections in the post Suharto era have been held in 1999, 2004, 2009, and recently in 2014.

⁵ This view was underlined during the DPR deliberations in 2009 (this study material), and also from the regional experts (see Wasistiono and Wiyoso, 2009).

⁶ A *Susduk* law is a routine law, enacted before elections to the legislature to determine the number of members (and the military composition) in each institution. This will be discussed more in Chapter 3. This research covers 3 *Susduk* laws in the analysis. The most recent *Susduk* law, Law 17/2014, is called Law MD3, an acronym from the title, which is a revised version of Law 27/2009, but it is still categorized as a *Susduk* law. As a result of the constitutional amendment, a new state institution, the DPD has been included within the *Susduk* law since 2003.

the DPRD as the two laws are mutually complementary, but they do not show a clear concept of a regional parliament in Indonesia.

After the enactment of the law on regional governance, which decreed regional autonomy or decentralization, Law 22/1999, scholars and journalists in Indonesia have become interested in the study of local politics (Tans, 2012: 2). This trend has also been supported by foreign donor projects in Indonesia, which since the fall of the Suharto regime have focused on concepts of 'civil society', 'good governance' and 'social capital' (Hadiz and Dhakidae, 2006: 4), arguably also introducing into Indonesia the social and political agenda of the donor countries. Accordingly, research on the DPRD has increased, but it has tended to focus on a particular region or has been a comparison between regions (see for example, Rukmo et al, 2009) and it has not taken into account the relationship with the national parliament, the DPR. Sadu Wasistiono and Yonatan Wiyoso (2009), both lecturers in Indonesian universities, have both written papers on the DPRD, but these consisted of the compilation of a conference report, facilitated by donor agencies⁷. The authors' assessment of the DPRD includes a policy recommendation for a better or an ideal-type of DPRD, rather than constituting research on the DPRD itself.

Against this background of problems in the DPRD and the absence of any previous study of the DPRD, this research is an in-depth study that seeks to establish what the concept of a regional parliament is. The study is based on laws passed and parliamentary debates in the national parliament, the DPR. Strictly speaking, the Indonesian DPR does not recognize 'debate' in its vocabulary. In fact, 'debate', which is similar to dissent, has negative connotations, because it is against the Indonesian social value of 'togetherness' or *kebersamaan*. Thus, parliamentary debates in the Indonesian context refer to its *risalah*, literally translated as "minutes". It is a compilation of documents consisting of a recorded discussion of the DPR members discussing the bill, the bill paper, the views of the government and various factions as expressed in their speeches, the problems lists (DIM, see Chapter 3), and meeting notes. I will use the terms 'parliamentary debates', 'minutes' or 'proceedings' interchangeably with reference to the same object, '*risalah*', in the Indonesian DPR.

During the period of this study, 1999 - 2009, the DPRD were regulated by five laws, three *Susduk* laws and two *Pemda* laws. This study will explore the concept of the DPRD through the deliberation process in the DPR when these laws were enacted. The laws were deliberated upon during the post-Suharto regime, which covers the period immediately after President Suharto left government (1998 - 1999), the transition period (1999 - 2004), and the so-called democratic period (2004 - 2009).

In examining the laws and their parliamentary debates in the national parliament, I found that the DPR's institutional set-up and its law-making process was significantly different from the law-making process commonly found in a

⁷ The book was based on the authors' experience facilitating workshop programs, funded by DANIDA (Danish International Development Agency) and UNDP (United Nation Development Program) (Wasistiono and Wiyoso, 2009: iii).

parliament. The parliamentary procedure and legislative process practiced in the DPR display “peculiarities”, and they have affected the policy-making process accordingly. The DPR was structured to give legitimacy to the authoritarian regime built during President Suharto’s time (Datta, 2002: 20), so the DPR did not constitute a true parliament or a place where the public could vest their aspirations in their representatives. The use of the rules of procedure from the time of the authoritarian regime continues, which is indicative of a certain political culture in the DPR today (Ziegenhain, 2008: 189).

Studying the DPR’s parliamentary debates from the perspective of the DPRD, in a general way I argue that the unclear concept of the regional parliament in Indonesia is related to the political culture shaped within the national parliament. The DPR’s procedure and legislative processes concerning laws regulating the DPRD were structured to ensure that the agenda of the central government would continue to have legitimacy and justification in the eyes of all citizens, in a culture shaped by the authoritarian regime. Specifically, I will show that the DPR procedure and legislative processes reveal traditions which still supported the political culture of an authoritarian regime and affected - directly or indirectly - the organization or working structure inside the DPR, the ways it enacted laws, and the content of the laws it enacted.

Thus, in my attempts to identify the concept of the regional parliaments (DPRD) through an analysis of the parliamentary debates of the national parliament (DPR), I ended up analyzing Indonesian parliamentary traditions and parliament’s working structure - including DPR procedure and its legislative process. In other words, I went on to try to discover and understand the roots of the DPR’s political culture. Political practices and arrangements in the DPR have been shaped with the goal of reaching a compromise in law making that would please everybody, and reading the parliamentary debates on the DPRD revealed such a tendency.

The demand for regional autonomy was loudly voiced during the reform movement (*reformasi*) following the fall of President Suharto. In order to meet this demand (and avoid regional secession), the government had no choice but to introduce the decentralization law, the *Pemda* law. The DPR had to support the government’s proposal, even though the idea of devolving power to the regions and giving the DPRD legislative character similar to that of a federalist type of lower parliament was not totally accepted. The DPR did not want to run the risk of losing face during *reformasi*.

Therefore, the concept of DPRD is best understood within a study of political culture in the DPR. For this reason, I focus here on the political culture in the DPR (especially as it is reflected in its legislative process), using the DPRD as a case study, in order to identify how the concept of regional parliament is understood and constructed in Indonesia in parliamentary debates. If the aspect of political culture is not addressed when studying the DPR, it is likely that I will repeat the same mistakes as previous researchers of the subject, who have reached rather negative conclusions about the DPR, such as that it is a ‘chamber of cronies’ (Sherlock, 2010: 177) and an institution that places ‘obstacles to dem-

ocratic consolidation' (Ziegenhain, 2008: 204). These negative claims have actually been valid and reflect the popular view in Indonesia of the DPR's image and performance⁸. However, when relating these problems to the DPR's political position as the legitimate institution of an authoritarian regime, or examining the DPR's political culture, the negative label cannot be accepted at face value, even though the structural set-up of the DPR is a continuation of what it was in the past.

Parliamentary political culture in the DPR reflects the general political culture in Indonesia. As the DPR was originally set up to support the authoritarian regime, its members of parliament (MPs), who were members of political parties, were also seen according to the same logic. MPs were appointed by the president to serve in the DPR, and even before seated in the DPR, they were carefully screened in order to show loyalty to Suharto (Liddle, 1996⁹; Eklöf, 2003). Today's Indonesian political parties are still portrayed as 'corrupt, isolated from society and lack of responsiveness' (Mietzner, 2008: 431), which shows that vestiges of the political culture from the previous (authoritarian) regime continuously remain. Understanding the 'political culture, reproduction and contestation will provide key insights for understanding Indonesian politics in the post-New Order [Suharto] period' (Eklöf, 2003: 3) and following this argument, I propose that understanding the political culture inside the DPR will shed light on understanding both the DPR's role in Indonesia's democratization process and the concept of the DPRDs.

The study deals with the DPR and the DPRDs in post-Suharto times and covers the years from 1999 to 2009. The study focuses on the DPR's political culture as a way of looking beyond its surface to its limited parliamentary features during the period of consolidated democracy in Indonesia. By looking beneath the surface or perhaps seeing what lies behind the DPR as an institution, the Indonesian parliamentary institution could be given a balanced analysis. The DPR's debates display its uphill struggle to become a democratic parliament, in contrast to its persistence in keeping its Indonesian traditional legacy. The parliamentary procedure, debates, and legislative processes examined here reveal the constant struggle also between old players and newly elected members, old traditions and the demands for reform, oligarchic¹⁰ interests and ideal-type parliamentary values. These struggles make clear the frustration of MPs who wanted to speak out but at the same time did not want to be different from their peers, and even continued to support the interests of the major par-

⁸ See for example, PSHK annual legislative reports on the DPR's performance (*Catatan PSHK tentang kinerja legislasi DPR*), in this study on PSHK references (2007, 2010) and its website.

⁹ Especially on his article 'Suharto's Indonesia: Personal Rule and Political Institution' pp. 15-36.

¹⁰ Oligarchy is a "rule by few" or 'a form of concentrated minority power' that influences decisions (Winters, 2015). 'What that minority wants is generally what comes to pass' (*ibid*). Oligarchy usually has a negative connotation (Robison and Hadiz, 2004: 16-17). Specifically in the DPR, decision were reached by a few members or elites who held certain positions in the DPR (*pimpinan*) while the rights of all (ordinary) members were ignored.

ties in the DPR. The purpose of this study is to understand how the DPR's political culture influences its policy-making with regard to the concept and practices of the DPRD. Thus, the main research questions in this study are:

- What are the visible characteristics of the DPR political culture?
- In what ways are they similar to or different from some other parliaments?
- Generally, how does this political culture affect the democratization process?
- Specifically, how does it affect the process of making laws concerning the regional parliaments, the DPRD, and what concept does it present of the DPRD?

Assessing the political culture inside the DPR will be useful here in three ways. First, political culture helps us to understand comprehensively how the laws on DPRD used the DPR's internal processes, even utilizing the DPR's own materials, the law minutes. The concept of the DPRD can be better grasped by understanding the contents of the minutes.

Secondly, the study of political culture links in to the trend of studying democratization processes in post-Suharto Indonesia¹¹. Using the DPR parliamentary minutes will arguably shed new light on this, since the minutes or parliamentary proceedings have not been used previously due to the difficulty of understanding the legislative process. The analysis of the complexities of the legislative process outlined in this thesis will hopefully serve as a useful contribution to Indonesian studies, especially to the study of the DPR.

Thirdly, the study of political culture is useful in analyzing the DPR's role as a parliament in a time of transition. The DPR has been set up as the parliament and all parliamentary features are available there. If all the true parliamentary characteristics are not yet seen in the DPR - as the representative function is not effectively practiced and its legislative role is still seen as disastrous - this can be attributed to its political traditions, which will take longer to adapt. The concluding chapter of this study will compare the DPR as a parliament within the democratic transition with broader case studies conducted in similar situations. Comparative case studies from the parliaments of Malaysia and South Korea reveal their similarity in facing democratic transitions, which confirms that the political culture is also shaped by the process of embracing democratic changes.

This study of Indonesian political culture shows clearly that today's DPR is still to a considerable degree influenced by Suharto's New Order, which confirms a previous study of Indonesian political culture written some twelve years ago (Eklöf, 2003).

¹¹ See previous studies on Indonesia's democratization: Robison and Hadiz (2004), Bünthe and Ufen (2009), Aspinall and Mietzner (2010), Crouch (2010), Ford and Pepinsky (2014).

1.1 Political culture and a study of democracy

1.1.1 Political Culture

The term 'political culture' was coined for the first time in the work of Gabriel A. Almond in 1956. He stated that 'every political system is embedded in a particular pattern of orientations to political action' (Almond, 1956: 396). However, the most quoted definition of political culture is derived from Almond and Verba, in their *The Civic Culture* of 1963, which refers to 'the specifically political orientations, attitudes toward the political system and its various parts, and attitudes toward the role of the self in the system' (1963 : 13). It can be inferred from this that political culture varies from one country to another as it depends on people's attitudes and certain orientations. In Almond and Verba's work (1963), individuals' attitudes in five countries - the United States, Great Britain, Germany, Italy and Mexico - were surveyed through questions about knowledge, feeling and judgment about politics and society. Critics pointed out problems in the methodology and analysis in the study (Street, 1994: 98), which led to 'dominating understanding of culture as essentialist and more or less static' (Eklöf, 2003: 4). Despite the criticism, the definition of political culture from *The Civic Culture* has been widely used in subsequent study of political culture.

With reference to the political culture inside the DPR, I was also influenced by the thesis of Samuel Huntington, *The Clash of Civilizations* (1996), which stated that 'a civilization is a culture' (1996: 41). Huntington proposed that 'the world's distinctions...are not ideological, political, or economic...[but] are cultural' and 'people use politics not just to advance their interests but also to define their identity' (1996: 21). This suggests that culture counts or matters. Meanwhile, following the definition of 'culture' used by Eklöf in his study of Indonesian political culture, I agree that 'culture is perpetually reproduced in social and political context, a process conditioned by the existing power relations and structures of dominance, as well as by the aspirations and actions of the actors who participate in the process' (Eklöf, 2003: 7). It shows that a process is important in understanding culture.

Furthermore, in *The Civic Culture Revisited*, edited by Almond and Verba and published in 1989, both editors (in separate articles) proposed that political culture was useful to assess the 'democratic stability' (Almond, 1989: 27) and 'how well democracies perform' (Verba, 1989: 407) within a country or an institution. Following these arguments, I agree that political culture is important as it is embedded in the system, and continues to display identity. Furthermore, an analysis of political culture within the DPR, then, throws light on the nature of Indonesian democracy and shows how it influences the study of democratization in Indonesia, particularly in the DPR, during the post-Suharto era.

Turning, then, to the DPR's political culture, the parliamentary concept was adopted from the Western concept introduced into Indonesia by the

Dutch, and the historical assessment in this study will therefore include the Dutch colonial administration. The Dutch colonial regime was known to be authoritarian, and this authoritarian character was continued by both President Sukarno (1945 - 1966) and President Suharto (1966 - 1998). The Indonesian parliament therefore only exercised its function in an "authoritarian" manner, which displayed elitist characteristics, in which members were not very responsive to citizens. For this study, I use the definition of political culture from Stefan Eklöf (2003), knowing that his interpretations on the political culture during the Suharto's era still hold, as least as seen in the DPR.

Political culture...refers to the processes of cultural reproduction and contestation in the sphere of politics...involves ethos as well as practice, and the concept, moreover, refers to values, attitudes, beliefs, ideas, principles, rules and regulations, as well as the attribution of meaning to the boundaries, arenas, institutions, strategies and forms for political action, negotiation and decision-making, all of which are perpetually created, reproduced and amalgamated in a myriad of everyday social and political situations and interactions (Eklöf, 2003: 7)

This definition is suitable for the DPR because the political culture indeed has influenced the political practices, procedure, negotiation, and decision-making as seen later in the language of parliamentary debates, and in conceptualizing the DPRDs. This leads to the understanding that political culture is a process, or is dynamic, instead of a static or fixed concept. Suharto's authoritarian regime, the longest political system in Indonesia, had penetrated deep into the Indonesian political system, and into the DPR, and his use of 'traditional cultural notions and values' made it possible to claim that Indonesian political culture had been legitimized and that his coercive rule and 'restriction on political liberties' was justified (Eklöf, 2003: 5).

As the political culture refers to a *process*, the implication is that it needs a long time to adapt and has non-static and changing values. 'Values, culture, and institutions pervasively influence how states define their interests...[which] are also shaped not only by their domestic values and institutions but by international norms and institutions' (Huntington, 1996: 34). This also applies to the Indonesian DPR. Adopted from the autocratic colonial administration and regimes, the DPR's trajectories displayed and continued to display that it was an institution for supporting authoritarian regimes, and thus the DPR was labelled as "rubber-stamp institution" (Datta, 2002; Ziegenhain, 2008).

It is true that the concept of political culture generally is too broad to cover all the peculiar aspects of a country's political system (Street, 1994). While the definition in the quotation above has a broad sense, I limit the concept of political culture studied here to the *tradition* and *working procedure* inside the DPR and its parliamentary process, which reflects and affects the members' political action, negotiation, decision-making, and laws. Limiting the analysis of political culture to procedure - under the broad definition of political culture - has enabled me to focus on *how* the political culture is constructed and to pay attention to the *process* through which such political culture is recreated and sustained inside the DPR. This is in line with the suggestion of Street (1994: 110). By limit-

ing the study only to the institution of the DPR and its parliamentary procedure and process, this study has addressed the criticism that studying political culture is vague and too broad as the concept may cover a whole set of institutional forms and practices as well as their broader social and historical context. I hope that by focusing on the cultural and political aspect of the DPR, understood both as cause and effect, it may become clear why the resulting laws have been less than optimal. The laws have failed to provide a definite concept of the regional parliaments, the DPRDs, due to the legislative procedure.

1.1.2 Indonesia's political culture and parliament

In Asia generally, as well as in Indonesia, the study of political culture is usually associated with the concept of democracy (Antlöv and Ngo, 2000: 1). That is to say, analyzing aspects of political culture is useful to test whether a certain country is considered to be democratic or not, probably related to the view of the availability of "civic culture" in Asian people. This view is in line with the trend of recent Indonesian scholars, who have mostly researched and assessed the process on its political democratization in Indonesia¹². These studies have agreed that although Indonesian politics could be considered to be democratic, the 'ideal type of liberal democracy' has not yet been seen in Indonesia (Ford and Pepinsky, 2014: 1). The parliamentary debates that are analyzed in this study reveal that the DPR in the post-Suharto era has struggled to change and become a more democratic parliament, under pressure on the one hand from external (international) demand, from the economic crisis and from the international donor agencies promoting democracy, and on the other from internal (domestic) pressure, initiated with the fall of Suharto and proposals for *reformasi* in politics, economic and social life. However, at the same time, the DPR has wanted to retain its established identity and has clung to the old (authoritarian) parliamentary procedure.

Indonesia and its Asian counterparts share a similar perception of possessing so-called "Asian values". In the discussion of Asian values, Indonesia's political culture is always associated with 'emphasis on leaders rather than on laws, the presence of a strong state vis-à-vis society, emphasis on communitarianism, and conformity to group interests over the individual rights' (Antlöv and Ngo, 2000: 9). Such a view is still valid and may explain why the authoritarian regime managed to survive so long in Indonesia. The survival of the authoritarian regimes of President Sukarno (1945 - 1966) and Suharto (1966 - 1998) over four decades proved that authoritarian government functioned and that the guidance of leaders or elites was accepted in Indonesia, although it had to make some concessions¹³.

¹² See previous studies on Indonesia's democratization: Robison and Hadiz (2004), Bunte and Ufen (2009), Aspinall and Mietzner (2010), Crouch (2010), Ford and Pepinsky (2014).

¹³ Authoritarian leaders must give the people affordable petrol, electricity, and basic food (rice, flour etc) and make financial and power concessions to the elites (and the military) so that they are not too critical.

William Liddle, a leading specialist in Indonesian politics, supported these views of Indonesian political culture and noted that scholars studying Indonesia must acknowledge the apparent cultural differences in its politics (1996: 10). In fact, in every study on the DPR, writers have found the apparent political culture to reflect the whole operational system in the DPR (see Schneier, 2005; Sherlock, 2003, 2010; and Ziegenhain, 2008, 2009). However, as I have said, the political institutions, including the DPR, were set up to support the legitimacy of an authoritarian regime. Both President Sukarno and Suharto “borrowed” traditional (Javanese) cultural notions, which obviously were not democratic, and made them part of the practical traditions within the DPR, even including the DPR secretariat. The DPR and its secretariat constantly remained weak.

In contrast to the Asian cultural influence, the institution of parliament was also influenced by Western concepts, especially by the Dutch colonial regime, which was also authoritarian. The Indonesian parliamentary tradition incorporated elements from the Dutch tradition, or the Western tradition at large. The DPR in the 1950s, for example, resembled the Netherlands States-General in its use of the rules of procedure and the organization of its legislative work (Budiardjo, 1956: 17). Thus, with only authoritarian models for how to run the government, the institution of the DPR was seen as ‘obstacles to the democratization process’, to quote Ziegenhain’s words (2008).

An authoritarian political culture shaped the working structure of the DPR, including its procedure¹⁴ and legislative processes, and this tradition has continued right up to the present day. For example, the structure of the DPR still reflects the view of power as a status (Pye and Pye, 1985: 120), and during Suharto’s regime, the DPR was seen as steered by the elites. Today’s DPR members, through its systemic patronage, try to gain personal benefits, as ‘perks...the glamour and prestige of being in parliament...cars, drivers, offices’ (Case, 2011: 9, quoted from Ellen Lust) instead of trying to extend its parliamentary power, for example to use its overseeing role over the performance of the executive. The view of power as status, rather than action is a reflection of the Javanese concept of power (Jackson, 1978: 4).

I propose that in the Indonesian political context, political culture overall has revolved around Dutch colonialism, Javanese tribalism (Indonesia’s biggest tribe¹⁵), Islam and military tradition¹⁶. These main elements influenced the distribution of power and authority in the Sukarno and Suharto era, and have continued to be the practice during the post-Suharto era, at least as seen in the DPR. These values of the political culture will be seen throughout the case analyses in

¹⁴ The DPR’s procedural mechanisms (including the legislative process) are compiled in a book of Standing Order (Rules of Procedure or *Peraturan Tata Tertib DPR*), known in the DPR as *tatib*.

¹⁵ The Javanese are the biggest ethnic group in Indonesia, comprising 40% of Indonesia’s population. The group resides not only on the island of Java but also throughout the Indonesian islands, thanks to the transmigration program in 1980s. Both President Sukarno and Suharto were from the Javanese tribe.

¹⁶ The elements of political culture, I stated here, are based on my readings of Feith (1962), Anderson (1966), Feith and Castles (1970), Anderson (1972), Geertz (1973/1993), Liddle (2001), Hefner (2001), Emmerson (2001), and Crouch (2010).

this study. In parliamentary debates, MPs still constantly refer to the policy traditions of the Dutch colonial era¹⁷; the language still uses expressions from the Javanese language, due to most MPs (especially the military) being Javanese. That is why it is important to understand the political culture in the DPR from the perspective of history, politics, and culture (Emmerson, 2001). These aspects are evident in parliament, but the analysis in this research will focus on parliamentary developments over time with respect to the four specifically Indonesian elements mentioned above. It is expected that in every chapter we will see how the political culture has been shaped by these elements and traditions. The cultural aspects of Dutch colonialism, Javanese tribalism, and military tradition will be discussed in Chapter 2, but the Islamic aspect will not be touched upon very much, except when describing the Islamic political party.

When discussing culture and its relationship to politics in the Indonesian context, Islam will surely need to be included, as Indonesia is the biggest Muslim country in the world. However, the reason for not spending more time elaborating the Islamic aspect here is that it has already been covered in other research. Saiful Mujani's doctoral dissertation (2003) analyzed Islamic political culture in Indonesia. His thesis confirmed that Muslims in Indonesia make a positive and significant contribution to the democratic system as a whole. Mujani used political culture approach to link Muslim and Islamic values and assess whether or not they were compatible with a democratic culture. In a mass survey in 2001 and 2002, Mujani asked questions about 'elements of interpersonal trust, networks of civic engagement, tolerance, political engagement, trust in political institutions, satisfaction with democratic performance, support for democratic principles, and support for a modern political community' (Mujani, 2003: 334).

His study concluded that Indonesian Islam is compatible with democracy, and even that 'Islam helps Indonesian Muslims to participate and to support democracy' (*ibid*, p. 348). This view brings out an attitude that is different from the Muslim mainstream or from Muslims in Islamic countries, showing the difference between the Islam in Indonesia and in the Arab world, for example. The 'disposition of Islam to Indonesia was carried by merchants and teachers rather than by the sword, assumed the characters in Indonesia different from what it has in other Islamic countries' (Kahin, 1953: 67). Indeed, Indonesian Muslims have a different conception of the relationship between Islam and the state, which made them "private Muslims" (*Muslim pribadi*).

[Javanese Muslims, in contrast to from many Muslims in the middle class] are of this "private" type...these people are far more likely to pray, read the Qur'an, and perform the annual fast. Yet most of them are reluctant to associate with Islamic social and political organizations, have little interest in the scholasticism of Islamic law, and prefer non-confessional governance to an Islamic state (Hefner, 2001: 412).

¹⁷ In Minutes Law 32/2004, Working Meeting 2 August 2004, an expert guess concluded that the Dutch bureaucracy made the government appear to be untouchable so that the public would be terrified of it and therefore motivated to help themselves, not asking the government to help their situation.

Hefner presents the Indonesian Islamic tradition as an exceptional yet a great foundation for democracy. Muslim communities in the country have shared the view that 'Islam should not be a divisive force in the nation' (Hefner, 2001: 413), which suggests that Indonesian Islam has promoted and not obstructed the democratic culture. The leaders in Suharto's regime were convinced that 'Indonesia would become stable only if politics were organized to express "rational" interest, rather than emotional ones, or based on "primordial" religion or ethnicity (*ibid*, p. 397). The basic character of diversity in the Indonesian archipelago has invited the citizens, including its Muslims, to embrace pluralism and diversity, and to practice tolerance to others (*ibid*, p. 417). This has provided a promising precedent for the country's future democracy.

Moreover, during post-Suharto times, Freedman observed about Indonesian Islam that:

Islam can not only coexist with democracy but can also be one of the forces or actors that help democracy evolve (2006: 122).

This quotation suggests that Islam in Indonesia is a positive element in the country's democracy and will continue to be an important factor in Indonesian politics. As aspects of Islamic religion and its relations with Indonesian political culture and democracy have been analyzed previously, this study will not discuss them further.

Social aspects are also important when assessing the political culture in parliament. The examples of the parliaments of Malaysia and South Korea, discussed at the end of the study, also show that the tradition of a particular country matters, but the procedures of the parliament determine the rules of the game inside the institution.

1.1.3 Indonesia's democratization

The Encyclopedia of Political Thought has defined democratization as 'the process of developing democratic institutions and practices' (Mostov, 2015). This definition refers to the *process*¹⁸, similar to the definition of political culture given above. Arguably the process may take decades or more to be realized. On the whole, Indonesia's democracy meets the definition of a consolidated democracy, in which 'all politically significant elites and organizations, as well as an overwhelming majority of the mass public, believe that democracy is the best form of government and comply with its rules and restraints' (Diamond, 2000: 416).

Since the establishment of the country, Indonesia has been guided by its political elites, and these elites constructed the political system which binds the people. The Indonesian style of culture is 'strong group oriented' or based on 'patron-client relationship', and people tend to adhere to the rules and restriction set by the elites (Pye and Pye, 1985: 27). Features of "elite-led", "group-

¹⁸ See also the definition of 'transition', 'liberation', and 'democratization' in Guillermo O'Donnell and Philippe C. Schmitter (1986), and democratization refers to processes, rules and procedure (1986: 8).

orientation” and “patron-client relations” are also seen in the DPR, and could be argued to suggest the practice of oligarchy or “rule by the few”. The leadership group in the DPR has a higher position than other DPR members.

Due to this set-up, the DPR has never been independent. When President Suharto resigned, and the reform process began, the old parliamentary set-up was retained. Trying to reform the democratic process, including the laws enacted and constitutional amendments, under the old parliamentary procedure showed up the flaws and shortcomings in law-making, at least where the conceptualizing of the DPRD is concerned, as will be shown in this research. The greater is the government’s role in the legislation, the more problematic are the DPR’s parliamentary structure and procedures: the unavailability of the representation function; the dependence of the decision-making process on compromise; the committee rather than the plenary session serving as the main venue, the dependence on elites, for example (Ziegenhain, 2009; Sherlock, 2010). When comparing these aspects to the democratic parliament as practiced in the Western hemisphere, it is obvious that the DPR will be deemed undemocratic, to be failing to function as a ‘real’ parliament.

Kari Palonen has recently developed ‘the parliamentary ideal type’ based on the British parliament (2014b: 12), where the plenary session is a forum for debate in which public political issues are debated following proper parliamentary procedure.

Parliamentary proceduralism...illustrates the principle that parliamentary matters must be formulated into items on the agenda, which will ultimately be discussed from opposite points of view, ensuring that enough time is reserved for their thorough consideration (Palonen, 2011: 14)

The quotation clearly shows that parliamentary procedure is important for parliament to be able to exercise its role. Moreover, the common feature of the parliament as a legislative and an oversight institution depends on its discussing - and debating - particular matters based on the principle of *pro et contra*. It can be argued that when parliamentary and public matters are discussed, ideally in a plenary session, they will be discussed thoroughly and properly, with a consideration of alternatives and the presentation of a broader political view on the matter. While discussing or debating an issue within the plenum, the parliament exercises its people’s representative function. This representative aspect is emphasized by parliamentary practices. Cornelia Ilie has summarized the factors shaping parliamentary life, which include representation, debate (and a shifting role between public and private affairs), power relations, and the interaction with various audiences (Ilie, 2010: 2). These factors describe European ideal parliaments, which highlight the visibility of parliamentary activities, nowadays thanks to communication technology that broadcasts and reports parliamentary proceedings widely.

These “proper” parliamentary features do not exist in the DPR as it has structured to be an institution supporting the authoritarian regime, and not to perform a mechanism of checks and balances. However, when President Suharto left the political scene in 1998, the DPR took a step forward and acted as a

true decision-making body during the transition time. The DPR suddenly became an important place where the fate of the country was determined, although the members were the same people as before and had been elected from the old regime. The DPR made use of common parliamentary features, but exercised them differently, because they continued to use the procedure of the existing, authoritarian parliament. In the DPR the most important parliamentary roles were and still are largely exercised in the committee meetings, rather than in plenary sessions. The Plenary Session only *formally* enacts a bill into law; the debate and the approval are all decided before hand. Conducting parliamentary business in committee meetings can be interpreted as meaning that the committee is more important in DPR than the plenary session. So despite the fact that the DPR Standing Orders declare that the plenum is the highest forum for decision-making, the plenum has actually lost its significance as the public arena of the parliamentary work and shows only its ceremonial status.

Moreover, while the decision was made in a smaller forum, the DPR also does not recognize the term 'debate'. Debate, as it is associated with 'dissent', has a negative connotation and is thus against the Indonesian 'togetherness' social value. Accordingly, there is no parliamentary debate in the DPR Plenum. During the post-Suharto era, the DPR did not recognize its representative aspects, and it also gave greater authority to parliamentary leaders or elites (house speakers, chairpersons of working bodies, and party chairs) to make decisions on behalf of all DPR members. This led to the formation of oligarchic practice (e.g. private meetings of leaders - *rapat lobi*) that affected parliamentary procedure. These aspects of political culture certainly need a longer time to change.

Despite the lack of democratic parliamentary procedures, the basic structure and language of a modern state were introduced during the New Order (Ramage, 2005: 445). Suharto's authoritarian regime introduced and adapted the terms 'representation, people's sovereignty, legislation, election, rule of law, courts and the Constitution' to the regime (*ibid*). Thanks to the wider access now to information and education, most Indonesians are already familiar with the concept of democracy, but they just do not know yet how to implement the concept properly. In other words, the foundation of civic culture, that citizens follow their leaders and obey the rules, is already in place, but they need democratic rules and procedures to replace the existing old political culture.

Everything that I have stated here makes it clear that this study on the DPR is also about its role in Indonesia's political transition to democracy. As Gready argues, a transition toward democratization implies a change in the political regime and culture, which sometimes is an incomplete process (Gready, 2003: 2). Gready points out that 'patterns from the past are often reconfigured rather than radically altered in the present' (*ibid*), and this exactly reflects what the DPR faced during the democratization process. Although the DPR went through institutional transformation as a parliament due to the coming of members from the new political parties and new election rules, and its new legislative power has been guaranteed by the constitutional reform, the problems

still remain, as the DPR has not yet performed as well as it needs to. The legitimacy of the DPR as a democratic parliament has not yet been seen due to its reliance on old (legislative) processes and procedure¹⁹, or from a broader view, due to its political culture. Its legislative process is still the same as was practiced during the authoritarian regime. Moreover, as Gerry van Klinken has criticized, the way institutional reform has been approached has accentuates 'elite thinking about democratic tradition but is limited by the notorious detachment of Indonesian legislation from social realities' (2009: 143). The dominance of elites is still clearly seen in the DPR during the period of this study, and this shows the DPR's problems in developing and consolidating a new democratic political system, as Huntington (1991: 209) claimed²⁰. Yet, despite the struggle to overcome the problems, in the DPR - as seen in this study - there was hope with the existence of an 'innovative ideologist' (to slightly adapt Skinner's (2002) expression), the intention to strengthen the role of parliament (Weber, 1994), and the support of the elites for 'playing by the rules' (Liddle, 2002).

1.2 Research materials and approach

1.2.1 Research Material

The study focuses on examining the political culture of the DPR in order to establish how the concept of the DPRD is understood there. The research materials used for this are laws and parliamentary debates. The parliamentary debates are the documents recording the discussion, or the minutes taken, when laws are being discussed. During the period 1999 - 2009, five laws were passed which have a bearing on the DPRDs:

1. Law no. 4/1999, Law on Composition and Structure of the MPR, DPR and DPRD (*Undang-Undang tentang Susunan dan Kedudukan Majelis Permusyawaratan Rakyat, Dewan Perwakilan Rakyat, dan Dewan Perwakilan Rakyat Daerah*).
2. Law no. 22/1999, Law on Regional Governance (*Undang-Undang tentang Pemerintahan Daerah*).
3. Law no. 22/2003, Law on Composition and Structure of the MPR, DPR, DPD and DPRD (*Undang-Undang tentang Susunan dan Kedudukan Majelis Per-*

¹⁹ Huntington introduced this view in his famous *The Third Wave Democratization*, when describing problems countries have 'in developing and consolidating their new democratic political system' (1991: 209): 'the legitimacy of democratic regimes rests in part on performance. It also rests, however, on processes and procedure' (ibid, p. 258).

²⁰ Huntington (1991: 209-211) presented three types of problems faced by democratic governments succeeding an authoritarian one: the transition problem (stemming from the constitution and electoral system); the contextual problem (stemming from 'the nature of the society, its economy, culture, and history'); and the systemic problem (stemming from the workings of a democratic system); new democratic regimes have to deal with the legacy of the authoritarian system, such as 'the symbols, doctrines, organizations, laws, civil servants, etc' (p. 211).

musyawaratan Rakyat, Dewan Perwakilan Rakyat, Dewan Perwakilan Daerah, dan Dewan Perwakilan Rakyat Daerah).

4. Law no. 32/2004, Law on Regional Governance (*Undang-Undang tentang Pemerintahan Daerah*).
5. Law no. 27/2009, Law on the MPR, DPR, DPD and DPRD (*Undang-Undang tentang Majelis Permusyawaratan Rakyat, Dewan Perwakilan Rakyat, Dewan Perwakilan Daerah, dan Dewan Perwakilan Rakyat Daerah*).

These laws are known in Indonesia as the *Susduk* law, consisting of Law 4/1999, Law 22/2003 and Law 27/2009, and the *Pemda* law, which consist of Law 22/1999 and Law 32/2004. The names *Susduk* and *Pemda* come from acronyms from their titles, as stated previously. The relations between these two laws can be seen in Figure 1 below. It also shows the executive and legislative structures in Indonesia, at both national and regional levels.

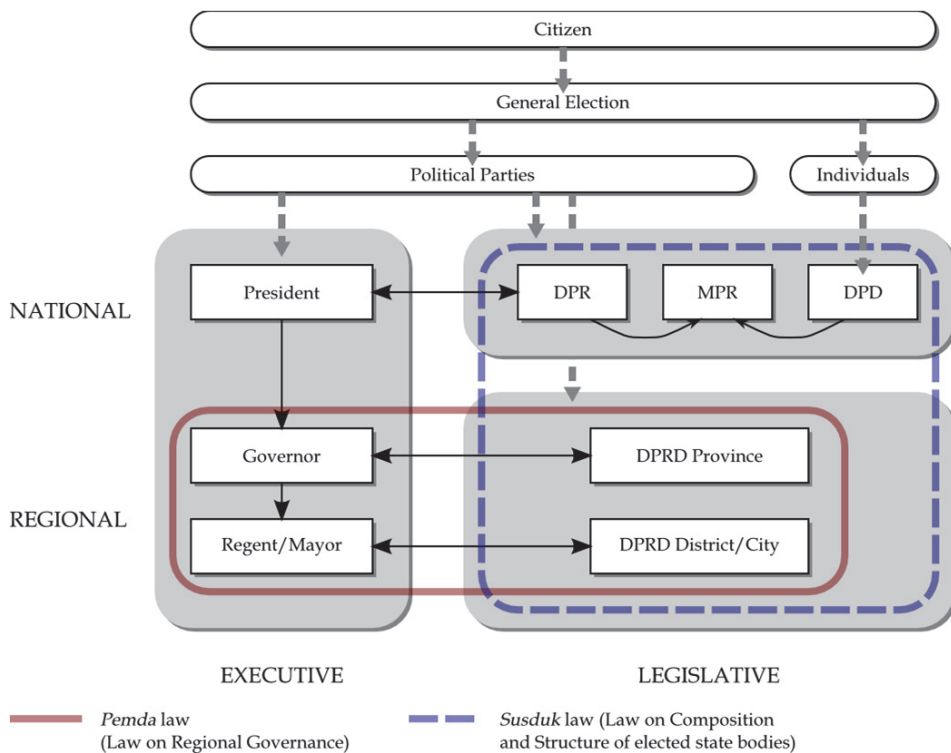


FIGURE 1 The relations between *Pemda* law and *Susduk* law

Figure 1 above shows that both the executive and the legislature are elected in a general election, through nomination from political parties, except for the DPD (*Dewan Perwakilan Daerah*-Regional Representative Council), whose representatives are elected from individuals in each province in Indonesia without reference to their political affiliation. The executive arms, the president, governor (provincial level) and regent/mayor (district/city level) are seen as one unit. In

fact, governor is the president's right hand in the regions. The structure is not the same on the legislative side. The DPR (and DPD) at national level, do not have direct relationship to the DPRD at the regional levels, although the members of all these bodies derive their membership from political parties. However, despite the lack of hierarchy, the similarity of membership (based on a political party) and the fact that they are elected means that the "legislative" arms are regulated by the *Susduk* law, which regulated five institutions, the MPR, DPR, DPD and the two DPRD. Meanwhile, the *Pemda* Law regulates regional affairs, below the national level. This means that it also concerns the DPRD. Each law will be reviewed in the case studies that make up this thesis.

The figure also shows the difference between the executive and legislature. Unlike in the parliamentary system, the term 'government' somehow refers to the unity of the executive and legislative powers, as one unit, in governing the state. In Indonesia, the term 'government' (*pemerintah*) only refers to the executive. At the national level this refers to the president and his/her ministers, and in the regions it refers to the governors, regents and mayors (and their apparatus). Perhaps due to the legacy of the sultan-like style that operated in the long regime of President Suharto, the (executive) government has always been seen as higher than other state institutions. Throughout this study, the government refers to the executive and the two bodies - the government and the DPR - are separate institutions.

These particular laws and the parliamentary debates that took place when they were going through parliament are useful to understand the trajectory of conceptualizing the DPRD as they are today. However, the DPR and its political culture - including parliamentary procedure and the legislative process - must be addressed first. The idea of using parliamentary debates to understand the surrounding environment (the deliberative process) when enacting the law was pioneered by the Constitutional Court (MK)²¹ in 2008. The Court studied constitutional proceedings and minutes so that their judgments would be more impartial, so the importance of archiving parliamentary debates concisely and carefully for future usage was realized at that time.

Besides the laws and parliamentary debates, I also use interviews as an additional source of information to back up my interpretation of the minutes. The interviews used here were initially planned to clarify anything that was unclear in the data from the debate documents, but it turned out that such interviews had other uses: they were also useful for an in-depth analysis of parliamentary procedure (interviews with former DPR members); to explore the concept of local government (interviews from DPRD members); and especially to become familiar with Indonesian political culture more widely (all the interviews, especially those with experts and bureaucrats). The interviews were use-

²¹ The MK was established as a result of the constitutional amendment and has been running since 2004 (like the DPD). The MK judges a legal case according to the constitution, and so the minutes of the deliberations during the constitutional amendment were collected and served as an example to the DPR of the value of collecting the minutes of bills in every case (usually it was only done with bills that were controversial). Not all the records of deliberations are archived.

ful for exploring all these issues and it was the first time that this method - especially the use of minutes - had been used for research on the DPR or Indonesian political culture.

1.2.2 Approach

The study revolves around DPR political culture, parliamentary debates, and procedures related to certain key concepts of the DPR and DPRD. Throughout the study, legislative procedures in the debates are assessed and analyzed. Debates employ language and have a rhetorical structure, the study of which is essential for an exploration of political culture. Therefore, the approach of 'conceptual history and political rhetoric', which has been 'a profile of studying politics in the University of Jyväskylä' (Vaarakallio and Haapala, 2013: 7), has been useful for this thesis. Vaarakallio and Haapala set out from the premise that 'politics is understood and analyzed loosely as linguistic acts represented in texts and speeches' (*ibid*, p. 7). Here, the DPR's language in the minutes constitutes the political acts.

Rhetoric is 'the study of the argument, the art of speech and persuasion' (Martin, 2014) and as this study attempts to look at the concept of the DPRD and the political culture in the DPR through the *language* used in the parliamentary debates, (deliberative) rhetorical analysis²² is suitable for this purpose.

Deliberative rhetoric was the form of persuasion suited to arguments concerning the right course of action in the future (Martin, 2014: 23)

Rhetoric is a practical form of guidance to assist the process of making persuasive arguments by examining speeches, words, phrases, and meanings, gathered into arguments, and it can be used to study the parliamentary debates. In rhetorical political analysis, arguments and political actors must be explored (Finlayson, 2007: 545), and so a rhetorical approach helps us to understand the intention of political actions. The minutes that I examined showed how the MPs (mostly from the elites only) situated themselves in an issue to realize their goals, made interventions on a government proposal (most usually) that they considered necessary to control the situation or limit it to a particular context, and applied strategies to reorient and persuade other MPs, according to the type of laws enacted. Their actions were governed by the Indonesian principle of compromise in the decision-making process (*musyawarah mufakat*), and this is an interesting aspect of the political culture in the DPR.

Using written texts produced by the institution provides access to the political language used, and researching the 'political language is a promising way of analyzing political culture' (Rohe and Dörner, 1990: 50). Using the parliamentary debates and analyzing their language is important in explaining the problems that can arise in the legislative process. It also makes it possible to assess

²² A deliberative rhetoric refers to 'deliberative or political rhetoric' (such as is used in parliament), in contrast to 'forensic or legal rhetoric and display or ceremonial (sometimes called 'epideictic) rhetoric' (Martin, 2014: 23, original emphasis).

certain parliamentary concepts, such as ‘plenum, session, speaker, reading, committee, debate, quorum etc.’ which all have a significant meaning in the parliamentary context (Palonen, 2011: 14) and are related to the internal tradition and the parliamentary culture. These already existed in the old DPR, but in the past they were exercised differently. In addition to this, the study also discusses certain specific political tradition in Indonesia, taking up the concepts of mutual assistance (*gotong royong*), family principle (*asas kekeluargaan*), Indonesian ideology (*Pancasila*), decision-making (*musyawarah mufakat*), and oligarchic practice, which are often claimed to be undemocratic.

This study shows how the DPR clings to its traditional politics, yet at the same time wants to be regarded as a democratic institution. Indeed there are parliamentary features in the DPR (such as the legislative and overseeing functions, members’ rights to immunity, etc.), but if they are exercised together with authoritarian traditions (such as the oligarchic tendencies, the decision-making behind closed-doors, the preference for smaller forums, etc.), then actual practice still does not conform to democratic values.

It has been claimed that democratization in Indonesia has emphasized ‘persuasion’ instead of ‘violence, force and fraud’ in its politics, especially in the *reformasi* era (Graf, 2010: 17), and this has been practiced throughout the parliamentary periods in the DPR studied here. The military, for example, still sat in the DPR during the transition era (1998 - 1999 and 1999 - 2004), and with a persuasive approach managed to continue to have a political existence and participate in drawing up the constitutional amendment, which determined the basic shape of Indonesian politics in the years to come. The “humanistic” or rhetorical approach is better used to explain the democratization process in a political institution, such as parliament (Graf, 2010: 20). Moreover, according to Gibbins:

The paradigm of political culture usually refers to what holds a society together, what makes actions possible and meaningful was a tradition of beliefs and practices, a language game and an accompanying practice or form of life. A society is a moral community joined by a common subscription to a language, to some rules of life, some techniques of discourse and debate, and a practice or going on (1989: 5-6).

This quotation from Gibbins shows the importance of using language and rules in studying the political culture, because language is rooted in tradition. Gibbins claimed studying the language within a particular institution would reveal the political culture in such institution (Gibbins, 1989: 2).

This view is applicable with reference to the DPR. Speaking, using language, as the main activity of parliament, leads to the decision-making process, and so speaking activities even when recorded in the parliamentary debates serve as a means for ‘a change in political language and culture’ (Ihalainen and Palonen, 2009: 17). By using the parliamentary debates and rhetorical analysis, this study also focuses more on the *process* within the parliament itself, the activity inside the institution (*ibid*, p. 21), which is appropriate for a study of the political culture within the DPR.

Although, the Indonesian DPR has a slightly different parliamentary tradition, the aspects of language, argument, persuasion, parliamentary debates, process, procedures, and concept are available to support the rhetorical approach. The rhetorical approach is useful 'to observe in action the processes by which political concepts are rhetorically formulated and deployed as ways of grasping a political situation and winning the consent of others for some course of action or another' (Finlayson, 2004: 541). In this research, rhetoric refers to argumentation or persuasion. The use of the rhetorical approach mainly serves to see the process, the argument, and the language, which in this case makes it possible to examine the legislative process in detail and see how DPR committee members persuaded others and were being persuaded to follow a certain concept, as seen in the empirical chapters, Chapter 4 - 6.

Combining the parliamentary procedure and a rhetorical approach are essential for the study of political culture through language. The language of procedures, for example, has largely influenced the rules of the game inside the DPR. Authoritarian procedures correspond to a certain political culture, revealed in the parliamentary language. It is difficult to break away from the ingrained political culture without changing the language.

1.2.3 The challenge of acquiring the research materials

One novelty in this study is the use of parliamentary debates in researching the DPR. This has not been done before in studying Indonesian politics, at least not to the same extent. Indeed due to the novelty, it was quite challenging to acquire the materials. Parliamentary debates in the DPR are not available online and one needs to go through certain bureaucratic and time-consuming steps in order to access them. Despite the existence of Law 14/2008 on the Freedom of Public Information (*Undang-Undang no. 14 tahun 2008 tentang Keterbukaan Informasi Publik*) which came into force in 2010, the DPR is still reluctant to release the parliamentary debates on its official website and to make its transcripts of recorded discussions available as public documents.

To acquire any document, one has to request it in a formal letter, naming the specific law and the debates. It was not clear how long it would take to process the request and when the documents will be available. In fact, there is also no clear information on how to make the request in the first place, such as which department to go to, the format of the letter, and the accessibility or availability of any documents. Luckily, the minutes of the *Pemda* law, used in this study, have already been published, as many organizations have requested it²³.

Furthermore, in using the parliamentary debates as research material, one should be familiar not only with all the work mechanisms in the DPR, but also

²³ The documents of Laws on Local Governance for both Law 22/1999 and Law 32/2004, including the meeting proceedings, have been published as books by the DPR Secretariat, as a result of many requests from NGOs and international donor agencies to analyze the popular topics of Indonesia's regional autonomy (decentralization) and local politics.

with the system, such as which committee has discussed which bills, what topic or subjects were fiercely debated, and the schedule of meetings. The schedule of meetings can always be changed (time and place), depending on the situation in the DPR and members' availability. It is also important to understand internal tradition of the parliament, such as the system of *musyawarah mufakat* and respect for what seniors say. Following the DPR meetings does not pose any problem if one knows staff at the DPR, either members of parliament or staff at the secretariat. It is commonly known that for doing research or fieldwork in Indonesia, having insider contacts is a huge benefit (Hägerdal, 2011), and this is true for the DPR too. However, one still needs to understand the legislative process, and this in itself could be a challenging task. One needs to follow the complete process of a bill, which can take years; Law 27/2009, for example, took two years to be passed.

This combination of obstacles will discourage researchers from employing data from parliamentary debates in the future²⁴. However, with the prospect of more democratic state institutions in Indonesia, and the passing of the Law on Public Information, the DPR is likely to be more open in the future.

1.2.4 Contribution of the study

Studying political culture within a particular political institution, a researcher must comprehend all aspects of the said institution, from its history, political development, and local language to its working procedure or the rules of the game inside the institution (Mackie, 1997: 133). In that light, I have delved deeply into the political culture of the Indonesian parliament from the advantageous position of not only being a native Indonesian researcher, but one with 10-years-experience working in the Indonesian parliament. This familiarity with parliamentary procedure, the language, the political development and the law-making processes discussed in this research, gives me an unique opportunity to contribute to others' understanding of the Indonesian parliament. I have made use of the experience I have gained and I share it from the perspective of a former insider.

The novelty of this research resides in the use of parliamentary debates as research materials, as discussed above, and in its drafting of a complete outline of the legislative process in DPR based on personal experience working in the institution and on reading the parliamentary debates. The outlines of the legislative process indicates that parliamentary debates may serve as promising research material in studying Indonesian politics in the future, as previous studies have drawn attention to the difficulty in understanding the legislative process, as well as the poor management of the minutes, meeting proceedings, and the DPR database (Datta, 2002: 28; Sherlock, 2003: 23).

²⁴ I myself could avoid such problems due to my previous experience working in the Indonesian parliament secretariat, knowing the system and the personnel and relevant department inside the DPR. Thus, I did not face these time-consuming bureaucratic hassles to get permission to access parliamentary debates that I needed.

The rhetorical reading of the minutes also contributes another novelty. In studying the parliamentary debate, my knowledge of DPR parliamentary procedure gave me a good theoretical basis for understanding the argument and decision-making process. The laws that are enacted constitute the DPR's political actions and arguably link all political aspects surrounding the DPR and connect 'context, language and intention, conceptualizing political texts and statements as forms of actions' (Finlayson, 2007: 553). Close study of the parliamentary debates and the procedures, with rhetorical analysis, enabled me to interpret the meaning and contemplate on the motives of each player in the deliberation process.

This study of the parliamentary debates will also provide a new and coherent interpretation of the powers of the DPRD's against the broader background of Indonesian parliamentary politics and political culture in general. The conceptualization of the DPRD's and their weaknesses within the law will be acknowledged better. The national and regional parliaments play an important role in Indonesia, but this has not always been recognized by those who criticize the democratic process in the country. Research into Indonesian parliamentary culture is in line with the study of political change towards democracy, which still shapes Indonesian studies in the post-Suharto era.

1.3 Outline of the thesis

This introductory chapter is Chapter 1. The next chapter - Chapter 2 - begins by outlining the development of the Indonesian parliamentary system. The chapter describes the historical background of the Indonesian parliamentary system, from the Dutch legacy at the end of the colonial era to the failure of parliamentary democracy in the early years of the young country, in the 1950s. Sukarno's and Suharto's authoritarian style in administering the government are discussed to show how the DPR became simply a rubber-stamp, supporting the authoritarian regime. The background of the constitutional amendment and decentralization are also discussed in this chapter.

Chapter 3 will focus on parliamentary procedure and the legislative process inside the DPR. This chapter focuses on the working instruments inside the DPR and the parliamentary culture inherited from the previous regime. It discusses how the parliamentary tradition from the authoritarian regime continued to affect the DPR's practice when facing the wave of democracy which parliament could not avoid.

The case studies, discussed in Chapters 4, 5 and 6, focus on discussion of the laws on DPRD's passed in the national parliament. Five laws were chosen, three *Susduk* laws and two *Pemda* laws. The period of a decade shows the continuity and change in the DPR in terms of its political background, legislative process and the laws enacted. Chapter 4 gives an example of how the DPR still continued to function as it had done in Suharto's time. 1999 was a time of transition for the DPR, when its members were still those who had been elected un-

der Suharto's former regime (1997 - 1999). However, their views clearly changed, as they were expected to act according to the demands for reform: cracks started to appear in the old of political culture, but still it did not disappear. The chapter discusses the political background, the political configuration within the DPR, followed by an overview and analysis of two laws enacted in this period and an assessment of their implications. Members, including those from the military, discussed the *Pemda* law in a high spirit of reform.

Chapter 5 discusses the new DPR elected after the reform era (1999 - 2004). With its new members, new political parties and new factions, it acted enthusiastically to make the changes in the constitutional amendment into laws. Toward the end of DPR terms of office, however, the style moved from the politics of transition to an attitude of "politics-as-usual". The same *Pemda* law was revised to incorporate the new terms of the recently amended constitution, but in a spirit of re-centralization, the legislative nature of the DPRDs was reduced. This chapter is quite substantial: it presents political changes as an important dynamic in the DPR's parliamentary culture, showing procedural continuity (with some modification) rather than change in the DPR.

Chapter 6 puts greater emphasis on the style of "politics as usual" and shows the lack of a spirit of parliamentarianism inside the DPR. The period 2004 - 2009 tried to address new parliamentary issue, like the model of representation, but it was still vague about how to implement the representative function in the DPR (except during an election campaign).

Finally, Chapter 7 serves as an overview of the study and its conclusion. It discusses how the characteristics of the Indonesian parliamentary culture differ from those of other parliaments, as seen from the case studies, and how this difference shapes the policy of the country's regional parliaments, the DPRDs. This chapter discusses the exercise of parliamentary procedure in the DPR, and how the DPR would like to be seen as a democratic institution, proceeding towards an ideal-type of parliament. The constant use of procedure from the old parliament limited MPs' opportunity to behave as an effective parliament. The analysis also covers parliamentary development in other countries in Asia, Malaysia and South Korea. These two countries were chosen because of their geographic situation in Asia, and because they were exposed to a similar experience of a transition to democracy. The cases will support the general argument of the relationship between the political culture, the role of parliament, and the democratization process or political change.

2 DEVELOPMENT OF THE INDONESIAN PARLIAMENT AND ITS POLITICAL CULTURE²⁵

A parliamentarian member's life consists of '4D': *Datang, Duduk, Diam, Duit*
(attend, sit down, keep quiet and [get] money).
- popular remark in Indonesia about Indonesian parliament²⁶

As a process, political culture remains for a long time in a political system, and this has also been the case in the DPR. It was hard to change overnight a political culture that had been cultivated for more than three decades. The departure of President Suharto and the arrival of his successor, President Habibie, did not automatically change the regime's political culture (Eklöf, 2003: 308). In fact, even when the DPR was empowered as a real parliament, by the constitutional amendment, the authoritarian traditions practiced in the DPR lingered on. This suggests that political culture takes a lot of time to change.

The study of Indonesian political culture in this thesis mainly draws on the books of Liddle (1996) and Eklöf (2003)²⁷. William Liddle (1996), an Indonesian specialist from the Ohio State University, collected his essays written during 1984 and 1993 in *Leadership and Culture in Indonesian Politics* (1996), which

²⁵ An earlier version of this chapter, especially the section of the Dutch, was published in the *Journal of Political Science and Public Affairs*, 2 (July): 118 (Adiputri, 2014). Revised and published here with the journal's permission.

²⁶ This popular remark was known amongst Indonesians to portray the DPR members under Suharto's presidency. Now it extends to cover DPRD members too (Wasis-tiono and Wiyoso, 2009). Indonesian studies on the DPR always refer to this 4Ds principle (Datta, 2002: 14; Eklöf, 2003: 129; Ziegenhain, 2008: 57; Case, 2011: 10). The completed 'D' statement varies from *datang, daftar, duduk, dengar, diam, duit* (attend, sign in, sit down/sitting in, listen, keep quiet and money/get paid) or just four Ds, as written above.

²⁷ The availability of previous publications on Indonesian political culture, though, is also noted in this thesis. They were the basis for the argument that Indonesian political culture is rooted in Colonialism, Javanese tribalisme Islam and the military, as stated in Chapter 1. The publications are, for example, Benedict Anderson's *Java in a time of Revolution* (1971); Clifford Geertz's *The Interpretation of Cultures: Selected Essays* (1973) 1993; *Interpreting Indonesian Politics*, edited by Benedict Anderson and Audrey Kahin (1982); *Imagining Indonesia: cultural politics and political culture*, edited by Jim Schiller and Barbara Martin-Schiller (1997).

was useful in its relating of the political culture shaped by Suharto's New Order to Indonesian economic development. The more recent comprehensive study on Indonesian political culture, *Power and Political Culture in Suharto's Indonesia* (Eklöf, 2003), studied Suharto's political culture through the development of one political party - the Indonesian Democratic Party (PDI) - from 1986 to 1998. Eklöf's research has been useful for this thesis in tracing Indonesian political thinking and features of the New Order political culture through to the Indonesian democratization process. Moreover, his assessment of the PDI as a political party also related to membership of the DPR²⁸. These two studies have provided key insights into Indonesian political culture, especially during Suharto's era. While my study has similarities with Eklöf's in focusing on political culture, I will continue from the time when Suharto left the Indonesian political stage, from 1999 to 2009, and study the political culture through the lens of parliament, the DPR. The focus on political culture in this thesis, of course, will be based on developments in the DPR.

For the study of Indonesia's DPR, Indraneel Datta's thesis (2002) *Parliamentary Politics in Suharto's Indonesia 1987 - 1998* has been useful for understanding the DPR in Suharto's time. Datta's thesis was similar to Eklöf's in terms of research period of the study (focusing on Suharto's regime in 1987 - 1998) and in using newspapers and interviews as research materials. His thesis led to the conclusion that the DPR contributed to the legitimacy of the authoritarian regime (Datta: 2002: 25). Thus, Datta's and Eklöf's studies were compatible with each other.

For parliament in the post-Suharto era, as noted in the introduction, the works of two authors - Stephen Sherlock and Patrick Ziegenhain - have been used, especially Sherlock's *Struggling to Change: The Indonesian Parliament in an Era of Reformasi* (2003) and Ziegenhain's *The Indonesian Parliament and Democratization* (2008). The difference between these studies rests in the fact that Ziegenhain's²⁹ was based on his doctoral thesis, in which he used interviews with MPs, secretariat officers, scholars, and journalists, while Sherlock's work was an assessment report on the DPR's 'structure and operation' for a donor project (2003:1)³⁰. Sherlock's study, however, has been useful to assess the DPR's working bodies, as seen in Chapter 3 of the thesis.

There have been very few studies by Indonesian scholars on the DPR, so far as I know³¹. Most Indonesian political researchers share the view that the DPR is a corrupt institution and does not serve as an interesting subject of study.

²⁸ Eklöf actually talked more about the MPR than the DPR, probably due to the MPR's task of appointing Suharto as the president. However, since MPR membership also included the DPR, the MPR study was still relevant to a description of the DPR.

²⁹ The works of Eklöf, Datta and Ziegenhain are comprehensive studies based on their doctoral thesis. The research of Eklöf and Ziegenhain has already been published in book form.

³⁰ Stephen Sherlock wrote the report for the Centre for Democratic Institutions (CDI), an organization funded by AusAID to support 'the development and strengthening of democratic institutions in developing countries' (2003: 3). The report recommended program priorities for donor assistance (*ibid*, p. 38-9).

³¹ Studies on elections and party politics, in contrast, are abundant, and occasionally discuss events within the DPR, in connection with the discussion of certain bills.

When a study on the DPR is available, it is in Indonesia language, and funded by a donor agency, as is the case with Katharina (2007), Bako et al (2008), and annual anthology of notes by a legal non-government organization or NGO (PSHK). The contents of Katarina's and Bako's studies were basically similar to Sherlock's work (2003), only in the Indonesian language. In addition to the PSHK's assessment of the DPR, the local media report negatively about the DPR. This mostly revolves around the low number of laws enacted annually, the empty chairs in the plenary sessions or the corruption cases in which DPR members are involved. When the DPR sessions are broadcast on TV channels, the factions' speeches on the plenum podium appear to be ceremonial, full of flowery language of appreciation and not based on the content of any legislative issues. The narrowness of these studies is caused also by the heavy bureaucratization surrounding DPR meetings or the plenum and the difficulties of acquiring the DPR's documents that I have already mentioned. The complicated procedure and the way the DPR has been presented in the media and in studies have discouraged scholars from carrying out research into the proceedings of meetings of the DPR.

The major parliamentary studies mentioned above did not detail the *process* inside the DPR. They did, however, acknowledge how complicated the structure of DPR (legislative) procedure is and how difficult it is to understand. All the studies made clear the significant political culture of the DPR, the legacy of the New Order, but they did not elaborate on it further. Recognizing the problem that previous scholars have faced, this thesis tries to fill the gap in the study of the DPR by studying internal documents produced by the DPR - the laws, minutes and procedure - so that the political culture is not only acknowledged but also analyzed.

This chapter will assess the historical development of Indonesian politics and the Indonesian parliament first of all in colonial times, then during the times of both President Sukarno and President Suharto, which ended with the eventual fall of Suharto's administration, and finally during the time decentralization and the constitutional amendment. A study of the historical background through the development of the DPR is useful because it shows the fundamental changes that have taken place in the political setting and role of parliament.

2.1 Historical background

Studies on the DPR (Datta, 2002; Eklöf, 2003) have concluded that the legacy of the New Order including its authoritarian political culture lingered on. This view of the DPR still holds for the period of this study. In fact, when the DPR deliberated the bill that become the Law 32/2004, members still referred to a continuation of the Dutch administration. For example, in the parliamentary debates on Law 32/2004, on 2 August 2004, Ryaas Rasyid, an expert invited by the DPR Committee said that:

Kewibawaan Pemerintah bukan dari kantor yang bagus, buat apa bikin kantor-kantor isinya koruptor semua percuma saja, tapi wibawa pemerintah itu adalah dari kualitas pelayanan yang dia berikan dari kemampuannya menyelesaikan masalah dari kemampuannya memberikan prioritas kebijaksanaan yang bermanfaat bagi rakyat tetap dia akan hormat sama Pemerintah itu walaupun kantornya cuma sederhana gitu yang ngajarin kantor mewah itu kan Belanda supaya hilang dari buta huruf dan TBC ini baru lihat gedung sudah ketakutan, itu Belanda semua itu, penjajah semua, yang ngajar kantor besar itu. (Minutes Law 32/2004, Working Meeting, Hearing, 2 August 2004, p. 78. Emphasis added).

Government's authority is not seen from the beautiful office. It will be useless to have beautiful office if the bureaucrats are corrupt. The government's authority is seen in its good quality, that bureaucrats serve the public, in the ability to resolve problems and in the ability to prioritize policies which impact directly on citizens. If the government is responsive, the public will respect the authorities even though the office is in modest condition. Those who taught us to have beautiful offices were the Dutch, in order to scare off those who had tuberculosis (disease) and illiterate persons. They would be terrified to see the big beautiful office [and therefore did not ask for help]. **It was the Dutch, who set us the example of having a beautiful big office.**

The quotation above tells us that the Dutch introduced a model in which the government was unconcerned about citizens' affairs and let the citizen find their own solutions to their problems, although it should be a government's duty to provide good public services. The intention of the Dutch to display a beautiful big office only suggested intimidation, putting off citizens from entering the government compound to ask for help. The Dutch, as a colonial government and not a proper government, in a way had "rights" to treat native Indonesians badly, as colonial subjects. The negative label for the Dutch treatment of native Indonesians became firmly established after independence.

Previous regimes, especially Suharto's, successfully described the cruelty of Dutch colonialism, which "robbed" Indonesia of natural resources and gave less to the natives. As the remark above displays, the speaker acted as if he himself had experienced such colonial practices. Indeed the indoctrination of Suharto's regime has blamed the 350 years of Dutch colonialism for the low moral standards in Indonesian politics for corruption and irresponsible government.

The Dutch established their chamber of commerce, the VOC, *Vereenigde Oost-Indische Compagnie* or the United East India Company, in 1630. When this company went bankrupt in 1800, the Dutch government took over. The VOC bankruptcy was notorious. The VOC at that time had an unclear accounting system in which what was profits and what was losses could not be traced, so the profits of the empire-builders in Indonesia probably went into private pockets (Ricklefs, 1981: 63). This became the first sign of corruption in the Dutch empire; later the Dutch colonial administration was also notorious for being corrupt. This view is sometimes used to justify corruption in Indonesia: the habit came from the Dutch.

The concept of Indonesia as one country did not yet exist in the seventeenth century. The archipelago was divided into small local kingdoms, from Celebes (nowadays Sulawesi island) with Buginese and Makassarese kingdoms; the Molucca islands with the Ambonese kingdom; Java, which included the kingdoms of Mataram, Surakarta, and Yogyakarta as well as the Sundanese and East Javanese, including the Madurese; to Sumatra, with its kingdoms of

Srivijaya and Aceh, and many other small kingdoms. The Dutch occupied the Moluccas (spice-island) first as a trading base, a source of export commodities, and then established their administration in Batavia, on the island of Java (nowadays known as Jakarta, the country's capital) because of its strategic position on the sea trade routes in Southeast Asia. Indonesia's diversity in indigenous tribes, languages and customs was immense, yet by the end of the nineteenth century, they were all bound together as one country by the colonial administration of the Dutch, and glued together also by the 'common suffering' of colonialism (Adam, 2006: 276). As a result, Indonesians are proud to declare their national motto to be *Bhinneka Tunggal Ika* or "unity in diversity", the emphasis being on both "diversity" and "unity", which has been characterized the Indonesian political culture. This shows, as Liddle puts it, 'the idea of co-existence or of a permanent balance between the many and the one, each legitimate in its own way', which contrast to the American conception which stresses "the melting pot" or 'the absorption of the many into the one' (Liddle, 1996: 64-65).

The pattern of Dutch colonial rule in Indonesia differed in many respects from colonial regimes in other parts of Asia, for example in that the Dutch were not interested in educating the natives (Kahin, 1953: 67)³². Although it is true that a colonial state did not have any responsibility for educating the natives, as the colonial government was interested only in extracting natural resources for its own benefits, the Dutch colonial government clearly was not interested in transferring its knowledge to the natives. While for example, England had a vision of a commonwealth in its colonies, the Dutch were not interested in how they administered the colony using the natives' skills. This caused the administration to be ineffective, since for the Dutch, the future of the colony was simply as a money-making-machine, and the idea of self-government in Indonesia never existed. This was strikingly seen in the matter of language transfer. The Dutch language was never a *lingua franca* in Indonesia, as the study of Dutch was encouraged only for a limited social group (especially for the aristocrats and bureaucrats), unlike in other colonized countries³³.

The Dutch tried to cooperate with the local kingdoms, assisted the aristocracy in suppressing rebels with modern military equipment. In return, the Dutch gained some benefit in taxes and access to natural resources, notably the spices for Europe. The Dutch employed 'the system of indirect rule' by utilizing 'the old aristocratic Indonesian elite as its primarily instrument' (Kahin, 1953: 67). With such a big country and the large number of regions, the local kingdoms and the traditional native leadership became the agents of the Dutch colonial rule.

Dutch colonial power fitted in well with Javanese culture, which was also known as centralized and hierarchic, and not democratic (van Klinken, 2009:

³² Kahin view was later confirmed by Ricklefs (1981: 114) and van der Kroef (1951: 165).

³³ Dutch was never the first foreign language to study in Indonesia and nowadays English is more popular than Dutch there. This is in contrast with other colonized countries, where the colonial language is popular, like French in Africa, Spanish in Latin America and English in India, Malaysia and Singapore, for example.

141). The king and aristocrats in Javanese culture were associated with the father in a family. They had the authority to make the laws and became the center of society (or the family). In Javanese culture, there were several layers in society. After the king, there were the aristocrats, the middle class, and then the commoners. This was also reflected in the language. The Javanese language was divided based on the basis of hierarchy: *Krama Inggil*, as the language of kings and the aristocracy; *Krama* for middle classes, or for young people addressing older people; and *Ngoko* for commoners, as the language was casual and used among peers and friends (Anderson, 1966: 97). This hierarchy was then developed further by the Dutch colonial rulers. The Dutch divided the residents at that time into pure blooded Dutch, the highest rank; then mixed-blood, 'the Indo-European civil servants'; then merchants or entrepreneurs, who were mostly Chinese and Arabic; and the lowest class, the natives Indonesians including 'the traditional indigenous aristocrats' (van Klinken, 2009: 153). Due to this layering, there was discrimination. Only when the colonial Dutch needed more administrative staffs, during the early twentieth century, was access to education widened, although then only for members of the regional aristocracy or the wealthy. The founding fathers who pushed for Indonesian nationalism had their backgrounds in this social group. The Dutch gave Indonesians only limited access to education, discrimination against the pure and mixed blood was intense, and the native Indonesian would always be a third class citizen.

In the centralized colonial regime set up by the Dutch, the aristocracy became the agents of the Dutch rather than the guardians of the interests of the Indonesian people. Meanwhile, the commoners only stood and watched the elites from the periphery, relying on the aristocracy or intellectuals (or the middle class in the early years of independence) to decide their fate. With no access to education, the majority of the population was illiterate and was not organized politically or much interested in Indonesia's nationalist movement (Logemann, 1952: 348). This tradition of commoners having no part in political life and relying on the elites strengthened the position of the autocratic presidents.

The use of these Javanese-centered and hierarchic customs by the colonial administration and later in the 1950 made it possible for Sukarno to become the sole authority in the country with his populist policy, called guided democracy (*demokrasi terpimpin*). It suggested the autocratic style of the Javanese landlords, not democracy for the commoners. His style of leadership was also influenced by the practices of the Dutch administration, which was corrupt, and characterized by policies which were rarely explicitly formulated.

In 1903, the Dutch government introduced regional administration under the Decentralization Law (*Decentralisatie Wet*). This was in response to demands from Dutch citizens living in the colony, who wanted to participate in discussions on the budget allocation (Wignjosebroto, 2005: 3). The division of the region was to be at the upper level the *provincie* and at the lower level the *gemeente*, reflecting the system in the Netherlands (*ibid*, p. 4). Nevertheless, the

government system was centralized in the hand of the Governor General, who also held the legislative power (*ibid*, p. 7).

When the Netherlands was invaded by German troops in 1940, the position of the Dutch colonial government became very weak. Japan occupied Indonesia in 1942 and within the short period of 3 years, Japan encouraged Indonesians to govern the country themselves. The Japanese allowed Sukarno and other leaders to return to Jakarta from their internal exiles, promised self-governance, and established a national army. The Japanese also abolished the Dutch system of decentralization, a policy supported by Sukarno. Sukarno regarded the Japanese more highly than he did the Dutch, and even called Japan an Indonesian older brother. Any Dutch policy was considered bad, including regional autonomy. The army was set up supposedly to support Japan's war, but at the same time it strengthened the nationalistic movement among Indonesians. In March 1945, the Japanese set up a committee to prepare for independence, but Sukarno and Hatta declared the independence of Indonesia without the planned 'Japanese-sponsored Independence Preparatory Committee' (Palmier, 1962: 53), although it was known that Japanese officials also attended the independence ceremony. The day, 17 August 1945, has become Indonesian Independence Day. Control of the administration moved from Japanese hands into the hands of Indonesians.

The Dutch returned to Indonesia in September 1945 and did not recognize Indonesia as an independent state. To regain their authority, the Dutch with the Allied mission tried to occupy the big cities on the island of Java. There were clashes and fighting between the troops of the Dutch-Allied mission and the Indonesian military, who were supported by the civilians. The military's role in defending Indonesia against the colonial occupation during this time has been emphasized to justify the military's infiltration into politics and society³⁴, although the successful recognition of Indonesia as an independent state was mainly due to the diplomacy and negotiations led by Vice-President Hatta.

The Republican leaders, including President Sukarno, demanded that the Allied forces should recognize 'the Netherlands Indies government as the only legitimate authority in Indonesia' (Palmier, 1962: 41). Indonesia agreed to negotiate only if there was a third party as a mediator in the discussion. During the negotiation process, the Dutch proposed for creating a 'commonwealth', giving Indonesians 'a substantial majority of the People's Council', and erasing 'all racial discrimination' (Palmier, 1962: 49), but definitely refused to recognize the existence of the new republic. Indonesian leaders rejected this proposal. The fighting continued and the Dutch bombed Yogyakarta, the site of the temporary capital. But although the Dutch army was able to capture most cities and main roads, they failed to control the countryside. This period is known as the Revolution Period, when the elites, including Suharto and his military troops, fought

³⁴ Note that the war between the Indonesians and the Dutch began only in 1945 and not before the independence day. Earlier conflicts against the Dutch were only regional (a local struggle) and not yet an attempt to oust the Dutch from Indonesia.

to defend the country. Suharto's military skills during the fighting over Yogyakarta made his name famous in Indonesian politics.

In 1948, a Security Council resolution called for the ending of hostilities and a United Nations Commission for Indonesia was established, which supported giving Indonesia to the Indonesian people. Between Indonesian independence day in 1945 and the handing over of sovereignty by the Dutch government to the Indonesian leaders, there was a long series of negotiations and agreements. The final transfer of sovereignty took place on 27 December 1949. The historical background shows us that the Dutch took advantage of the Javanese tradition of power. However, there were also good policies, such as increased regional autonomy. The policy of regional self-governance, unfortunately, was abolished by Sukarno, just because it was a Dutch legacy. History shows how Javanese customs have been reflected in the political culture, possibly due to the fact that the Javanese were the majority. The role of the military was also emphasized, so that the military could participate in any aspect of society, not just in defending the country.

2.1.1 The Dutch legacy and the *Volksraad*

The parliamentary institution shaping the DPR today was a legacy from the *Volksraad*, or People Council; it derived 'its principles, procedures, and structures' from the Dutch example (Sundhaussen, 1989: 464). The *Volksraad* was established in 1918³⁵ and it acted as a one-chamber representative body. The *Volksraad's* role was mainly to give 'a voice in legislation, the right to petition the Crown, the States-General and the Governor-General in the interest of the Indies, and the right to participate in drawing up the annual budget' (Palmier, 1962: 17). In the beginning, it had 39 members³⁶: a chairman who was appointed by the Dutch, 15 Indonesians, and 23 Dutch. The members were elected or appointed, but when members were elected, the electorates for Indonesians were local officials of the colonial administration. The electorate was set up to ensure that the interests of the Dutch community would not be superseded by the greater number of Indonesians (Palmier, 1962: 21).

It was set up from the beginning so that the powers of the People's Council were 'restricted' and to ensure that 'the Indonesians would never have an effective majority' (Palmier, 1962: 23). The Council was also supposed to ensure the colonial relationship, which suggested that Indonesians were not expected to govern the country (Benda, 1966: 592). With such a set-up, which did not even reflect geographical divisions and lacked a true representative aspect, the *Volksraad's* role was rather marginal. The *Volksraad's* recommendations to the Governor-General were often ignored. After hearing the recommendation, the Governor-General might decide the opposite of what had been recommended

³⁵ I refer to the discussion about the *Volksraad* in Palmier (1962: 17) and Schiller (1955: 31). According to Palmier, the *Volksraad* was established in 1916.

³⁶ The number of members increased over the years, according to Palmier (1962: 17, 19, 21). In 1916, there were 39 members (15 Indonesian), in 1920, 49 (20 Indonesians), and in 1925, the number was 60 (30 Indonesians, 25 Dutch and 5 others, mainly Chinese).

by the Council. This shows that *Volksraad* was only an advisory body. Indonesia's first parliamentary model inherited the principle that the parliamentary institutions was fairly peripheral to politics, both in its legitimacy and in the making of decisions (Feith, 1962: 32). In Indonesia, the *Volksraad* was known as "talking comedy" (*komedi omong*) as portrayed by Agus Salim, a prominent Muslim leader who was once a member (Gonggong, 2005: xi).

In Indonesia, the concept of representation in local politics has no historical basis (Marbun, 2005: 327). The Dutch colonial government established the regional government to reduce the burden of the central government, and it was in response to a request from the ultimate seat of authority, the Dutch government, not the Governor General (*ibid*, p. 328). The establishment of a regional council was initiated for the benefit of Dutch dwellers, and thus mainly Dutch citizens were seated in the regional council (*dewan daerah*). Around 16 decentralized regions were formed in Java and 8 regions in Sumatra and they were lead by Dutch administrative officers, known as '*Binnenlands Bestuur*' (*ibid*, p. 333). As most members were Dutch, they were entrusted to conduct their local affairs under the guidance of officers who were mostly appointed by the central administration (*ibid*, p. 333). Regions were divided into provinces (*provincie*), districts (*regentschap*), and cities (*stadsgemeenten*), with each division consisting of a council and an executive (governor or regent) (*ibid*, p. 335-6). The council members were mostly appointed, as the institutions were centralized and bureaucratized (*ibid*, p. 338).

With such a structure, regional government in Indonesia from its establishment onwards, arguably even today, is a legacy of the centralized and bureaucratic government of the Dutch colonial administration.

2.1.2 The early years of the Indonesian parliament

The Japanese replaced the Dutch as rulers of Indonesia in 1942 but continued the Dutch centralized system of government. Unintentionally, this centralized system gave an advantage to the Indonesian government later (Wignjosebroto, 2005: 50). When Sukarno wanted to erase the Dutch colonial legacy, like regional self-governance, at the same time he strengthened the centralized system, and this gave Indonesian politics an authoritarian presidential stamp.

In 1942, the Japanese helped the idea of Indonesia's future independence with a forum named *Chūō sangi-in*, or the Central House of Councilors, and this move was appreciated by the Indonesian independence elites, who called the Japanese the Indonesian "older brother" for their support in preparing Indonesian independence. After Sukarno and Hatta declared Indonesia free, on 17 August 1945, the Central Indonesian National Committee or *Komite Nasional Indonesia Pusat*/KNIP was established. It enacted a simple constitution, the 1945 Constitution (*Undang-Undang Dasar* 1945). The KNIP was the core of the eventual parliament of today. The setting-up date of the KNIP, 29 August 1945, has later been regarded as marking the birth of the DPR.

By the time the Dutch returned with military force, Indonesia had already created the Constitution, the institution of parliament, and a government that

despite being created with Japanese support, worked and had legitimacy among the people. The 1945 Constitution - 'a revolutionary manifesto [instead of] a blueprint for governance' (Schneier, 2005: 2) - stated that Indonesia was an unitary state and had a presidential system. The Dutch did not accept Indonesia's independence and still regarded it as a Dutch colony, so there were clashes between the Dutch and the Indonesian guerrilla army. In order to reduce the fighting, it was agreed after negotiations that the Dutch could continue to control areas that preferred Dutch rule. The Republic of Indonesia covered the islands of Java and Sumatra. In November 1945, Indonesia's presidential cabinet was changed into a parliamentary one (Palmier, 1962: 49). This change was introduced as part of the negotiation process with the Dutch, as the Dutch were interested in maintaining regional relations only under a federal state basis. Within the federal system, Indonesia was divided into 16 federal states (Palmier, 1962: 74). The Dutch hoped that a federal-state and support for parliamentary government would make it possible to regain colonial control over the archipelago, particularly on the outer islands away from Java and Sumatra. When finally the Dutch recognized Indonesia's independence in 1949, Indonesia still used this type of parliament and had a federal structure (Palmier, 1962: 53).

The Constitution of Indonesian States was introduced on 31 January 1950 and the parliamentary system of government was exercised by the Provisional DPR (1950 - 1956). Membership of the Provisional DPR was divided between the Republicans (those who supported the Indonesian republic) and the Federalists (members from the "Dutch-created federal states"). Dutch federalism was seen by Indonesians as an attempt to divide the country; consequently, the federal path was not appealing and most Indonesians preferred to organize themselves within a unitary country with a decentralized system³⁷. As a general election had not yet been held, the composition of the provisional parliament did not represent accurately the composition of political forces in the country (Budiardjo, 1956: 21).

The organization followed the format of the Dutch Estates-General, the Dutch parliament at that time, but even with this imitative format, DPR members respected and followed the rules of procedure, emphasizing the control of the executive with the use of 'inquiries, interpellations, motions, and debates on government policies' (Budiardjo, 1956: 19). Sections in the parliament, which acted like the standing committees nowadays, collected information from hearings, investigated problems, and discussed problems with the appropriate ministers, finally sending the bill for debate in the plenary session. The parliament at this time was seen as a true parliament carrying out its political activity according to its parliamentary procedure, and there was a strong respect toward 'constitutional democracy' on the part of both the parliament and the government (Feith, 1962: 320).

In Indonesia, even though the leaders supported the idea of democracy, it 'was not seen as having representative functions, nor necessarily linked with

³⁷ See Ferrazzi (2000) for a discussion of the idea that Indonesia disliked the term of 'federalism' because of its association with the Dutch attempt to divide the country.

majority rule or with institutionalized opposition' (Palmier, 1962: 146). The work of the parliament was hampered by the fact that the members seated in it did not have authority resulting from an election, but were there only by appointment. An election was held later in 1955. Copied from the Dutch, Indonesia used a system of proportional representation, which meant that 'the voters selected a party not a government' (*ibid*, p. 146).

In the first general election, held in 1955, the Nationalist Party received 22% of the votes, followed by the Islamic parties of Masyumi and Nahdlatul Ulama (NU) with around 20% of the votes each, and the Communist Party (PKI) got 16% of the votes. The first election already showed that Indonesian Islamic parties, although sharing a large number of votes, were not as big as the secularist parties. Interestingly, the election result reflected the same political configurations as the government at that time. However, despite the election result, the cabinet still changed constantly and parliamentary government was not seen to be effective. One unstable coalition cabinet followed another and collapsed due to 'distinct dividing line between the parties' (Budiardjo, 1956: 21).

Mutually exclusive 'systems of ideas' between the nationalists, Islamists, and communists divided them strongly (Feith and Castles, 1970: 6) and the ensuing friction encouraged President Sukarno to impose a policy of *Demokrasi Terpimpin* policy, meaning literally 'democracy with leadership', or Guided Democracy, on 5 July 1959. With this Guided Democracy, Sukarno dissolved the *Konstituante* council (a council set up to prepare a permanent Indonesian constitution); replaced the 1950 Constitution - which was based on parliamentary government - with the previous 1945 Constitution; and created the MPRS (interim MPR/*Majelis Permusyawaratan Rakyat Sementara*, the temporary People's Consultative Assembly) and advisory council. Sukarno's argument was that the Western-style '50 per cent plus 1' democracy was unsuitable for Indonesia (Feith and Castles, 1970: 9). The 1945 Constitution, which was temporary in nature, came into force, which gave the president abundant power over any other state institutions. The collapse of parliamentary government brought with it a negative impression of the parliamentary system.

The Indonesian government at that time was having difficulty managing the political parties, and by imposing Guided Democracy, President Sukarno tried to accommodate everybody's interests. With the geographic, religious and ethnic complexity of the country, it was seen as quite natural at that time that Sukarno should collect power into his own hands, as he was 'a cardinal symbol of both the nation and the state' (Feith, 1963: 329). The success of guided democracy was also due to the fact that 'the legitimacy, consensus and legality' were weak at that time (*ibid*).

Dissolving parliament, Sukarno referred to 'Indonesian economic decline, political conflict, and military unruliness' and put the blame on the 'Western liberal philosophies embodied in the parliamentary constitution of 1950' for not fitting in with 'the authentic personality of the [Indonesian] people' (Bourchier, 1997: 157). Following this, various new notions were introduced into politics, deriving from Indonesian tradition (*adat*): "national personality" (*kepribadian*

bangsa) from the tradition of *gotong royong*, or mutual assistance; *musyawarah mufakat* decision-making, or reaching decisions by consensus; *Pancasila* (the Indonesian ideology) and *asas kekeluargaan*, or the family principle. This ideal imagining of Indonesian political culture was later emphasized even more by President Suharto.

'*Gotong royong*, usually represented as a pattern of "mutual assistance"', was commonly found in village communities throughout the archipelago (Bourchier, 1997: 157-8). Helping one's neighbors was encouraged and part of this *gotong royong*. In politics, the term served 'to mask significant political differences' (Bowen, 1986: 549), which were used by both presidents to restrict party freedom. For *musyawarah mufakat*, Suharto's own words probably serve as a good indication of what it means:

Kita menganut demokrasi dengan pengertian bahwa kalau kita sudah bermusyawarah dan menemukan mufakat mengenai apa yang dimusyawarahkan, sekalipun tadinya ada perbedaan pendapat, semua jadi harus patuh dan tunduk kepada apa yang sudah diputuskan. Begitulah pengertian kita mengenai musyawarah mufakat itu (Suharto, 1989: 422)

We adhere to our democracy under the condition that if we deliberate and find a compromise (or consensus) from our deliberation, although there was dissent and disagreement before, we should respect and obey what has been decided. That is our understanding on such 'musyawarah mufakat' (consensus deliberation).

Today, this concept is officially used as a decision-making mechanism in the DPR and in many state institutions. This mechanism is also part of *Pancasila*, the fourth principle. It was a good concept as many voices were heard first, before agreement was reached, and so minority voices were also listened to. However, the *musyawarah mufakat* has also justified the practice of oligarchy in the DPR (Sherlock, 2010).

Pancasila, or the five principles, is an Indonesian ideology, a concept introduced by Sukarno when preparing the independence day. On 1 June 1945, Sukarno declared that Indonesia (1) believes in One God (*Ketuhanan yang Maha Esa*); (2) is committed to just and civilized humanitarianism (*Kemanusiaan yang Adil dan Beradab*); (3) is committed to the unity of Indonesia (*Persatuan Indonesia*); (4) emphasizes governance by wise policies resulting from a process of consultation and consensus (*Kerakyatan yang Dipimpin oleh Hikmat Kebijaksanaan dalam Permusyawaratan/Perwakilan*); (5) is committed to social justice for all (*Keadilan Sosial bagi Seluruh Rakyat Indonesia*). The principles were 'broad enough to be acceptable to all Indonesians, regardless of ethnicity, religion, or political beliefs' (Eklöf, 2004: 31), but this also means that Indonesia was regarded as a 'homogenous culture' (Wertheim, 1956: 302), an idea that was actually quite difficult to impose on such multicultural country as Indonesia.

Finally, the family principle (*asas kekeluargaan*) was based on Javanese traditions. It was first introduced in 1945 by Ki Hadjar Dewantoro, a prominent educator and prince from Yogyakarta. Later, the idea was repeated again by Prof. Supomo when he was introducing his idea of an integrated state (*negara integralistik*). Dewantoro stated that the state was like the family, in which 'father and mother have the same rights but different tasks, have a unity of inter-

ests, a unity of strengths, and unity of soul' (quoted from Eklöf, 2004: 28). In Supomo's words, 'no individual was against the state, because the individual is an organic part of the state', therefore, 'the unity between the people and their leaders...is characterized by a pervasive spirit of *gotong royong* and of family' (Bowen, 1986: 550).

The terms were derived from the Indonesian tradition or *adat*, which 'carries connotations of sedate order and consensus'. As a political cause *adat* was always 'associated with the past authenticity, community, order, and justice' (Henley and Davidson, 2008: 816). While the terminologies came from cultural traditions, the ideas were useful for presidents supporting 'state ideology and national identity', as they emphasized 'harmony, solidarity, and the good community as a whole above the protection of individual rights' (*ibid*, p. 824-6), or contained 'obligations of the individual toward the community' (Bowen, 1986: 545). The ideas were heavily influenced by Javanese traditions and were employed by the authoritarian presidents. In his Guided Democracy, Sukarno even used the term 'Gotong Royong Parliament' when he replaced the elected members with his own appointees.

Sukarno's authoritarian rule was backed up by the military and the Communist Party (PKI), and Sukarno was seen to be close to the PKI. The killing of 7 army generals in an attempted coup on 30 September 1965 gave the military the chance to act to defeat the PKI and seize power from Sukarno (Honna, 2009: 228). The PKI was blamed for the abortive coup in September 1965, and afterwards, an anti-communist campaign led by the military crushed the PKI completely. PKI members, sympathizers and their families were hunted down and slaughtered by the military. As a result, many people lost their lives: estimates of the actual number vary from hundreds of thousands to even two million. The coup raised Mayor General Suharto's position from Commander of the Army Strategic Reserve Command (*Panglima Kostrad*), based in Jakarta, to commander of all military forces. Broad powers were transferred to General Suharto to ensure security and order. President Sukarno handed the March 11 Executive Order (*Surat Perintah Sebelas Maret*, known also as *Supersemar*) to General Suharto, which gave Suharto the opportunity to ban the PKI and communist affiliations, and to purge members of the DPR and MPR of Sukarno's influence³⁸. In 1967, Sukarno, now without any supporters in the parliaments, was easily impeached. Suharto was sworn in as Indonesia's second president by the MPR, leading to his New Order regime.

Both Sukarno and Suharto were Javanese, and their legacy of Javanese customs has continued to influence modern Indonesian political institutions and administrations (van Niel: 1963: 299). Suharto continued Sukarno's authoritarian style of running the country. Suharto's long term in the presidency also influenced the traditional political culture that had been introduced by Sukarno and had become engrained during his era. Suharto emphasized the concepts of

³⁸ In 1966, the DPR was named by Sukarno as DPR-GR or *Dewan Perwakilan Rakyat Gotong Royong*, and MPRS or Provisional MPR, whose members were mostly appointed by and sympathizers of Sukarno.

Pancasila, unity, and Javanese custom became consensually accepted by all Indonesians (Abdullah, 2011: 331).

2.1.3 The Indonesian parliament in President Suharto's era

Suharto served as president from 1966 to 1998. His regime was known as the New Order (*Orde Baru*), as opposed to Sukarno's Old Regime (*Orde Lama*). Realizing that he did not possess Sukarno's mass charisma, Suharto used a policy of national development to characterize his regime. In the name of development, Suharto continued the authoritarian use of power, even including the military in the government. Indonesia was run with a strong state culture, which was influenced by Javanese bureaucratic culture in the early twentieth century (Schiller and Martin-Schiller, 1997: xiv).

Suharto concluded that the previous regime's acceptance of ideological differences and cultural plurality had led to a lack of commitment to developing the country. Therefore, his main actions were to stabilize politics and rehabilitate the economy, with the help of the military and Chinese businesspersons. Suharto established *Golkar* as a political group that would function to unify the state and would participate in elections, but it was not an actual political party (Liddle, 2001: 69). With the military's help and an unfair election system, such as the obligation of civil servants to vote only for *Golkar*³⁹, the organization won the 1971 election with 62% of votes (Liddle, 2001: 69).

After the 1971 election, the political parties were squeezed together into only two political parties and one organization, *Golkar*. The *Partai Persatuan Pembangunan* (PPP) was a party accommodating the former Islamic parties, such as the NU, Parmusi, PSII and Perti; and the *Partai Demokrasi Indonesia* (PDI) grouped the nationalist-secularist parties and non-Islamic parties, such as PNI, *Parkindo*, Catholic Party, IPKI and *Murba*, into one. *Golkar* enjoyed its state privilege of being able to spread to and organize in villages throughout Indonesia, while the PPP and PDI were not allowed to have networks at less than the district level (Liddle, 2001: 71). With such a design, *Golkar* always won the ritual elections (1977, 1982, 1987, 1992, 1997) and Suharto's presidency was secured. Suharto's successful appointment as the president was also supported by the 1945 Constitution. The simple constitution⁴⁰ authorized the MPR, the highest state institution at that time, to appoint the president, without any limitation as to the term. With the MPR (including DPR members) filled with Suharto's supporters, Suharto would always be the president. Suharto then made the 1945 Constitution a sacred document: the constitution was a legacy of the founding

³⁹ In general it was secret voting as a voter voted in a closed voting chamber, but the policy had deterred civil servants from voting against *Golkar*, afraid of ruining their bureaucratic career.

⁴⁰ Being a simple constitution, the 1945 Constitution also did not define the relations between state organs (executive, legislative, and judiciary) and thus the president could interpret the constitution in such a way that it favoured the president's authority over that of other institutions.

fathers, and as such, Suharto's declared policy was that the constitution could not be revised or amended.

After the 1971 election, DPR members came ever increasingly from Java, and they often had a military connection, especially with the army (Palmier, 2002: 32). This was due to fact that who controlled the DPR was the president, not the electorate. The lack of any relationship with voters explained the DPR's position as a rubber stamp of the president, especially when members were screened first in terms of their loyalty to *Golkar*, using as justification the need to avoid any connections with the Communist Party (PKI).

The DPR became an arena for acquiring a measure of legitimacy from the people during elections, and a forum for recruiting elites from various groups in society, a place for articulating interests, and to some extent even for making decisions.

Legislative assemblies' principal function is to give the old political party leaders, and the masses that they can still command, sufficient feelings of participation to stay in the system and help legitimize it, while at the same time denying them any real power to affect the outcome of important decisions (Liddle, 1996: 19).

This procedure was intentionally a mere show to satisfy the Indonesian people and the international community (Datta, 2002: 25). Datta's research showed that the elites were selected because of their loyalties to Suharto. There was a mechanism of grouping the political parties inside the DPR as a faction or *fraksi*, and the leadership position of these *fraksi* was filled with people from Suharto's inner circle. It was the elites of the inner circle, rather than all members of the DPR, who decided all the policy produced by this body, under the mechanism of *musyawarah untuk mufakat* or deliberation to reach a compromise. With such a legacy running for almost four decades, it is no wonder that the DPR had no experience with parliamentary initiatives of its own, nor a real connection with its constituencies, and it exercised only 'empty political rituals' in law-making (Sherlock, 2007: 2).

During Suharto's time, the military enjoyed a privileged position. Suharto structured the military so that they would support his regime, following the Dutch colonial military, with its purpose was 'to maintain order and to put down rebellion within' (Crouch, 2010: 128). Supported by Suharto himself, as a former mayor general, the military's contribution during the fight against the Dutch was exaggerated and used to justify the military's penetration into all aspects of public life, politics, society, culture, and the economy. Under the doctrine *dwi fungsi* or dual function, the military had a double function: to defend the country from external and internal threat (Liddle, 2001: 74). The internal threat was interpreted in such a way that the military 'was molded in an inseparable part of the state ideology and preserved the military's privileged position in the political system' (Bourchier, 1997: 17). Accordingly, the military enjoyed around 10% of the seats in the DPR and the DPRD's, and kept the position of Minister of Home Affairs for itself. The military's political domination was

backed up by its territorial command structure⁴¹, which shadowed the civil bureaucracy throughout Indonesia (Crouch, 2010: 128). Military organization was parallel with the civil administration and this enabled it to control society under the cloak of preventing social disintegration. The position of Ministry of Home Affairs was traditionally held by a military personnel, active or retired. Later, after the reform, although the military seats in parliament were abolished, the military still enjoyed key positions in the civil government, like cabinet ministers, and participated in the direct regional elections, usually as candidates for regional head.

Suharto's New Order left a legacy of 'a dominant presidency, politically active armed forces, a decision-making process centered in the bureaucracy, and a pattern of state-society relations that combines cooptation and responsiveness with repression' (Liddle, 1996: 17). In return, Suharto promised economic development, national unity, order, and political stability (Crouch, 2010: 90). However, his legacy also included the centralized bureaucracy and the uniformity of regional government, which neglected local traditions (*ibid*, p. 88).

In Suharto's era, the DPRD's were regulated under Law 5/1974. It was likely that Law 5/1974 had created the two layers of regional government - Regional Level I and Level II (*daerah tingkat I dan II*) (Article 3) and the DPRD's (Article 13)⁴². The law was indeed enacted to emphasize regional uniformity and to encourage development (*pembangunan*)⁴³. This emphasis meant that the DPRD's were not built for political purposes such as to extend the aspirations of regional people to policy-making, because the national government, particularly the president, made all policy decisions. The DPRD's were *part* of the regional governments, which meant that Governors and Regents/Mayors were in fact the sole actor in the region, and the DPRD's were only needed as a rubber-stamp institution to agree to the head's policies. The regional head also enjoyed the status of a state official, similar to the executive, such president and ministers in the national level, even though the regional head practiced in regional level. The regional governments, at provinces, districts/cities, sub-districts, and villages were identical to *Golkar* in their structure (Liddle, 1996: 19).

⁴¹ The military territorial command in the provinces was *Kodam* or military area command and *Korem* or military resort command; at the district/city level it was *Kodim* or military district command; at sub-district it was *Koramil* or military sub-district command; and at the village level it was *Babinsa* or village development non-commission officers (Rinakit, 2005: 76).

⁴² The previous law, Law 18/1965, enacted by the interim DPR (DPR *Gotong Royong*) under Sukarno, had 3 layers of regional governments (Article 2) and regional government was directed the regional head and Regional Representative Council (*Dewan Perwakilan Daerah*) (Article 5).

⁴³ See introduction of Law 5/1974.

2.2 Political change in Indonesia in 1998

2.2.1 The fall of President Suharto

During Suharto's era, all the political institutions and political parties were concentrated into his hands. The military had 10% of the seats in all levels of parliaments. The composition nowadays is totally different, but the composition of representatives in 1999, in the MPR, DPR, and DPRD, was based on the 1997 election. During this transition era, while people were demanding that changes should be introduced quickly, the process was held back by the fact that the personnel (members of parliament and politicians) and the administrative system (bureaucracy and civil servants) were the same as in Suharto's time. Members of parliament, especially from *Golkar* and the military, were still loyal to Suharto and they held the most important positions in the country.

At that time, the MPR, *Majelis Permusyawaratan Rakyat* or the People's Consultative Assembly, was the highest state institution. The MPR served as the highest body in the country; its task was to elect the president and to determine the Broad Guidelines of State and Policy (*Garis-garis Besar Haluan Negara* or GBHN). The MPR consisted of DPR members (including the Indonesian military/ABRI and police representatives) and the regional⁴⁴ and groups representatives (from national-wide organizations of, for example, artists, religious groups, farmers etc.). The MPR held a session at least once in every five years, as its principal task was to appoint the country's president. The president, elected by the MPR, was theoretically accountable to the MPR. At the end of the official term, the president would deliver a speech of accountability. In the Suharto era, this event was only a formality as President Suharto's accountability speech was always accepted and he would be re-elected again as the next president.

After the 29 May 1997 election, Suharto was voted in again by the MPR for his seventh term in office. A year later, on 21 May 1998, Suharto resigned after the MPR Leadership (*Pimpinan MPR*), including the military, asked him to do, although they decided not to impeach him. Suharto did not deliver his accountability speech in front of the MPR Plenary Session on this occasion. Suharto even officially resigned in a place that he chose himself at the Presidential Palace, suggested that his power was higher than the MPR.

The situation in the DPR was similar to that in the MPR. The DPR, as a legislative chamber, had functions related to the budget, legislation, and oversight of the government's performance. However, the DPR in Suharto's times had acted as a rubber-stamp institution and agreed to most government policy; in not one single case did it perform its oversight function towards the executive. In 1999, the DPR was confident enough to make changes. Even though most members had a background in the previous regime, the ideas of change

⁴⁴ It was not DPRD members, but people appointed by the President or DPRD to sit in the MPR.

and reform that were in the air influenced most members of parliament, too, as they wanted to be called *agents of change*. The idea of reform then led to the amending of the Constitution.

The DPRD existed at the regional level throughout the provinces and districts of Indonesia. Before 1999, the DPRD was part of the regional structure of government and worked together with the regional heads, doing what was thought to be best for their regions under central control from Jakarta. The DPRD could elect the regional heads (Governor and Regent⁴⁵/Mayor), but the election result was subject to the center's approval⁴⁶.

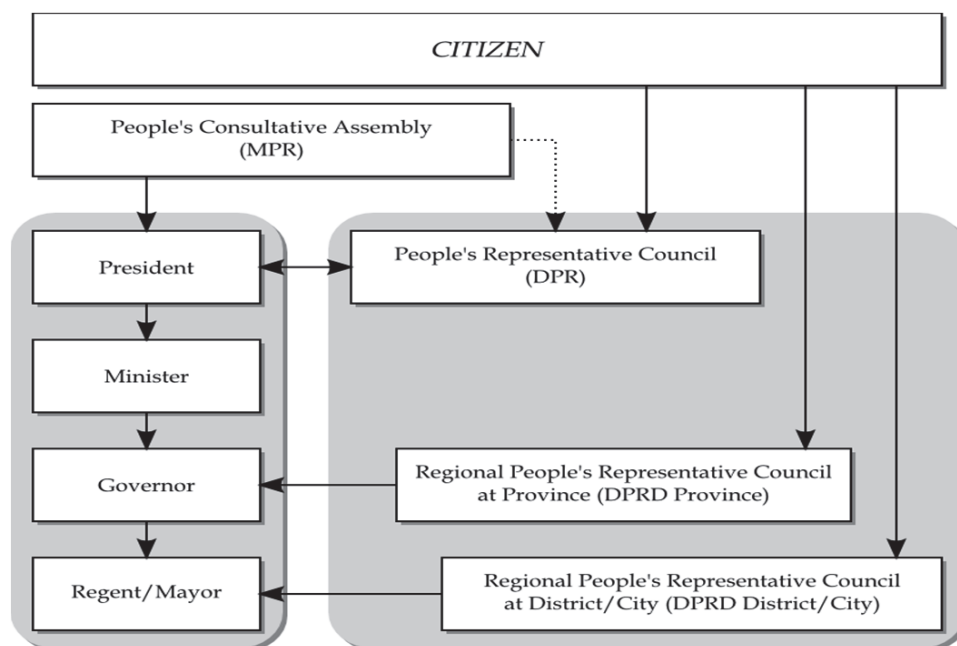


FIGURE 2 The relations of the executive and legislative in Indonesia (1999).

Figure 2 above shows the 1999 government structure. There was no hierarchical relation between the DPR and the DPRD. The distribution of the political parties in each institution could also differ greatly: if the nationalist party, for example, gained most seats at the national level, it was unlikely to have done so at the regional level. In many districts, notably in Aceh and East Java, the Islamic-based parties, the PPP, dominated the DPRD, rather than *Golkar*. The regional heads, as enjoying the national's approval, had more power than the DPRD.

⁴⁵ Following Bell (2001: 13), I prefer to use Regent as the English term of Bupati, compared to District Head. It seems more elegant. However, the most common English translation of *Kabupaten* is district instead of regency, thus I will use both terms interchangeably, as it refers to the same unit of region in Indonesia.

⁴⁶ For governor, Jakarta's approval came from Ministry of Home Affairs, and for bupati and mayor, the approval came from the governor.

When the authoritarian regime fell, parliament was not affected. By and large, it continued with its established customs, without changing its legislative procedure. The multi-party system continued to divide parliament into majority and minority coalition groups but did not leave any real space for an opposition; the consensus and negotiation in law-making between ministers and members of parliament carried on as before; and with 'cabinet formed largely through negotiations among parties in the majority coalition, Indonesia appears to have a parliamentary system in presidential clothing' (Schneier, 2009: 301).

The Indonesian parliament bore the legacy of the past. As its practices had been engrained in the system for generations, they could not just be ignored or erased immediately. Knowing this legacy, however, gives us a better understanding of the historical aspects of the country and its parliamentary institutions. For my research on the regional parliaments, understanding this history gives another angle to my work. I try to understand the cultural reasons for its way of functioning, not simply blame parliament for its failings.

The Reform movement in 1998 notably demanded that President Suharto should resign and that the constitution, thus far considered sacred, should be amended. The military should be moved out of the legislative institutions. Regional autonomy and all the features of democratic life should prevail in Indonesia, meaning the just enforcement of laws, respect for human rights and the eradication of KKN, namely corruption, collusion, and nepotism. The subsection below will discuss the demand for decentralization and the constitutional amendment, which are related to the topic of the DPRD.

2.2.2 The demand for decentralization

In Suharto's era, the regions were regulated under Law 5/1974 on Regional Governance. The law imposed a hierarchal structure; the emphasis was on the regional executive as the extension of the central authority. The regional budget was disbursed from Jakarta and the region was divided into the province, the district (rural area) or city (urban area), the sub-district, and the village. At the top of the hierarchy, the provinces were the highest level of regional governance, and the governors acted as the right hand of the president in the regions. The DPRD were regional legislatures. Their members were elected every five years, as with the DPR, and candidates had to be screened before their selection. The DPRD elected the regional heads but the candidates had first to be approved by the central government.

In the transition era, 1998 - 1999, the regions demanded self-regulation, regional autonomy. The central government addressed this demand by enacting Law 22/1999, known also as the Decentralization law. The law transferred authority and resources to the regions, mainly to the district level⁴⁷ and granted the DPRD the powers of legislative bodies in the regions. The term 'legislative body' appeared to be so powerful at that time that the DPRD could do what-

⁴⁷ The idea to transfer power to the district/city was to grant the region with autonomy, but to avoid secession, as the provincial size was risk to secede from the country.

ever they deemed best for their own regions in the legislative field. The euphoria of decentralization and the political commitment on both the national and regional level obscured the fact that this law alone was insufficient. The new legislative powers were abused by the DPRD's to produce local regulations (*Perda*) which were unrelated to the prosperity of the people or the development of public services.

The result of Law 22/1999 or the *Pemda* Law were many. It led to an increase in the number of regions, which doubled; the transfer of around 2 million civil servants and public facilities from the center to the regions; the decentralization of corruption (with rampant cases of illegal logging and mining); greater power to "native sons" (*putra daerah*); an increase in cultural and ethnic conflicts; and the DPRD's' bullying of the regional heads, which led to cases of impeachment, and the election of the regional heads on the basis of bargains struck in economic policies.

The most notorious *Perda* was *Perda* Sharia, religious *Perda*, which allowed Muslims to impose Islamic behavior such as ways of dressing, the prohibition of prostitution, the banning of alcoholic beverages, and the need for skills in reading The Holy Koran for public administrative positions. Even for the majority Muslim residents in the regions, such as Tangerang district, *Perda* Sharia raised tension and showed that the government had entered citizens' private sphere, especially women's. Based on this *Perda*, women were required to use head-scarves. It was so abusive that if a woman was seen outside alone in the evening time, normally after the hour of 22:00 (10 pm), she would be interrogated for her reasons being outside. The *Perda* was enacted to manage necessary order for accepted moral behaviors, but clearly it was against the human rights enacted in the Constitution.

As I have mentioned, corruption was another consequence of the new legislative powers of the DPRD's. Thanks to decentralization, corruption was also decentralized to the regions. The DPRD's produced *Perda* only to enrich their members by travel visits to other regions to get travel allowances or creating new allowance posts for both DPRD members and the local executives.

With the absence of a clear statement of objective and priorities under the decentralization agenda, it was impossible to achieve what the regions needed, that is, improved public services on local terms. *Perda* only had advantages for certain groups of people, notably for those who could access the local budget, the DPRD included. Indonesian regional autonomy rests heavily on controlling expenditure, regulating how the budget is spent in the regions⁴⁸. Without clear guidance on implementing decentralization, and exercising the role on the basis of old traditions and behavior, the situation lead to an 'entangled mess' (Sulistiyanto and Erb, 2005: 8).

⁴⁸ See Minutes of Law 27/2009, Working Meeting 5 June 2009, p. 69-71 on the government explanation.

2.2.3 Constitutional amendment

The constitutional amendment was another demand of the *reformasi*. The simplicity of the 1945 Constitution resulted in the president being able to concentrate power in his own hands. The president might be elected for many terms, as long as he was elected by the MPR as the highest state institution at that time. The tasks of the MPR were to elect the president and to determine the Broad Guidelines of State and Policy. Due to the MPR's status as the highest political body in the country, it was agreed that the MPR should lead the amendment process. Under the MPR, there were high state institutions - the president, the DPR, the advisory body (DPA), the supreme court (MA) and the auditory board (BPK) - all of which worked under its direction.

In the *reformasi* it was demanded that the 1945 Constitution should be amended, due to the fact that it was so heavily centered on the executive (Indrayana, 2007: 152). The 1945 Constitution had originally been planned as a temporary measure - it was previously called a manifesto (Schneier, 2005), the simple articles were interpreted freely by President Suharto; the constitution was ambiguous, the contents were mostly needed to be elaborated into laws, and there was no mechanism of check-and-balances (Indrayana, 2007: 152).

The constitutional reform was conducted as an *addendum* process, which allowed the conservative and nationalist members 'to feel that history had been honored and preserved for the future generation' (Indrayana, 2007). The MPR constitutional committee agreed not to amend the Preamble to the constitution, which was a guarantee that Indonesia would not be an Islamic state. Another point of agreement was to maintain the format of a unitary state and the emphasis on the presidential system. The process of amending the constitution, which took place in four stages, started in 1999 and was finished in 2002.

Figure 3 shows the state institutions after the constitutional amendment.

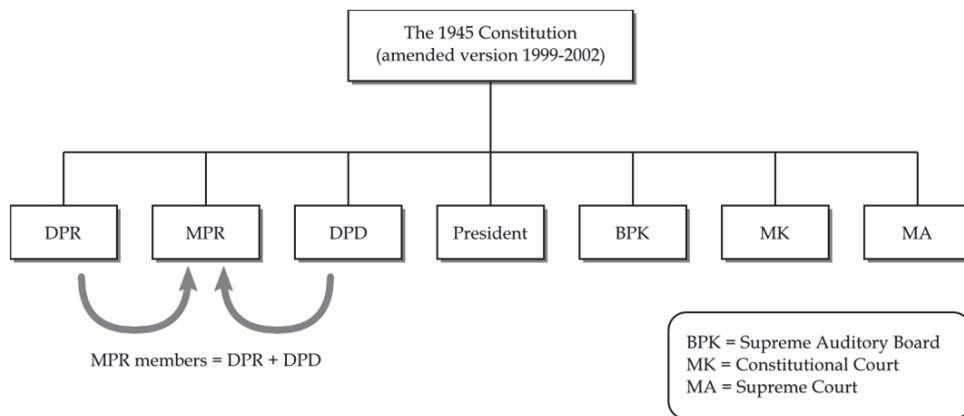


FIGURE 3 The structure of the state institution after the 2002 constitutional amendment.

The constitutional amendment established the state institutions as formally equal to each other, although it still emphasized the importance of the president under a presidential system.

The amendment actually changed most content of the constitution, but the name of the 1945 Constitution was preserved. As a compromise, the results of the amendment were to limit presidential terms-of-office to a maximum of two consecutive terms only; empower the DPR as a legislative body composed of elected members (no longer appointed ones); hold direct presidential election; and protect human rights. The previous institution, the DPA, was abolished and new institutions were established, namely the Constitutional Court (MK) and the Regional Representative Council or *Dewan Perwakilan Daerah* (DPD).

The DPD was established for the regional and group representatives, who were previously appointed by President Suharto to the MPR. The DPD would include the four representatives who had gained most votes in the election in each of the provinces, during the general election. In other words, those four individuals in each region who were most popular would represent the provincial voice in the DPD in Jakarta, starting in 2004. Sometimes, DPD is mistakenly understood to be the second chamber of parliament. DPD members have even introduced themselves as senators. The DPD is not actually a second legislative chamber. Constitutionally, legislation is exclusively a matter for the DPR and the government, and the DPD only gives input to certain bills (usually related to regional issues). However, even then the DPD's recommendations are not binding on the DPR. The vagueness of the DPD's tasks and functions has encouraged DPD members to propose another constitutional amendment. In 2007, the DPD proposed that the constitution should be amended, but due to lack of supports from DPR members (or probably due to a lack of urgency and sense of crisis), the MPR failed to respond to the call.

After the constitutional amendment, the MPR was no longer the highest organ of state. The MPR's membership is now made up of members of the DPR and DPD, and its task is to amend the constitution and inaugurate the president and vice president elect.

2.3 Conclusion

Indonesian political culture stemmed largely from the time of Dutch colonialization, from Javanese customs, Islam, and the military. These elements produced two powerful authoritarian presidents who shaped the centralized and bureaucratic state. Thus, in spite of changes and amendments, Indonesia after Suharto still continued under the legacy of the authoritarian regime, as Suharto had ruled the country for more than three decades. The reforms towards democratization and decentralization were important, but they did not themselves create a perfect political system, but rather something of a mess, because the authoritarian political culture had not much changed.

The messy procedure was seen in the laws passed in the decentralization project and in the results of the constitutional amendment, notably in the role of the DPD. As seen later, the good intention of devolving power to the regions did not lead to effective local policies as the central government mostly still controlled the bureaucracy and the structure of government. The case of the DPD displayed the chaotic planning and thinking when amending the constitution, as the establishment of the DPD did not support balance between the executive and legislative bodies. Despite its deficiencies, however, the constitution is now much more democratic than the previous version.

This chapter outlined the historical backgrounds to parliamentary developments, and will be useful when we look at specific empirical cases in the following chapters.

3 PROCEDURE IN THE INDONESIAN PARLIAMENT⁴⁹

Analysis of law is seen as revealing, or having the potential to reveal, more than just law itself. If we understand law as a social phenomenon we understand much about the society in which it exists.
- Roger Cotterrell (1992: 2)

After studying the historical background and political situation in Indonesia, this chapter assesses the role and power of the DPR, as well as the rules of the game inside the institution, namely parliamentary procedure. These elements show that the DPR still retains the characteristics of an institution of the authoritarian regime and favors the hegemony of the executive government. Seats in the DPR are seen merely as positions of status and the DPR does not yet serve as a representative body. This is supported by a weak secretariat, whose staff members are recruited following the system generally used in Indonesia for the recruitment of civil servants and not specifically to support the work of parliamentarians.

The DPR rules of procedure show that Indonesian parliamentary culture is different from that in the ideal type of parliament. Indonesian political culture has been blamed for the ineffectiveness of the DPR's performance, although actually the DPR's procedure was not revised to be in the form of democratic parliamentary regulation, and thus the tradition structured to support the legitimacy of an authoritarian regime has been retained.

This discussion in this chapter of DPR procedure starts by sketching the importance of parliamentary procedure, then discusses the DPR's procedure in relation to its constitutional role. After that I will describe the legislative process in DPR and the general characteristics of the laws analyzed in this thesis. Understanding the procedure of the DPR will be important for analyzing the laws in the following chapters.

⁴⁹ An earlier version of this chapter will be published in the first edition of the *Review of Indonesian Studies* (forthcoming). Revised and published here with the journal's permission.

3.1 The importance of parliamentary procedure

This section provides the background to common features of a parliament: parliamentary procedure, parliament as a forum for debate, and parliament as a legislative assembly (also for the oversight of the executive government and as representatives of the people). Parliamentary procedure is a rule or order which guides parliamentary activities and practices. The classic exposition of parliamentary procedure is *A Treatise upon the Law, Privileges, Proceedings, and Usage of Parliament*, written by Thomas Erskine May, first published in 1844, with the British parliament in mind. The book provided a model especially for Westminster-type parliaments. Terms such as resolutions, statutes and prerogative, order, leave of absence, obligation to attend committees, time, obstruction, quorum, speaker and the position, adjourning the house, the minutes of proceedings, moving a question, motion, debate, reading, vote, and division, are familiar terms for parliament institutions today.

The newest version of House of Commons procedure can be found in Blackburn and Kennon's *Parliament: Functions, Practice and Procedures* (2003⁵⁰), which is useful for understanding British parliamentary procedure. Although the contents have been applied to most parliamentary type of government, still the British parliament always sees itself as the mother of parliaments throughout the world. The word 'parliament' itself is derived from the old French word '*parler*' meaning 'speak' or 'talk'. This means that parliament's main job is speaking. The features of a parliament outlined here would, ideally, be recognized in a parliament anywhere, including Indonesia. Blackburn and Kennon (2003: 7) emphasized the parliament as 'a debating forum' because during a debate members can see the issue from two separate position, *pro et contra*, so that, in the end, the parliament as a whole can "obtain further information" and "influence" the policies of the government.

Parliamentary procedure was important because it distinguished the position of parliament from other institutions. As the rules for the 'game' that is played inside the institution, the Rules of Procedure should be clearly understood and followed by all members of parliament (Blackburn and Kennon, 2003: 248). This follows the classic saying of the Clerk of the House of Commons in 1902 - 1921, Sir Courtenay Ilbert, that 'politics were a game, which would be spoilt if the rules of the game were not observed' (Redlich, 1908: xviii). This suggested that parliamentary procedure is an important aspect of a parliament.

I agree with Kari Palonen, who stated that 'parliamentary politics is not just politics that takes place in parliament, but politics conducted in a parliamentary manner, in accordance with the rules and practices of parliamentary procedure' (Palonen, 2012a: 14). In relation to this view, if the DPR is a parliamentary body in Indonesia, ideally, it will practice its constitutional roles - legislating, budgeting, and overseeing - according to its parliamentary procedure,

⁵⁰ This is the second edition, and the first edition was pioneered by Griffith and Ryle in 2001.

which covers all aspects of parliamentary style and activity. The concern with the DPR is that its parliamentary procedure, compiled in a small book of *Pertaturan Tata Tertib DPR*, or *DPR Tatib*, has never been considered important and has not been treated seriously as a rule of the game in the DPR. It is considered an internal procedure of the DPR, and political players outside the DPR - such as the government and the DPD - are not bound by this internal regulation. This will be elaborated on further in the next section.

The Clerk of the House of Commons, Sir Courteney Ilbert, emphasized that parliament's function was to be 'far more than a merely legislative body...the main duty of Parliament was to check and oppose the King' (1908: vi-xx). Although the parliament to which Ilbert referred was the British House of Commons, this point refers to the main task of any parliament, which is to oversee the executive's work. This derives from its representative function, from having elected members. Indeed, commonly the parliament's most important task is oversight or control of the government, ensuring that the system of checks and balances applies in the country, rather than merely producing laws, although legislation is an important function of a parliament.

Parliaments' rules of procedure in other countries show that parliament serves as a 'speaking' government, an institution which speaks about (deliberates on) the government's policy. As stated above, parliament also has representative, oversight, and legislative functions. For example, in the US Congress⁵¹, which the DPR partly followed as one of its models (Datta, 2002: 71), the Rules of the United States' House of Representatives explain *in detail* how the legislative process is set up. In the legislative stages there are clear rules for how to propose a motion (and withdraw it); how to proceed with the motion; the process of readings (how and when the first reading, second reading, and third reading may apply); how to debate, and what orders are required if a bill is enacted into a law; and also the role of the Speaker and the voting requirement, as well as relations with the Senate as regards the legislative process. All this can be seen simply by studying the Rules of Procedure. However, all this is lacking in the case of the DPR. The DPR's procedure book is different.

Indonesia adopted its original parliamentary practices and the system of proportional representation from the Netherlands (Budiardjo, 1956: 23). In the Netherlands' House of Representatives, *Tweede Kamer*, when a bill was sent to a standing committee, the committee served as a place only for preparatory examination of the bill. This was where the political parties might propose changes to the bill, making comments and asking questions. Such a committee might also ask for input from experts and other people's opinions. Thus, specialist and technical aspects of the bill were discussed in detail during a committee meeting, then later, the plenary meeting served as the venue for debate, where *all*

⁵¹ Hall, 2011, www.house.gov website. Comparing Indonesian to the system in the USA is sensible because MPR members during the debates on the constitutional amendment always referred to the US system, although in the end, Indonesia did not adopt all the aspects of the US system of government, on account of Indonesia's multi-party system and the non-separation power between the president and parliament (with no presidential right of veto).

members of parliament were involved. The debate would focus on the main issues or “the headlines” The public could follow discussion of the bill, and could know what major issues were discussed in the plenary debates. This process is what the DPR lacks. The DPR’s standing committee not only prepares the technical aspects of the bill, but is also the place where all the details of the bill are thoroughly discussed. If the committee cannot reach agreement on a certain issue, such as on numbers, the decision is passed to the chairs or certain group of leadership in the DPR. Interestingly, the media rarely follow the legislative process in these smaller meeting forums, only in the plenary session. When the main role of the DPR actually rests in the commission/committee, not in the plenary session, no wonder the plenum is left empty and the public criticize DPR members for being lazy attending the plenum. The decisions have already been made in committee meetings, and the plenum is left as a ceremonial place to formally enact the laws.

The legislative process is a clear indication of parliamentary procedure. The three readings of bills showed that the parliament is eager to follow parliamentary procedure in a correct manner (Palonen, 2014b: 38). In the Westminster parliament, the First Reading is the first legislative stage after the bill is introduced. In this stage, a summary of the bill is provided and MPs might debate the general principle of the bill. If it is agreed that the bill will be accepted for deliberation, it might be moved to the Second Reading, usually to a committee related to the issue of the bill. The bill will be thoroughly debated here and the wording of article might be amended. As the general principle had been agreed on, the focus at this stage is the contents of the bill. Experts can be invited to give their input, but the members of the committee are the ones who are responsible for the political decisions. Sometimes, based on the committee’s recommendation, other MPs who are not members of the committee might have an opportunity to review the bill in a forum called the Report Stage of the bill. To avoid the debate at this stage being a repetition of the second reading, it is advised that proposed motions should be in written format and members are encouraged to work with colleagues to bring similar views together. Later, the Speaker will select each new motion and present it to the committee again. If there are no significant changes from the Report Stage, the bill is proposed for a Third Reading, usually in the Plenary Chamber. The final stage of legislation, the Third Reading, is when the bill is passed in the (lower) chamber of parliament, attended by all MPs. There is debate again at this stage, but the debate will focus on the finalization of the bill. Since agreement between the different members and parties has been reached in every stage of the Readings, and the deliberation process and the report stage are acknowledged by all parliamentary members, the bill is usually passed (or sent to the upper house).

The DPR’s legislative process is different. As previous studies on the DPR have reported (Sherlock, 2003; Ziegenhain, 2008), the DPR prefers to exercise its constitutional roles in committee meetings. They look similar to the second reading, but actually all the decisions are reached in a committee (of around 50 DPR members), leaving the plenary session as a formal session to legitimate the

decision previously agreed upon. Non-members of the committee have no chance to express their views (there is no Report Stage), as there is no debate-style interchange in the DPR plenary session, only reports (speeches) from each faction⁵². Because the discussion and important decision in the DPR are made in a smaller forum, out of public view, there is plenty of scope for reaching compromises in the decision-making and sharing power among the elites, that is, for oligarchic practice.

3.2 The DPR's Rule of Procedure

The workings of the DPR are regulated by a book called the *Tatib*, the Rules of Procedure book (*Peraturan Tata Tertib*), which contains 25 chapters and 314 articles, covering the working organs and their powers with regard to the DPR's functions of legislating, budgeting and oversight. Even on the first page, the *Tatib* explains that the reason for publishing the book was "to regulate the *composition and position, rights and obligations*, as well as the functions, tasks and power of the DPR"⁵³. It is worth noticing that from the sentence order, *composition and position* as a DPR member are more important than members' constitutional tasks. This *Tatib* document emphasizes the importance of status by regulating first the DPR organs and factions.

Status is important for DPR members, not only for the term 'DPR member' or *anggota DPR*, which means *elected* people sitting in a state institution, in the capital city, Jakarta; but also for its implication of higher *status* than ordinary citizens. Combined with this general status, there is also the possibility of a position of leadership, either in the DPR Leadership (*Pimpinan DPR*) or in the leadership of one of the factions (*Pimpinan Fraksi*), which leads to certain privileges and benefits inside the DPR. Those in positions of leadership are mostly the leaders of a political party or famous figures at the national level. The DPR's *Tatib* accentuates the privileges and status of the DPR by distributing accessories: membership cards, car license plate, stickers and other official items⁵⁴ (Article 309). Sherlock (2003:26) described this as:

Members of the DPR tend to be accurately aware of their status of their position as part of a prestigious and powerful institution and expect to be treated in a manner appropriate to their position.

DPR members assume that in the parliamentary compound they have a high position in the hierarchy, especially compared to members of the staff of the DPR Secretariat. This leads to DPR members seeing the technical and adminis-

⁵² Faction or *fraksi* is the parliamentary grouping in the DPR. A discussion of Fraksi is in Section 3.2.2.3 of this study.

⁵³ Government Publication, DPR Rules of Procedure (2009: 1).

⁵⁴ Items such as business cards, paper with the DPR letterhead, an email address and identity card, which are probably given to any parliamentary members in any country but are not stated in the Rules of Procedure.

trative Secretariat as 'an acquisition to enhance prestige and influence' (Sherlock, 2003: 26). DPR members regard secretariat staff as inferiors, or like servants, and have little respect for the secretariat's possible professional skills.

The parliamentary compound in Senayan, Jakarta, accommodates the MPR, DPR, and DPD together with each institution's secretariats. It has good accommodation. There are plenary rooms, for each body, the MPR, DPR and DPD, hold their sessions, commission and committee rooms, smaller meeting rooms (also for meetings of leaders - *rapat lobi*), offices for 560 DPR members and 134 DPD members, luxury offices of the Leaders (*Pimpinan*) of the various houses, rooms for the faction, press rooms, and working rooms for the secretariats. There are also cafeterias, libraries and praying rooms, even a mosque, inside the compound. The compound is guarded by security on the gates and in the lobbies. Only insiders - parliamentary members or people working inside the parliament, who usually have identity cards - or guests invited by insiders, who are given special identity cards, either as press or temporary visitor cards, can enter specific areas of the building. The heavily guarded parliamentary compound suggests the importance of these state institutions and possible also their members.

After listing the composition and membership of the DPR, the *Tatib* gives the regulations for the DPR organs (Chapter V), called working bodies (*alat kelengkapan DPR*); its law-making procedure (Chapter VI); budgeting procedure (Chapter VII); oversight procedure (Chapter VIII) and how to implement DPR (and members') rights; how to elect the leadership; and how to organize meetings and the sessions, including how to make decisions⁵⁵.

The *Tatib* does not mention anything about debate and its rules, as the DPR has never been set up as a debating chamber. Suharto's presidency made debate a taboo under the Indonesian political culture⁵⁶. Although the Provisional DPR during 1950 - 1957 did set a good example of debate in the Indonesian parliament, the parliamentary style of government has generally not been in favor. Parliamentary government was a legacy of Dutch colonialism and the 1945 Constitution stipulates that Indonesia has a presidential government⁵⁷. With such a ruling, the DPR's previous experience as a truly parliamentary body, even a parliamentary government, is ignored. The experience has almost been erased from its history, although it shows that the culture of political debate has existed in the Indonesian parliament in the past.

Since debate is not an option in the DPR, legislation is prepared and passed in a series of *discussions*. The discussion offers all factions a set amount

⁵⁵ The decision-making mechanism, *musyawarah mufakat*, is included in the section of DPR's constitutional rights, as it emphasizes the unique DPR parliamentary culture.

⁵⁶ In the Suharto's era, debate was discouraged in the DPR as it was considered to be dissent or a protest against the president. Such an exercise would ruin the harmony and threatened the dominant presidency, so Suharto tried to 'repress the organized opposition' (Liddle, 1996: 21).

⁵⁷ In Indonesia, since 2004, the presidential government system offers general elections at two different times for the legislature and the presidency. The direct election of the president makes the position of the president stronger than other state institutions, especially under the system of presidential government.

of time to speak. In a way, it is an opportunity for everyone, despite the fact that factions are all allocated the same amount of time regardless of their size, but in another way, it wastes time, especially if one faction delivers the same opinion as has already been conveyed by other, different factions. Time consumed in discussion in the DPR, especially in committee meetings, holds up the legislative process. Moreover, the law-making procedure emphasizes the preparation for submitting a bill. While most bills are proposed by the government, a bill can be proposed by a DPR member (ideally supported by at least 13 other members). However, the administrative process of preparing a bill will discourage a member from submitting a bill. The administrative process is complicated, as will be further explained in the section on the legislative process below.

A study by the PSHK, *Pusat Studi Hukum dan Kebijakan Indonesia*, a national legal NGO, (see PSHK, *Catatan*), claimed that the DPR has never reached its own target of legislation. Annually, the number of laws enacted has always been lower than the DPR's own target. The criticism on the part of the PSHK has constantly revolved around the low number of laws passed by the DPR. The number of laws expected from the DPR suggests that the DPR is only seen as a legislative assembly. When one adds to this the DPR Rules of Procedures, which puts great emphasis on legislative proceedings, it is obvious that the DPR could easily be regarded as a *legislature* instead of a parliament, as Chapter 6 will show.

Its category as a legislative institution actually explains much about the DPR's routine and administrative style of work. The DPR is treated and expected to perform as a bureaucratic machine, which was emphasized during Suharto's time. The DPR is not structured to oversee the executive's performance.

Another criticism of the DPR is, however, that it focuses too much on controlling the government. According to Fealy (2001: 106):

DPR leaders and members have given priority to monitoring the executive and have neglected to develop parliament's legislative functions.

Such criticism gives undue emphasis to the role of the DPR, because the so-called monitoring of the government has simply been individual comments of DPR members in the media. It had not functioned as an institution exercising the role of overseeing the government's performance. The DPR according to the Constitution (Article 20A point 2 and 3) has rights of *interpelasi* (to question), *angket* (to investigate a case), *menyatakan pendapat* (to express opinion) and *imunitas* (immunity right). Therefore the DPR may use its right to question the government under *interpelasi*. The DPR, despite a number of attempts, has rarely used its right to question the government, and this has left the public with an unclear impression of its intentions. The interpellation right was rarely used by the DPR (*The Jakarta Post*, 26 May 2000) but in 2001 it was used successfully, to topple President Abdurrahman Wahid (Gus Dur) from his presidential seat. This showed that the DPR can exercise decisive power against the executive government, if it wants to use the power. The experience of Gus Dur's im-

peachment by the DPR, however, led to those parties in parliament that supported government trying to ensure that the DPR did not overuse its right of *interpelasi*, due to the risks involved and the access it gave to overthrowing the president. Anyway, the above criticisms show that the public clearly expect the DPR to focus more on its legislative function.

After the fall of Suharto, membership of the DPR was divided into those who wanted to preserve the old system, which gave advantages to the previous elites, and those who wanted to see reform and change but did not know where or how to start the process. Sometimes members of the second group were even suspected of wanting to turn into new elites; they would also like to enjoy the privileges that were previously only enjoyed by Suharto's circle. When these two groups worked inside the DPR together, the legacy of the past remained strong.

The Indonesian president in fact still appoints the cabinets, with ministers chosen on the basis of the recommendation of party leaders within the DPR, 'as if Indonesia had a multiparty, coalition government' (Schneier, 2009: 294). Under the presidential system, a president has full rights to choose his/her own ministers based on candidates' professional or party background. Since the president maintains the tradition of recruiting ministers according to the configuration of parties in the DPR, Indonesia appears to be 'a parliamentary system in presidential clothing' (Schneier, 2009: 301) or 'a hybrid parliamentary and presidential system' (Fealy, 2001: 105). With this influence of the DPR on the configuration of the government, and with almost all parties represented there, there is no effective opposition in the DPR to the government's policy. The almost-all-party-government not only shows the lack of an effective opposition, but also encourages backroom negotiations between those parties that support the government, thus diminishing still further the chance for an open debate between opposing points of view.

Another function of the DPR, budgeting, is basically similar to the legislative function, only the issue focuses more on the allocation of state fund⁵⁸. Its last but not its least important function, oversight, is only regulated in two articles, in which it is said that the DPR has the rights to interpellate and inquiry and to express its opinion to the government on 'the implementation of law, the state budget and government policy' (Article 159). The fact that this article comes so late in the list of responsibilities implies that the oversight function is not considered as important as the legislative function.

3.2.1 The DPR's power and configuration

According to Indonesia's 1945 Constitution (the amended version 1999 - 2002), the DPR's constitutional role is to legislate, to enact budget, and to oversee the government's work, but the emphasis is still on the legislative power. Article 20, point 1, of the constitution declares that the DPR has the power to legislate. In

⁵⁸ Schneier (2009: 310) stated that the DPR's budgeting role was even limited to changing 'less than 1 per cent of the draft numbers'.

the old version, the president had the power to legislate, with the DPR only consenting to make a proposed bill into a law. Still, under the new constitutional regulation, the DPR's legislative power can *only* be exercised in collaboration with the president⁵⁹ and a proposed bill will become law only after both institutions reach *joint approval* (Article 20 point 2). With such terms, the president still holds an important position in legislation, so it is misleading to claim that the role of parliament has been enhanced (Sherlock, 2010: 160). 'Joint approval' was considered a middle way to reduce the president's legislative power, but the government not only prepares bills for parliament, but its agreement with parliament's decision is still required. The 'joint approval' gives to the president's government not only a veto over the parliament's decisions, as in the United States and in certain cases in France, but the president's multiparty government at the same time acts as a kind of second chamber, which has to negotiate with the DPR on the final shape of legislation.

When 'joint approval' was introduced during the process of the constitutional amendment in 1999, the argument was that the DPR should not become a new authoritarian body⁶⁰. This claim misunderstands the character of parliamentary government. Walter Bagehot, when speaking of the fusion of the legislative and executive power, practically gives the government priority in initiating legislation, but the deliberation and decision-making are left to the sovereignty of parliament (Bagehot, 1867/2001). It is likely that the real reason for this joint approval was that the DPR did not have enough confidence in its own legislative supremacy. The debates during the process of amending the constitution illustrate that members of the MPR misunderstood the legislative process under a parliamentary system, seeing it as legislation by parliament alone, without the government. In fact, every parliamentary government of the Westminster or continental European type leaves the initiative for drafting the national budget and important policies to the government, but still lets its parliament debate on substantial issue of the bill.

Based on the convention of *joint approval*, the DPR and the government discuss together and jointly approve bills. The government will attend the relevant committee meetings of the DPR and present the government's position on the bill. After the parliament's discussion of the bill is finished, both the DPR members of the committee and the government representatives on the committee/commission agree, and here, the government acts as a second chamber. The jointly approved law is then signed into law by the president within 30 days, but even without the presidential signature, the law is legally binding after 30 days.

⁵⁹ Although the Constitution states 'the president', it does not mean that the president sits in the DPR to discuss a bill. It means the (central) government represents the president sitting with the DPR discussing a bill, according to *Minutes of Constitutional Amendment, (Risalah Perubahan UUD 1945....., 2010, MPR Meeting on 13 October 1999 p. 497-8)*. In practice, Ministers concerned with the bill will attend initial meetings of the DPR while at subsequent meetings, high-ranking government officers will replace the ministries as the government's representatives. From here on, I will use the term of 'the government' to refer to this tradition.

⁶⁰ *Risalah MPR tentang Perubahan UUD 1945, 9 October 1999, p. 184.*

In the DPR, its constitutional rights of legislation, budgeting and oversight are guaranteed within the constitution and the book of procedure, *Tatib*. However, the same is not true of its representative function. The 2009 *Susduk* Law stipulates that all DPR's functions are implemented by and through the people's representatives. Thus, the representative element is configured within all the functions of the DPR, even though it is not specifically stated in the procedure as a function. In other words, the DPR has no representative function as it is commonly found in a parliament, although representative aspect is addressed.

3.2.2 Working Bodies

The DPR was structured to support the legitimacy of the authoritarian regime, and its procedure reflects its inherited characters. The *Tatib*, the DPR procedural book, shows 'the compartmentalization of decision-making' (Sherlock, 2010: 161) as DPR members are divided into commissions (*komisi*), special committees (*panitia khusus - pansus*), and working bodies (*alat kelengkapan*) to exercise their parliamentary role. In 2009, the DPR had 560 members and they were allocated to each commission or committee evenly, according to the amount of seats gained by the political parties in the election. Interestingly, while normally, elsewhere, each member of parliament would select their own commission or committee, in accordance with their specialist field, interests, or electoral region, the allocation of DPR members is decided by the *fraksi* or the member's party. The duration for being in the same commission is uncertain, and it is up to the *fraksi* to put certain persons in certain commissions.

Because status and position in the DPR are important, the DPR appoints 5 members to positions in the House Leadership (*Pimpinan DPR*) for an official five year term. Leading positions are also given to each working organ (see below) and to the 11 DPR Commissions, each with 4 chairpersons, 1 main leader and 3 deputies. The chair of each faction (*ketua fraksi*) and the secretary of each faction are also given positions of leadership. These chairpersons, except for the House Leadership, are not selected by the plenary session with the participation of all DR members, but their selection is based on negotiation and compromise between the DPR leaders and the party chairs. With such a selection mechanism, there is likely to be rent-seeking and horse-trading, as the position of chairperson brings with it certain advantages and upgrades the DPR member to membership of the elite⁶¹. The position also allows financial decisions to be made which can benefit both members and the political parties. This is why the selection position for commission chairpersons is important for the DPR. The privileges in the DPR positions are expected to be shared equally between political parties in the DPR.

DPR Working Organs are⁶²:

⁶¹ See the study of Ambardi (2009) on party's cartel due to positions in the DPR.

⁶² Based on DPR *Tatib* 2009, I used the English terminologies from the reports on DPR organs and commission (Sherlock, 2003 and 2007).

1. DPR Leadership/*Pimpinan DPR*;
2. Steering Committee/*Badan Musyawarah or Bamus*;
3. Commission/*Komisi*;
4. Legislation Council/*Badan Legislasi or Baleg*;
5. Budget Council/*Badan Anggaran*;
6. Council for Inter-Parliamentary Cooperation/*Badan Kerja Sama Antar Parlemen- BKSAP*;
7. House Affairs Council/*Badan Urusan Rumah Tangga or BURT*
8. Ethics Council/*Badan Kehormatan*;
9. Special Committee/*Panitia Khusus or Pansus*;

In the following sub-section, I will detail the main players in the DPR: the Leadership, the Commission and *Fraksi*, followed by the Secretariat. The Secretariat, despite its importance in supporting the DPR's works, is still considered weak. DPR members even established BURT⁶³ as a DPR's working body, although actually the administrative business could easily have been delegated to the secretariat.

3.2.2.1 The Leadership of the DPR (*Pimpinan DPR*)

In the DPR, the most important position is the DPR Leadership. The positions of leader (also for commission chairpersons) are distributed in proportion to the distribution of seats of each political party in the DPR, and the Leadership is a collective body which represents 'a collective consensus of the different political currents in the assembly' (Sherlock, 2003: 10). One leader or chairman (*ketua*) and four vice-leaders (*wakil ketua*) form the DPR Leadership and act collectively. The DPR Leadership is usually occupied by members of the winning parties in parliament.

While in most parliaments the leader is called a Speaker, which characterizes being 'impartial and *above* partisanship' in dealing with parliamentary proceedings, the DPR Leadership is "leading" instead of "presiding" (*ibid*). This means that the Leadership might guide the DPR to highlight certain issues and disregard others. Accordingly, while in a parliament the Speaker, once elected in order to maintain impartiality is not formally affiliates to a political party, in the DPR, the majority parties sitting in the Leadership 'lead' the DPR. In fact, a position in the Leadership is a token of appreciation for the success of the political parties during the election; appreciation of this success is expresses in the form of a chair on the DPR, or of important, 'wet' commissions (see below). Being in the DPR Leadership, leaders automatically chair the Steering Committee (*Badan Musyawarah or bamus*), which is largely responsible for setting the DPR's agenda, and so they may hold off or disregard certain items on the agenda⁶⁴,

⁶³ BURT arranges internal affairs in the parliamentary compound, such as the timetable and use of meeting rooms. The prestige of BURT rests on its power to plan DPR building renovation, or procurement processes in the DPR.

⁶⁴ It happened when Akbar Tandjung was the DPR Chairman in 1998 - 2004. In 2003, Akbar had been convicted of misusing Rp 40 billion (US\$4.49 million) of State Legis-

even directing members to a certain decision by calling for a private meeting of leaders, known as *rapat lobi*. *Rapat lobi* is a private meeting only for those in positions of leadership of one sort or another in the DPR: the house leadership, the leaders of *fraksi*, the leaders of each commission or committee, and sometimes the party chairs. They meet to discuss controversial national issues or to find a solution if deliberation on a bill is gridlocked. The meeting is held so that these leaders can lobby each other (as the term 'lobbying' implies) on a certain issue, so that the final solution will satisfy and accommodate all the elite's interests. As the meeting is really high profile, only the leaders are entitled to participate. Sometimes not even the secretarial staff are allowed inside the meeting room, usually only the Secretary General participates. Accordingly, no record is usually kept of what is said at these meetings.

The Steering Committee, including its private leaders meeting (*rapat lobi*), due to the high profile of its tasks and its membership, is considered an influential body and it is often called as a 'mini DPR' because its function is often to replace the plenary session (Katharina, 2007: 86).

The importance of a leadership position, and even the status that a DPR member enjoys, emphasize the position of leader compared with that of the common people. It works well, and was taken advantage of by earlier rulers. Now when Indonesia has entered a more democratic era, with formally equal status between DPR members as people's representatives and the people who are represented, the DPR Leadership still offers an attractive position for those seeking a prominent political profile. The influence of the Leadership on the agenda of the DPR is not diminishing, which suggests the continuation of oligarchic practices inside the DPR⁶⁵.

To throw further light on the Indonesian style of DPR, during the discussion on the size of the leadership, in Minutes of Law 27/2009, Working Meeting 10 December 2008, committee members discussed the terms 'speaker' and 'leader'. The PDIP and the government (in which the president came from the Democrat Party) called for efficiency: especially if the 'Speaker is only to preside over the session, it is wise if the positions are only limited to a maximum of three persons' (Minutes Law 27/2009, p. 22). However, a *Golkar* member - Hajriyanto Thohari - protested that 'the DPR Leadership is not a Speaker...the Leadership decides, and even sets a guide' in the DPR (Minutes Law 27/2009, p. 23). The committee accepted the leading role of the Leadership, which suggests that the DPR intended to keep its strong leadership.

tics Agency (*Bulog*) money, but remained free and enjoyed his position as the DPR Chairman (*The Jakarta Post*, 14 January 2003). The failure to oust Akbar was because members were unable 'to get through the process of scheduling for a deliberation from the House's steering committee' (*The Jakarta Post*, 28 January 2003). The meeting of private leadership (*rapat lobi*), attended only by leadership of the DPR and factions, totally ignored the intention of DPR members as a whole to require more explanation of the case.

⁶⁵ See Robison and Hadiz (2004) and Winters (2011; 2013) for a discussion of oligarchy in Indonesia.

3.2.2.2 Commission (*Komisi*)

The DPR Commission is the place where DPR members exercise their parliamentary role. It is a key body and the various commissions serve as the standing committees normally found in a parliament. Where normally the standing committee prepares and supplies further information for deliberation in the plenum, the DPR Commission carry out their constitutional roles - legislating, budgeting, and oversight - in this smaller forum, the commission, rather than in the plenary session. A commission has the power to 'reject, delay, or facilitate the bills, even to determine the content of the bills' (Sherlock, 2003: 12). Moreover, a commission also calls ministries, experts, and government officers to participate in the legislative process, or to be questioned, as part of their oversight function. DPR tasks delegated to the commission run the risk of being mishandled, as the commission may decide to stop discussion of a subject and close their meetings, even when the issue is controversial. Commission members, rather than all DPR members, have a powerful role in determining the legislative process and in questioning government officials, out of the public view.

The Commission is divided into various fields and each individual commission has one chairperson and 3 deputies. In 2009, the DPR had 11 commissions and a DPR member should be a member of at least one commission and one council (*alat kelengkapan DPR*). The specific concern of any commission depends on the field that it covers. There are commissions that are considered to be 'wet' (*basah*) that signify above all for corruption, for example the Commission on Forestry, in which illegal logging cases have been rampant (Sherlock, 2003: 13); similarly the commission which covers state-owned enterprises such as the state oil company, Pertamina, for oil and gas (Commission IV), or finance and banking (Commission XI). On the other hand, there are also commissions that are considered to be 'dry' (*kering*), which members think are not so attractive, for example the archives, which is concerned with museums or libraries (Commission X). DPR members appointed to a dry commission would be considered expert or somehow committed to the field. The exploitation of commission work is compatible with political party behavior, which is notorious for its rent-seeking (Fealy, 2001).

3.2.2.3 *Fraksi*

In the DPR, *fraksi* or faction⁶⁶ plays an important role as every DPR members should belong to one faction. In spite of the fact that the concept of 'faction' often denotes a subgroup, *fraksi* in the Indonesian parliament actually denotes a kind of coalition. A *fraksi* is a practical political grouping in the DPR. One *fraksi* should have at least 13 DPR members⁶⁷, so usually big parties form their own *fraksi* while small parties form a coalition with other small parties, or join the

⁶⁶ This study will use *fraksi* and faction interchangeably throughout the text, referring to the same context of Indonesian DPR's *fraksi*.

⁶⁷ The number of DPR membership according to 2009 rules, which depended on the number of commission and working organs in the DPR.

fraksi of one of the big parties. During the period of 1997 - 1999, DPR had only 4 *fraksi*, then after the reform era, when the number of political parties increased, the number of *fraksi* also increased. The small parties were encouraged to form one *fraksi* so that the number of members in the faction would be bigger. In 1999 - 2004 period, the small parties of PK and PAN formed the *Fraksi Reformasi* with 41 members. In 2004 - 2009, FBPD was a coalition *fraksi* from small parties of PBB (11 members), PPKD (4 members), PPDI (1 member) and PNI Marhaen (1 member).

Table 1 shows how many factions there were throughout the period under study.

TABLE 1 DPR *fraksi* configurations in the periods of 1999 - 2009.

Periods	Numbers of factions in DPR	Laws
1997 - 1999	4 factions: FKP, FABRI, FPPP, FPDI	Law 4/1999 (1 Feb 1999) Law 22/1999 (7 May 1999)
1999 - 2004	9 factions: FPDIP, FPG, FPPP, FKB, FReformasi, FTNI/Polri, FPBBB, FKKI, and FPDU	Law 22/2003 (31 July 2003) Law 32/2004 (15 Oct 2004)
2004 - 2009	10 factions: FPG, FPDIP, FPPP, FPD, FPAN, FKB, FPKS, FBPD, FPBR, and FPDS	Law 27/2009 (29 Agt 2009)

Although it is stated in the procedural book that a *fraksi* is not a DPR organ, in practice it, rather than the political parties, makes the important decisions. Therefore, apart from the leaderships of the house and of the commissions, the heads of the *fraksi* (*ketua fraksi*) are also important people (along with the party chair) in the DPR. Headship of a *fraksi* also signifies an elite position in the DPR. During *rapat lobi*, the private meetings of DPR leaders, factional leaders are usually invited to attend with the chairpersons of each commission and committee. A *fraksi* must have a minimum number of DPR members, usually in accordance with the numbers of DPR standing committee. A *fraksi* has considerable power to shape the opinion of members during the deliberation process, and the opinion of the *fraksi* counts more than the opinion of individual MPs. In the final stage of the legislative process, the *fraksi* deliver their factional views, after the head of the committee reports on the process of the bill in the plenary session. In this stage, there are no questions from the floor, and so this cannot be considered like the report stage as in the legislative readings in parliament. This suggests that the *fraksi* still plays an important role in the decision-making process in the DPR.

In 1999, when discussing the DPR empowerment, the issue of *fraksi* also consumed quite a lot of time. Usually the opinion on any legislation was given as a group or factional opinion, and an issue would be discussed, but in a limited manner. This raised the question of the role of the electorate: if a member

representing a constituency had to agree with the opinion of the faction, s/he could not convey the opinion of the electorate. In fact, the electorate was not considered important at all at that time. Therefore, a member from the PPP faction (Mr. Lukman Hakim) argued that the faction could only regulate internal affairs in the related faction, and not parliamentary working organs (Minutes Law 4/1999, Working Meeting-7, 15 December 1998 p. 1213). The government (in the person of a director at Ministry of Home Affairs, Ryaas Rasyid) replied that a faction was even more important than a commission in the DPR in terms of decision-making (*ibid*, p. 1215). From this, it could be understood that faction was important, but only for legitimation. From the politician's point of view, faction was important to regulate the internal party's affairs, but from the bureaucratic point of view its importance was seen in terms of administrative affairs and legitimatization, when one member's voice represented the whole party or the *fraksi*.

Neither argument used the electorate as their basis. Because the parliamentary culture still depended on elites, for the politician the opinion of elites in the party leadership or in the DPR (including *fraksi*) was much more important. The voice of ordinary DPR members was ignored. The factional division ensured that a DPR member was listed as representing his or her faction rather than the electorate. Meanwhile, for bureaucrats, time was important and what one leading faction member had to say was enough to justify passing the law. Bureaucrats did not bother with the representative function of parliament, which of course at that time did not even exist in Indonesia. This was also seen when the government stated that they did not favor the existence of many factions in the DPR, because it was against the *effectiveness* (*ibid*, p. 1203). The government representative continued that under the present procedure, it would be hard to reach a compromise (*ibid*, p. 1204). It can be inferred that the DPR was seen as a bureaucratic machine for enacting the laws. The parliamentary procedure has basically remained the same until today, although it was predicted that the number of faction and political parties would increase after the 1999 election. The same 'standard operating procedure' has indeed continued although adapted to the new parliament (Webber, 2006: 408).

3.2.2.4 Secretariat

The DPR secretariat provides technical and administrative support for the DPR as an institution, as well as personal assistance for DPR members and their *fraksi*. Presided by the Secretary General, the secretariat had a recruitment system in the time of the New Order in which government officials were recruited on the basis of quotas, not according to institutional needs. The general staff in the DPR secretariat total around 1200, but they are bound to administrative units of the secretariat and are not there for parliamentary works. The parliamentary research unit still has around 40 staff, who are not sufficient to cover all parliamentary research tasks and for 560 DPR members. These research workers are evaluated on a merit system set up by the Indonesian Institute of Science (*Lembaga Ilmu Pengentahuan Indonesia* or LIPI). The LIPI will calculate

the DPR researcher's skills on the basis of their publications, instead of on the parliamentary bill or parliamentary works that the researcher has supported. This evaluation system is incompatible with the huge number of parliament tasks, and the quality of the DPR's works has remained low, due to the lack of effective support from the Secretariat (Sherlock, 2003).

There have also been problems of status between DPR members and secretariat staff. Secretariat is still considered to be peripheral and inferior to DPR members in terms of status and hierarchy⁶⁸. The secretariat is not organized in such a way that it will be fully prepared to support the DPR's legislative works. During the New Order, this was intentional, as the DPR secretariat was treated like the bureaucracy, where loyalty towards the government was emphasized and the personnel were seen as servants, not policy makers. Today, problems in the secretariat are based on its unchanged system of 'recruiting, remunerating, promoting, and managing human resources of the Secretariat' (Sherlock, 2003: 5). Due to their peripheral status, the staff are employed by DPR members in petty tasks, like opening the car door, taking a snack to a meeting room, or doing other similar tasks as ordered by the members (Ziegenhain, 2008). The personnel are ill-prepared to give the legislative support that is needed. The 40 researchers will do the academic research or legal drafting, as well as writing papers and speeches for all the 560 DPR members⁶⁹.

With reference to the procedural point of view, the secretariat is still unable to provide verbatim transcripts. The secretariat personnel have not yet prepared the infrastructure and human resources 'to produce accurate, timely, and accessible proceedings as a routine matter' (Sherlock, 2010: 172-173). Transcripts are handled by different persons: the discussion is recorded on a (cassette) recorder by a staff member from the relevant commission; the cassette is then sent to a transcriber, a staff member from the transcript section who probably never came to the meeting room where the deliberation was held. As a consequence, the names of the speakers in the deliberation may be wrong as the commission concerned does not bother to check the accuracy of the transcription. The document with the written account of the recorded discussion is then sent to the archivist⁷⁰. If the transcripts in written format are available, they are for internal use only and usually not for public consumption. The secretariat's lack of sup-

⁶⁸ See full and complete analysis of the DPR Secretariat at Sherlock's studies (2003, 2007).

⁶⁹ At present, only the leadership elites use the research services, and most members do not even realize that the service is available to all members.

⁷⁰ Transcript is not yet considered proper parliamentary data in Indonesia, a law is. Therefore handling a transcript is not yet considered important. The different sections handling the preparation of transcripts reflect this tendency. During the committee meeting, a member of the secretariat staff from the committee section will prepare a cassette and a tape-recorder to record the meeting's discussions. It is up to that person to be able to record all the discussions. Often, the quality of the sound is poor, or certain proceedings are cut out of the complete discussion. Then the cassettes are sent to the transcript section, where the contents are transcribed and typed up into a written document. The written transcript is then returned to the committee, and the cassette is sent to the archivist. Usually if the transcript is published in a book, then the archivist staffs will send the book to the DPR library. But this happens seldom.

port in research and technical matters to some extent slows down the DPR's legislative work. Extensive reform or at least comprehensive adaptation is certainly needed for the DPR as an institution, from its parliamentary procedures all the way to the supporting secretariat.

3.3 The DPR's Legislative Process

The Rules of Procedure dedicates 51 articles (article 99 - 150) and 183 paragraphs to regulating the DPR's legislative function. Most articles discuss the preparation of a bill. The terms *Prolegnas/Program Legislasi Nasional* or National Legislation Program; *Baleg/Badan Legislasi* or Legislative Council; *naskah akademis* or academic document; *Tingkat Pembicaraan* or Stage of Discussion; and the actors such as *Pimpinan* or Leadership, and *Komisi* or Commission; are stated many times in connection with the law-making process.

A bill can originate as either a government bill or a DPR bill (both can also be initiated by the DPD in the case of certain issues⁷¹). The government bill is considered to be the normal case, while the DPR-initiated bill, which recognizes parliamentary initiative, has been introduced only recently, starting in the period 2004 - 2009. Although in theory the DPR's bills will be more important than the government's, in reality the bills discussed mainly come from the government's side due to the government's widely superior legal and administrative resources for the preparation of bills. A DPR member, a commission, a group of commissions or the Legislative Council may initiate a bill, but because of the limited resources, the lack of support from the secretariat, and the complicated legislative procedure (see below), a DPR-initiated bill is still rare.

Both types of bill, though, need to be proposed to the Legislative Council (*Badan Legislasi*) or *Baleg*, a DPR working body that collects the bills to be discussed in the DPR's sessions under the National Legislative Program or *Prolegnas (Program Legislasi Nasional)*. *Prolegnas* is a system that guarantees that bill proposals are technically well planned, integrated, and systematic. The Legislative Council, together with the Leadership of the DPR, will determine what bills have priority during the DPR's term of office or the annual session.

As Figure 4 below shows, after the bill has been proposed in the plenary session, the government will present and explain the bill (*Penjelasan Pemerintah*) in the appointed commission or committee⁷² (box 3). The commission/committee normally consists of 50 members, selected according to the size of the different factions. After that, the factions give their Overview (*Pandangan Fraksi-fraksi*) of the bill (box 4), followed by the Government's Reply (*Jawaban Pemerintah*) to the

⁷¹ The DPD submits bills related on regional autonomy, the formation, expansion, and merger of regions, relations between the central and regional governments, the management of natural resources, and other economic resources. DPD also oversees the implementation of the national budget, taxation, education, and religion.

⁷² A special committee is set up if the issue overlaps with more than one issue discussed in a certain commission.

Factions' Overview (box 5). All these are in the form of speeches from the podium, and no dialogue occurs during the process. If the bill is there on the initiative of the DPR, a member or representative from the commission (or a group of commissions) will introduce the bill and give the explanation, followed by Faction's Overview and the Government's Overview. There may be a reply to the overviews. After the Government Reply, each faction later submits a Problems List (*Daftar Inventarisasi Masalah* or DIM), based on the Overviews read previously, showing each faction's standpoints (box 6).

Legislative Process in the DPR

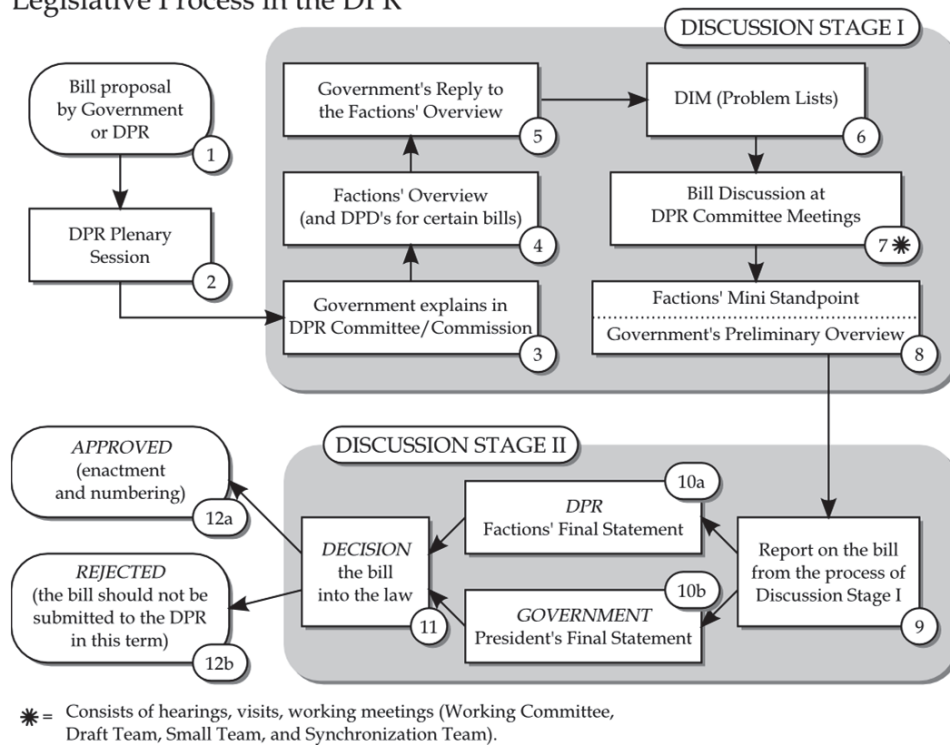


FIGURE 4 The general legislative process in DPR, based on its parliamentary procedure.

This DIM document will be used throughout the deliberation process. The subsequent discussion of each faction and the government in the commission/committee is based on these DIM documents. The discussion proceeds clause-by-clause, reading through all article of the bill (box 7). The commission or committee may invite experts, conduct hearings, and form a smaller team inside itself, namely a working committee (*panitia kerja/panja*), drafting team (*tim perumus/timmus*), small team (*tim kecil/timcil*), and synchronization team (*tim sinkronisasi/timsin*). These technical teams focus on certain issues that need to be discussed thoroughly. This is the Discussion Stage I (*Pembicaraan Tingkat I*).

If the problem lists of the bill have all been discussed and agreed on, all the factions and the government will accept the content of the bill. Each faction

gives a Mini Standpoint (*Pandangan Mini Fraksi*) and the government gives Preliminary Overview (*Pandangan Awal Pemerintah*) (box 8). The bill has then been accepted by both parties - the government and the DPR -, and the bill can proceed to the Discussion Stage II (*Pembicaraan Tingkat II*) in the plenary session.

The Discussion Stage II starts in the plenary session with the head of the relevant commission or committee reporting the process of discussing the bill from the previous level (box 9). Each faction then gives their Final Statement (*Pandangan Akhir Fraksi*) (box 10a) on the bill and this is followed by the Government's Final Statement (*Pandangan Akhir Pemerintah*) (10b). The DPR Leadership will ask for a decision from the floor, that is, from DPR members, whether the bill is approved or rejected. Usually the bill will then be enacted, because the bill has already been agreed in the smaller forum or at the previous stage of discussion. However, it is the Plenary Session (*Sidang Paripurna*) as the highest authority in the DPR that will formally agree to enact the bill into a law. Members are not expected to ask questions regarding the bill. Usually when the DPR Chair asks whether there is any objection or not, the members in their seats do not respond. Any responses that have occurred have usually been a member's comment on a recent government issue, but not related to the bill in question. Therefore, when there is no response from the floor, the DPR Chair (*Ketua DPR*) will decide that the bill is passed. After its approval in the plenary session, the law is delivered to the State Secretariat for numbering, and if it has been rejected (which has rarely happened), the bill cannot be proposed again in the same term, but may be discussed again in the next DPR session.

The Discussion Stage (*Tingkat Pembicaraan*) in the DPR legislative process here is *different* from the idea of 'Reading' in parliamentary terminology as commonly used within an ideal type of parliament. In an ideal parliament, when the bill is moved or proposed, the bill will pass through a legislative process known as "reading" (first reading, second reading or even third reading), as discussed previously. The stages of "reading" indicate that the bill has been reached on the bill at certain points outstanding from the previous stage, and on the following reading, the bill will be thoroughly deliberated or debated. In the Indonesian DPR, the legislation process only described the *series of events* related to the bill, the Discussion Stage (*Tingkat Pembicaraan*). The events (the Government Explanation or presentation of the bill, Faction Overview, and Reply) covered in the Discussion Stage I, which concerned only with general view. This follows by a deliberation carried out in a committee, a smaller forum of the plenary session and only by limited participants. The deliberation was based on a different document, the DIM, not on the "agreement" reached at previous Discussion levels⁷³. Then in another round of discussion, Discussion Stage II, the bill is passed after another series of ceremonial speeches.

⁷³ There is no agreement reached in the first two rounds of discussion, Discussion Stage I and II, as both the government and the factions simply read out their general views of the bill. Then, the factions' views are transferred to another document, the DIM document. This DIM document includes each faction's responds to each clause or article in the bill: whether it is agreed, or if rewording of the original bill's proposal.

As can be seen from this process, the legislative system restricts the debate and limits the participation of DPR members. The complicated legislative process in the DPR actually starts soon after the Problems Lists (DIM) have been produced. The discussion of the bill by each faction and by the government is based on the DIM document, which the committee uses to go through the bill clause-by-clause. For example: the title of the bill will be read out and if a faction does not agree with the wording of the title, this faction will note this in its DIM, suggesting a change in the wording; then they move on to the definition, article 1, article 2, etc, and give them the same treatments. If any faction does not agree with the content of an article, it suggests something else and other factions may discuss it, reject it, give their opinion about it. Thus, the discussion is based on the *wording* of each specific clause or article, not on ideas or major issues that might be on political party's agenda or might reflect voters' needs⁷⁴.

Discussing the bill using the Problems List document, instead of the bill's issue itself reduces the opportunity of parliamentary members to see the purpose of the law that is going to be enacted. With this method, the law that is drawn up is based on finding solutions to the wording problems that arise and not on any vision of the big picture. The use of the Problems List means that members are trapped into discussing details, choosing words, and scrutinizing small matters, instead of discussing the big, macro idea and leaving the details to legal drafters.

Moreover, as the discussion of the bill is based on this rigid wording and the detailed structure of the bill, DPR members are expected to be 'experts' in legislative drafting⁷⁵ and should know all about bills and their construction. A DPR member should also be an expert in drafting laws and someone with skills in language correcting in order to get on with their work inside the commission. Such a legislative process is exhausting because it involves the detailed and thorough drafting of legislation, something which hardly any DPR members will be capable of: they are expected to play a multi-skilled role including being a politician, a lawyer, an administrator, a legal drafter, a consultant, and even a language expert, all at the same time.

Due to the status issue between DPR members and the secretariat, DPR members do not trust the professional work of the legal drafters or researchers in the secretariat. The secretariat staff remain in a supportive administrative role, typing and doing petty jobs in the meeting rooms, instead of being partners with whom the politicians can exchange views. DPR members and the government's representatives assume that they are the only brains capable of deliberating on the bill.

Another interesting feature seen from analyzing the parliamentary debate is that there is always the reading of so-called 'working mechanisms'⁷⁶ before the commission/committee meeting starts. The working mechanism includes

⁷⁴ See an example of DIM document in Appendix 3.

⁷⁵ Interviews with Ganjar Pranowo (former DPR member of PDIP) 22 July 2011, and Ahmad Farhan Hamid (former DPR member of PAN) 31 May 2013.

⁷⁶ See an example of a working mechanism in Appendix 2.

the material used (the DIM document and the bill) and what types of meetings the participants will encounter during the process. It is expected that the Rules of Procedure or *Tatib* should be known to all DPR members. Yet, as the *Tatib* content is not clear enough to explain the legislative process, it is likely that reading the rules in the first committee meetings suggests that the meetings will be conducted in a traditional way: following the legislative process explained above, based on the DIM document, and the fact that a faction is only allowed to speak once. This means that not even all committee member can have a say. Tradition or DPR parliamentary culture is the main consideration throughout the deliberation process, and this tradition does not stated clearly in the (legislative) procedure.

The next sub-section elaborates more on those elements in the DPR which have been criticized for not being particularly democratic: the plenary session and the decision-making process.

3.3.1 Plenary Session, commission, and quorum

In the DPR's *Tatib*, article 221, the DPR plenary session (*rapat paripurna*) is considered to be its highest forum and the DPR is said to have a national representative role⁷⁷. No other DPR meetings⁷⁸ should be held simultaneously with the plenum. When we now know that law-making is in fact mainly conducted in the commissions or committee meeting, the plenary session can be seen to be a place for routine business, a forum where formal monologues are delivered and for ceremonial purposes only⁷⁹. Members do not have a chance to speak about the bill in the plenum, because everything has already been decided. Thus, there are no interaction or no real debates between DPR members in the plenary session. If dissenting voices are heard in the session, they do not refer to the bill on the agenda, but only express protest from members questioning government's policies on recent national issues. One senior member of the DPR even proposed abolishing the DPR's plenary session on the ground that it consisted only of boring speeches⁸⁰, despite the fact that the plenary session is the only arena where the public see the DPR perform. If DPR members disregard the importance of the plenary session in parliament, and do not address the procedural problem, it suggests that the DPR is treated only as a law-making institution, and not as a real parliament. The empty seats during the plenary

⁷⁷ The representative role is a new system affecting the elected members since 2009 (Law 27/2009 Article 69). Since the election 2009, Indonesia has adopted the open-list election system where voters may vote for political parties or the individual candidate in the ballot paper. Those who gain the most individual votes get the seat in the DPR. Accordingly, candidates, once elected, should have stronger relations with their constituencies.

⁷⁸ Meetings in DPR: Faction meeting (*rapat fraksi*); Leadership Meeting (*rapat pimpinan*); Consultation Meeting (*rapat konsultasi*); Working Bodies Meeting (Commissions and Council meetings) (*rapat alat kelengkapan*), Working and Working Committee meeting (*rapat komisi* or *rapat pansus*); and Hearing [*rapat dengar pendapat umum*-RDPU].

⁷⁹ DPR magazine, interviewing Lukman Hakim Syaefuddin, DPR member (*Parlementaria*, 2001: 21).

⁸⁰ Interview with MP, Lukman Hakim Syaefuddin (Magazine *Parlementaria*, 2001: 21).

session are always mentioned by the media, which do not appear to understand that the decisions have already been made in committee meetings. DPR procedure somehow encourages the ceremonial aspect of the plenary session and the emphasis on decision making in the committee.

Theoretically, the bill's major issues should be debated in the plenum. A debate in the plenum would serve as a way to improve the quality of legislation, and to revitalize the status of the plenary session (Sherlock, 2010: 167). The plenary session might also increase constituency accountability, if members, who represent a certain constituency, used their rights to speak in parliament. Their profiles would become known to the public when debating or discussing national issues, or asking the government questions when exercising the DPR's oversight function.

If the status of the plenary session were to be upgraded beyond that of a merely formal forum, DPR members might change their attitudes too. DPR members' role could be directed towards being a politician and legislator, as they should be, leaving the excessive and unnecessary tasks of legal drafting to the expert teams in the secretariat. This, of course, would have wide-ranging effects, not only on the rules of procedure, but also on the electoral system which is still influenced by the authoritarian regimes (Aspinall, 2014: 96)⁸¹, and on the capacity of the DPR secretariat. With such a change, the plenary session would serve as an important venue for addressing national issues, and as a forum for controlling the government, giving substance finally also to the DPR's oversight function.

With this, instead of questioning the government in the commission, DPR members might be motivated to investigate current issues directly in the plenum. The 2010 case on the chaotic execution of national exams for the high schools (*Kompas*, 13 and 16 December 2010), for example, could have been held in the DPR's Plenary Session, instead of at the smaller meeting of Commission X. The investigation of the Minister of Education in the plenary session would have attracted a wider audience of both DPR members and the public, following the media coverage. With such a change, Commission X could have listed questions to be addressed to the government so discussion could have focused on the core issues⁸².

⁸¹ The electoral system refers to managing political party and election in Indonesia. Political party did not generate money from its members, instead elected members (either in the DPR and the DPRD, or in government position) were expected to donate money towards the running of the party's activities (Ambardi, 2009). It was common for the DPRD members to regularly allocate money from their own allowances or even divert their salaries to the political party. The election has also pruned to "money" politics.

⁸² The Constitution stipulated that 20% of the state budget should be allocated to the education sectors. Part of the money has been used to upgrade the quality of teachers and schools facilities. A controversy arose when the national exam was set up as the only way to evaluate students and the Education Minister insisted on this policy, against public appeal (*The Jakarta Post*, 26 November 2009). The big cities would benefit from this policy, but not students in remote areas where inappropriate facilities and a lack of good teachers were common problems. DPR Commission X, which worked on the education sector, summoned the minister to give an explanation. Yet, despite the huge issue in late 2009, questioning the minister was conducted in the

The problems increase when the question of a quorum mechanism is added in to consideration of the plenary session or any DPR meetings. A quorum is the minimal number of DPR members required to (physically) attend the meetings. Usually half of all members are needed for a meeting to have legitimacy. During the New Order, the quorum for the number of members attending a meeting was extended to cover the idea of a factional quorum, meaning that the attendance of several factions was needed for quorum. As *Golkar* had the majority seats within the DPR - usually 70% of DPR membership -, when a meeting was attended only by members of the *Golkar* faction, the decision was considered to lack legitimacy, even though the quorum of half the membership had been met⁸³.

The mode of application of the quorum is a classic topic of DPR plenary sessions. The attendance list is actually regularly full, but as members frequently only sign the list and leave, the plenary session is often *de facto* empty. The empty seats in the plenum give rise to criticism of the DPR's performance. A recent case may serve as an example. In 2013, President Yudhoyono's son, Eddie Baskoro Yudhoyono (Ibas), a Democrat Party member of the DPR, drew attention to himself and received different treatment when he came to the plenary session and signed the attendance list but then left the session⁸⁴. Many members do so, but the president's son hit the headlines and the public in general condemned DPR members' lack of respect for its own plenary session. Citizens do not realize the role of the committees or commissions in the DPR, but take the official status of the plenary at its face value.

The problem of a quorum in the plenary session is officially "overcome" by using the attendance list to justify the existence of a quorum. For commission or committee meetings, the problem of quorum is addressed with a different mechanism. When the quorum of the first meeting of a commission, discussing a certain bill, is reached, at the end of that day the meeting will be declared to be pending. The following meeting then will use the quorum of the previous meeting. Thus, even though the quorum has not actually been reached on a particular day, the meeting will still be considered legal based on the quorum of the previous meeting. This quorum problem clearly shows that the legislative procedure overall needs to be revised.

meeting room of Commission X, instead of in the plenary session. As a result, even MPs from another commission did not have the rights to question the minister, which suggested that the issue was still in a 'balkanised' format and a controversial issue like this was not overseen by all DPR members (Sherlock, 2010: 166).

⁸³ Based on the government's remark to DPR members in deliberating Law *Susduk* 27/2009 (Minutes of Law 27/2009, working meeting 31 July 2009). The government insisted that members' physical presence in the DPRD was a must, but the government spokesman acknowledged the difficulty of implementing this in the DPR.

⁸⁴ Ibas' style of attendance in the DPR plenary session was reported in the local media. After the incident, Ibas resigned from DPR membership, not citing this case, but stating that he was busy with his position as the party general secretary.

3.3.2 The decision-making process and the oligarchy

Another important aspect of legislation is the decision-making process. Every decision at DPR meetings should be taken on the basis of *musyawarah untuk mufakat* or by 'deliberation to reach a compromise'⁸⁵, as the *Tatib* article 272 states. It means that 'decisions are not considered final until there is unanimous agreement'⁸⁶. Only under special circumstances will a decision be taken by a majority votes cast, and such votes are rarely taken. A compromise is reached to 'make a concession so that the final product can be presented as the result of genuine agreement (*mufakat*)' (Mietzner and Aspinall, 2010: 11). This kind of compromise in decision making, unfortunately, has always been criticized as 'an instrument of oligarchic control and avoidance of transparency and public accountability' (Sherlock, 2010: 168) and only gives greater power to the factional leaders (Ziegenhain, 2008: 163). Although the *musyawarah untuk mufakat* style has been criticized, the critics' argument actually focuses on the privileged authority of the elites, or leadership, over ordinary parliamentary members, *not* on the system of *musyawarah mufakat* decision-making itself. What is criticized is the oligarchic practices of the DPR elites. If a compromise, or the decision, was agreed by all DPR members, with members given a fair chance to participate in the decision-making process, the system would not pose any problems. This would require many adjustments to many aspects at the procedure - but the adaptation of the Rules of Procedure to changes is not impossible.

Therefore, despite of the reform, some procedural practices still conform to the old tradition or 'democratic change has been superficial, with core structures of power remaining unchanged' (Mietzner and Aspinall, 2010: 135). The parliamentary procedure of the DPR (*Tatib*) has actually already been revised to accommodate the growing number of political parties. In the discussion of Law 4/1999, on 9 December 1998, the government stated that:

⁸⁵ Although the DPR official translation for '*mufakat*' is consensus, and many scholars also used the 'consensus' term to describe '*mufakat*', I prefer to use the term of 'compromise'. I think the concession running in the DPR is better described as a compromise, compared to consensus (see Ankersmit, 2002: 96, 142-143). Ankersmit stated that: 'compromise is governed by a kind of political logic other than consensus: for compromise, unlike consensus, retains the possibility of cooperation even when people hold different views and are also determined to maintain these (p. 96); Compromise occurs when two parties agree upon a political option that is explicitly at odds with the desiderata of the different ideologies involved, but both parties are nevertheless willing to take the political responsibility for this option' (p. 142-143). Ankersmit's definition on compromise, I think, is more suitable to the context of Indonesian DPR. In Indonesia's political system, the differences between ideological positions, for example between the nationalist and Islamic political party is not striking amidst the huge difference in names. In principle, the nationalist political parties could not follow the ideological line of the Islamic parties, however, within the DPR, each political party would likely to be at the same position regarding certain issues in the bill/law (compromise), to cooperate together and stand under the same 'political roof'.

⁸⁶ According to Sherlock (2010: 168 and 2003: 31), this notion accentuated as 'an inherently Indonesian way of decision-making, ensuring that all parties are satisfied with a decision and that minority parties are not made to feel excluded' and would be kept as a heritage from founding fathers.

Pemerintah (Dirjen PUOD): Di masa depan proses masuknya sebuah RUU itu tidak lewat pleno seperti sekarang, tetapi lewat sub komisi, sehingga misalnya ada 50 sub komisi atau 40 sub komisi secara logis bisa 40 RUU masuk pada saat yang sama, dibahas, dalam mekanisme demokrasi modern jalan ini ditempuh, sehingga pekerjaan itu lebih efektif dan lebih memberi peranan pada anggota. Jadi...RUU itu bukan hanya datang dari pemerintah, kelompok-kelompok masyarakat bisa mengambil prakarsa untuk melobi sub-sub komisi dalam DPR membuat RUU....yang penting adalah prakarsa dalam rangka memberi makna pada negara hukum, ada prakarsa membuat RUU sebanyak mungkin...salah satu persoalan kita sebagai negara hukum adalah kita kekurangan aturan, sehingga banyak sekali interaksi dalam masyarakat yang berlangsung tanpa aturan yang jelas. (Minutes Law 4/1999, Working Meeting-7, 15 December 1998 p. 1204-5, emphasis added).

Government (Director General of Governance, MOHA): In the future, the process to submit a bill must **not enter the plenary** as today, but through a sub-commission, for example if we have 50 or 40 sub-commissions, logically 40 bills may be submitted at the same time and be discussed. This is the way in modern democracy. It is much more effective and **gives members a greater rôle**. Thus...bills will not only come from the government, but civil society can also start to lobby members in sub-committees in the DPR to make laws...the important thing is the initiative being taken to give substance to the idea of a state based on the law. This would encourage the submission of as many bills as we need...because one of our problems as a state based on the rule of law is that we lack laws and the citizen's interaction is guided by unclear policies.

The quotation above showed the willingness, at least on the government's side, to change the parliamentary procedure. It was frustrating for the government to prepare many bills for the DPR, and it would have been better if some of the legislative tasks were transferred to the DPR so that everything did not depend only on government proposals. Unfortunately, as usual, this view was not considered thoroughly afterwards. As a discussion about factions was already going on, this new idea was left to be discussed further when the DPR discussed the revision of procedure (*Tatib*). It is also because the DPR still did not appreciate the importance of procedure that the intention of revising DPR procedure was never realized.

There was always discussion of the *Tatib* at the beginning of a new parliamentary session (1999, 2004), when the newly elected DPR members met. Unfortunately, when discussing and passing the *Tatib*, their focus was on the election of the DPR leadership and filling the position of chairs in the DPR working bodies. The discussion on procedure was never on an effective mechanism for legislation.

When scholars criticize the DPR's disappointing performance by referring to the 'inexperience of its members, [being] new to the legislature, and lack of familiarity with parliament practice' (Fealy, 2001: 107), the problem actually is more complicated. As I have already mentioned, a member of the DPR parliament - whether a senior from the old regime or a new one coming from the newly established political party - can hardly be an expert in everything and know all the details of the legislative work as exercised in the DPR. The empowerment of DPR members would presuppose a reinterpretation of their position, from being simply a member with a certain status to the real practice of acting politically. With the increasing complexity of legislative work and with the public also becoming critical, the DPR needs to reform also its (legislative)

procedure to address the problems. For example, members could table the specific issue of a bill for discussion and discuss (or debate) the issue, but delegate the detail, like language use, to others, such as the secretariat staffs or other experts.

Awareness of the problem with the *Tatib* had been voiced during the transition process.

FKP (Drs. Ibrahim Ambong MA):DPR tidak mempunyai kekuatan untuk melakukan fungsinya karena hanya diatur dalam Tata Tertib DPR,...kami beranggapan bahwa hak-hak anggota maupun lembaga DPR harus tercantum dalam undang-undang. Minutes of Law 4/1999, Working Meeting 4 December 1998, p. 602.

*Golkar Faction (Ibrahim Ambong): ... The DPR does not have power as its function is only regulated in its internal procedure - *Tatib* (which means only to bind the DPR members and not other partners)...we think that the rights of members and the DPR should be explicitly stated in the law.*

In this excerpt, a member of parliament from the *Golkar* faction complained that the *Tatib* strangled their constitutional rights. However, they did not know how to change the situation. It was true, as the member said, that ordinary people outside the DPR did not know how the DPR and its legislative function affected the life of Indonesian citizens. The procedure as regulated by the *Tatib* was likely to be known only to its members and it focused solely on matters concerning the DPR itself, although actually the task of the DPR was also related to the government and running the country. Even for today's DPR, this idea is still valid, as the procedure is still seen to influence only the DPR as an institution.

The legislative process including its form of discussion and its elements, clearly reflects the DPR of Suharto's time; it has not become an effective parliamentary institution, even after the constitutional amendment. The DPR legislative process may display some similarity to the reading stages of the Westminster parliament but it is marred by the lack of debate and consideration of the bill by all members in the plenary session, even the discouragement of voting. This has prevented the DPR becoming a truly representative council.

This section has shown that the complexity of legislation, with the need for a bill to be introduced first through the plenary session, and the problem of the *Tatib*, which outlines a procedure that affects only DPR members, have been notified and commented on. However, no effort has yet been made to revise the DPR's procedure for the legislative process and the rules of the game.

3.4 The laws relevant for this thesis

The laws analyzed in this thesis are the laws regulating the regional parliaments, the DPRD, between 1999 and 2009, which are the *Susduk* Law (Law 4/1999; Law 22/2003 and Law 27/2009) and the *Pemda* Law. The laws were

chosen because all these laws regulated the DPRDs⁸⁷. These laws show the complexity of DPR procedure and political culture, and also give information about the policy for the DPRDs. The character of each law is discussed below.

3.4.1 *Susduk* Law

The *Susduk* law was considered to be a matter of routine, as it was expected that this kind of law, which regulates the number of DPR members and of military seats in the DPR, would be enacted before the end of each DPR. In the Suharto's era, the military had its own faction in parliament, and the number of military members in the DPR was regulated by this law. The *Susduk* law regulated the composition of the MPR, DPR, and DPRDs, and was somehow seen as a justification for President Suharto's policy that members of these institutions should not be related to the PKI, a banned political party. It was more reliable if he placed his people throughout the institution by appointment. About 10% of the seats in both the DPR and DPRDs were for military appointees, and in the MPR, the highest organ of state at that time, the law stated that the MPR's membership must consist of the DPR members, Regional Envoy-*Utusan Daerah*, and Group Envoy-*Utusan Golongan* or the representatives from certain social groups. While DPR members already had the approval and support of *Golkar*, literally President Suharto's state party⁸⁸, members from the Regional and Group Envoys needed also to be approved by the president himself before being posted to the MPR. Thus, the law affected the membership of at least four institutions at both national level (MPR and DPR) and regional level (DPRD province and DPRD district/city).

The *Reformasi* movement demanded that the military should no longer sit in parliament: the appointed seats in the legislative institutions enjoyed by the military should be replaced by seats for elected members. Despite such demands, the military still had free seats in parliament in 1999 - 2004, and only after the constitutional amendment (conducted during the periods of 1999 - 2002) did the military faction cease to exist in parliament. It was replaced by elected membership and the creation of a new institution, the DPD- *Dewan Perwakilan Daerah* or Regional Representative Council, at the national level.

The *Susduk* law was firstly introduced with Law 16/1969. As can be inferred from the above information, it was likely that the law mostly concerned members sitting by (presidential) appointment in the institutions of the MPR, the DPR and the DPRDs, through the regulation of how many persons should be sitting in each institution. The *Susduk* law of 1969 laid down that the MPR would have twice as many members as the DPR (Article 1), with one third (1/3)

⁸⁷ The executive-legislative relations, at the national and regional level is seen in Figure 1, Chapter 1

⁸⁸ Suharto refused to call *Golkar* a political party, instead calling it a functional group (*golongan karya*). It was argued that the group accommodated different social groups, like civil servants and military, who were encouraged to be impartial in politics. In the reform era, after the 1999 election, *Golkar* no longer had the privilege of being a state "party", and thus it has become a regular political party although retaining the same name.

of them appointed members (from the military, the regional and group representatives). The DPR had 460 members, 100 of them appointed (Article 10). In the parliamentary debates it was not stated clearly how such a number was arrived at, or why the MPR needed to be twice as big as the DPR, for example. However, it can be surmised that the authoritarian regime wanted the president to be seen to be supported by the whole society including the coercive element, the military. The military was even allocated seats in the parliaments.

Table 2 below shows the *Susduk* law throughout the years. The most important aspect of the law were the number of members in the MPR and DPR, and how many military seats there were. The *Susduk* Law was amended for the first time by Law 5/1975, but this only revised the wording of articles to bring them into line with the updated laws of the time, including the Law on Regional Governance, Law 5/1974. The second time the *Susduk* Law was amended, in Law 2/1985, stated that the MPR had 1000 members, twice the number in the DPR with its 500 members, 400 from election and 100 from appointment. The third amended *Susduk* Law, Law 5/1995, only stipulated that of the 500 DPR members, 425 were to be elected and 75 to be appointed military personnels. However, again there was no explanation of why the ministers settled on these numbers.

TABLE 2 The amount of members for MPR-DPR institutions, and numbers of military seats, based on *Susduk* laws.

<i>Susduk</i> Laws	MPR	DPR	Military seats
Law 16/1969	2 x DPR members	460 ("elected" members 360)	100
Law 5/1975	2 x DPR	460 (360)	100
Law 2/1985	1000	500 (400)	100
Law 5/ 1995	1000	500 (425)	75
Law 4/1999	700	500 (462)	38

These laws show very clearly that the *Susduk* law was enacted according to the tradition of regulating the membership and composition of the institution. The discussion on the *Susduk* law in 1999 would also revolve around the number of members of the MPR and the DPR. With respect to the DPRDs, the *Susduk* law stated that there would be 35 - 100 seats in the Provincial DPRDs and 20 - 45 seats in the District/City DPRDs, depending on the size of the population. Given its routine character, the *Susduk* Law would be enacted by every DPR, normally toward the end of its term.

3.4.2 *Pemda* Law

This section traces the history of the Law on Regional Governance (*Pemerintahan Daerah*) or the *Pemda* Law. The regions were regulated first by Law 18/1965, which emphasized the role of the regional heads over the regional councils, the DPRDs. This was repeated in Law 5/1974, which declared that the status of the

regional heads was higher than the DPRD's, and the heads were state functionaries (Article 17).

In the transition era, Law 22/1999 Article 19 stipulated that the DPRD's rights were: holding the regional head (Governor, Regent, Mayor) accountable; asking for statement from the executive; investigating cases; amending Regional Regulations/*Perda*; expressing opinions; proposing *Perda*; and enacting the DPRD procedure. The DPRD's were also regional legislative bodies. Afterwards, Law 32/2004 declared that the DPRD's were also regulated by *Susduk* law, as long as the stipulation was not against *Pemda* law. The emphasis in *Pemda* laws was regional affairs, and following the principle of a strong executive, the regional heads were almost always made more important than the DPRD's. Only Law 22/1999 gave the DPRD's significant roles. Law 22/1999 marked a new start for the regions as the law laid out the regulations for a policy of devolved central power to the regions. This law on the governance of the regionals, together with the Law on Fiscal Balance between central and regional governments (Law 25/1999, signed on 19 May 1999), regulated the power of the central and regional governments, and the fiscal balance of each governments.

The *Pemda* laws in Table 3 below show the difference in DPRD tasks and functions in each law.

TABLE 3 The DPRD's as regulated in *Pemda* laws.

<i>mda</i> Laws	DPRD tasks and functions
Law 18/1965	Article 5 - Regional government consists of Regional Head and Regional Representatives Council; Article 8 - The Leaders of DPRD are accountable to the Regional Head; Article 11 - existence of hierarchical relations
Law 5/1974	Article 13 - Regional government is Regional Head and DPRD; Article 15 - The DPRD proposes 3-5 names of candidates to be selected as the Regional Head, together with the Ministry of Home Affairs
Law 22/1999	Article 1 point c; Article 14 - The DPRD is the Regional Legislative Body; Article 16 - The DPRD is the regional representative council at region, exercising <i>Pancasila</i> democracy; Article 19 - The regional head is accountable to the DPRD
Law 32/2004	Article 1 point 2 - The regional government is responsible for executing regional affairs, executed by regional government and the DPRD; Article 1 point 4; Article 40 - The DPRD's form part of the regional system of government
Law 12/2008	Article 26 - The DPRD may hold an election for the vacant position of deputy regional head

Due to its content, the *Pemda* Law is not a routine law, and the contents are open to revision when it no longer suited the circumstances. Accordingly, the law is valid for varying lengths of time, sometimes longer, sometimes shorter. The regulation on the DPRD and its relations with the regional executive and the center would vary according to the political situation.

3.5 Conclusion

The chapter has focused on the DPR and its procedure. Previous studies on the DPR had noted that the institution bore the legacy of the New Order, and the observation is still valid today. The discussion highlights that DPR seats are still regarded as matters of status and position, and emphasizes the legislative function of the DPR, as seen from the division of working bodies and positions in the DPR. The emphasis on the DPR as a legislative institution does not automatically mean an effective legislative process. The legislative process is complicated and puts more emphasis on the procedure for preparing a bill. It also displays undemocratic features when all the constitutional roles of the DPR are exercised in the smaller forums, encouraging oligarchic practices and undermining its legitimacy (quorum problems). Revisions to parliamentary procedure have been proposed, but since the elites have not moved these proposals forward, revising the procedure has never really been discussed. The characteristics of both the *Susduk* and *Pemda* laws discussed in this thesis have also been overviewed. The following chapter will discuss in more detail the uses of the laws, as case studies.

4 THE PERIOD OF TRANSITION, 1998 - 1999: PARLIAMENTARY REFORM

“The old dictator is still in control”
- *New York Times Magazine*, 18 July 1999⁸⁹

For the Indonesian parliament, 1999 was an important year because, for the first time, the DPR was “free” from the grip of the strong executive led by President Suharto. As discussed in Chapter 2, President Habibie, former vice-president under President Suharto, led the transitional government after President Suharto stepped down. This chapter details the situation inside the DPR during the transition period, and discusses what changes emerged from the transition. The legitimacy of the transition government was challenged by domestic problems arising from the Asian financial crisis and the recession in 1997; from ethnic and religious conflicts; and from hostile public opinion and the criticism of corrupt political institutions and bureaucracies. These external challenges were exacerbated by the lack of government credibility. President Habibie was often seen as merely a continuation of the Suharto regime. Some critics claimed that the Suharto system was continuing, ‘with only its head cut off’: the body - that is, Suharto’s people - remained, including Habibie (Schneier, 2005: 17).

In practice, the situation was more complicated. Recognizing the regime’s declining legitimacy, President Habibie promised to hold a new general election on 7 June 1999, and took the appropriate steps to give it legal foundations. Here, Habibie showed his desire for a true *reformasi* (reform). If he had wanted to do so, Habibie could have continued in office until 2002, as the constitution allowed this, and so his promise for a new election was seen as a positive signal from the transition government. Not only did President Habibie open doors to a new government, he also channeled the demand for regional autonomy into actual legislation. The government proposed bills for the organization of the upcoming election, lifting restrictions on political parties, restructuring the elec-

⁸⁹ Quoted from Richard Lloyd Parry ‘The Suharto Shadow’, *New York Times Magazine*, 18 July 1999.

tion committee, and revising the provision on elected/representative institutions. The laws enacted were Law 2/ 1999 on Political Parties, Law 3/1999 on General Election and Law 4/1999 on the Structure and Composition of MPR, DPR and DPRD. The laws were deliberated on and passed by both the government and the DPR on 1 February 1999, and three months later, Law 22/1999 on Local Governance was also enacted to address the regional demand for self-regulation.

Habibie can be categorized as what Skinner has called ‘the innovative ideologist’⁹⁰ (Skinner, 2002: 149). Because Habibie was always referred to as a Suharto loyalist, he needed to demonstrate his reformist credentials by introducing new policies related to elections and political parties, as well as following through a reform agenda in general. Habibie needed to ensure that the public saw his transition government as *pro reformasi* and democratic. This was probably also due to the demand for democracy supported by the Western influence that had finally arrived in Indonesia. Habibie recognized this Western expectation that the Indonesian state would be a new democratic country; he had himself experienced living in such a country, having been educated and having worked in Germany for more than a decade (Stoner, 2013: 17).

The three laws governing political parties, election and the structure and composition of elected institutions were discussed together as one package of political laws by the DPR as a response to the *reformasi* agenda. The whole package of laws indicated a new *reformasi* in the country, which reflected the ‘crisis-ridden’ environment and how the political elites were reacting to prevent the crisis from running any deeper (Crouch, 2010: 7). In the regions, the government granted regional autonomy or self-regulation, known as decentralization under a unitary state. This represented a significant change from centralized government, but was quite sensible in order to avoid regional secession. Indeed, by means of this law, the regional parliament, the DPRD, was transformed from a rubber-stamp council into a powerful regional legislative body. However, with no previous experience of true decentralization and a federalist-style parliament and, worse, without any substantial guidance and regulation from the central government, both regional and central players found that the implementation of decentralization did not run as smoothly as they had anticipated.

This chapter provides an overview of the laws related to the DPRD (Susduk Law 4/1999 and Penda Law 22/1999), including the legislative process of each law and the contents of each parliamentary debate in the DPR. This period saw an initial attempt to empower parliaments, both the DPR and the DPRD. The attempt can be seen in both the contents of the laws and the atmosphere that developed during their discussion. Surprisingly, the military faction, which was supposed to be the parliamentary element that hindered the reform process, supported the laws. In discussing this, the chapter gives some

⁹⁰ According to Skinner (2002: 151), ‘the innovative ideologist aspires to apply a prevailing moral vocabulary to legitimize a questionable way of life...[by] transforming a neutral into a favorable term’.

background information on both the political situation and the configuration and legislative process in the DPR, as well as the concept underlying the DPRD.

4.1 Background in 1998 - 1999

In 1999, the DPR still consisted of the membership elected and appointed during Suharto's era. Following the same routine and, notably, with its membership made up of the very same individuals who had previously elected President Suharto, this DPR reformed the laws, as well as Indonesia's political setting. The political groupings, *fraksi*, inside the DPR were divided into four, which mirrored the power configuration of membership inside the DPR. There were three political parties - the *Golkar* faction (*Fraksi Golongan Karya*) - Suharto's loyal political party; the Islamic party faction, FPPP, (*Fraksi Partai Persatuan Pembangunan*) and the nationalist party faction, FPDI (*Fraksi Partai Demokrasi Indonesia*), also the military faction, as Table 4 shows.

TABLE 4 DPR configurations in 1997 - 1999 and the enacted laws, based on the parliamentary debates of the laws.

Factions in DPR 1997 - 1999 4 factions	Total members	Laws discussed in this chapter and date of signing
1. <i>Golkar</i> (FKP)	307	- Law 4/1999 on Structure and Composition of MPR, DPR and DPRD* (1 February 1999) - Law 22/1999 on Local Governance (7 May 1999) *the law, together with Law 2/ 1999 on Political Parties and Law 3/1999 on General Election, were signed by the President on the same day, 1 February 1999
2. Military (FABRI)	75	
3. PPP (FPPP)	62	
4. PDI (FPDI)	56	

In addition to the three parties, one of the factions consisted of appointed members from the military, which formed the military faction, FABRI (*Fraksi Angkatan Bersenjata Republik Indonesia* or Indonesia Armed Forces, including the police). The members of the military faction were even more numerous than the FPPP and FPDI, which supported the hegemony of the authoritarian regime. Given the continuity in membership, it is unsurprising that the legislative procedure also reflected the established administrative style of enacting a new law, as discussed in the previous chapter, Chapter 3. The relative speed with which

the laws were enacted suggested that legislation was indeed a bureaucratic process.

As in Suharto's time, the composition had to guarantee that the *Golkar* party constituted the majority, the election system ensured that all civil servants and family members of the military⁹¹ voted for *Golkar*, and this gave the party a huge advantage in supporting Suharto's policies. In addition, the military seats in the DPR supported Suharto. These two groups together, the *Golkar* party and the military, were thus bigger than the other parties. The number of elected members from the PPP and PDI parties was even smaller than the number of appointed military seats.

Despite this configuration with the *Golkar* majority, a significant change still occurred during this transitional period. Although the parliamentary procedure and DPR members were largely the same as in Suharto's time, the members, especially those from the military faction, were brave enough to challenge the content of the bill and question the minister. This was unprecedented. The military faction was full of respectable figures and their opinions counted for far more than those of the PPP and PDI⁹². It is likely that the members wanted to be seen as reformists, that they thought this would help ensure their re-appearance in the DPR in the next period: being critical meant they would secure seats and ensure the success of their political party in the upcoming election. The military continued existence in the next period of the DPR was probably due to its support for the reform agenda. The laws enacted during this time, as Table 4 shows, laid the foundation for the upcoming general election, scheduled for 7 June 1999. These laws showed that excitement about the coming of the new era was felt inside the DPR. The members of parliament, despite being elected during Suharto's presidency, wanted to show people that they also welcomed the *reformasi* movement and that they were not simply a burden from the past. During the period of transition, the military inside the DPR supported the reform agenda, as did President Habibie, the 'innovative ideologist'. Thus the "winds of change" blew even inside the DPR.

⁹¹ Military personnel were not able to vote in the election, in order to maintain their impartiality toward the government, but family members of military could vote, and were 'encouraged' to support the government or *Golkar*. The military seats in the DPR implied that the military had a special position in Indonesian politics. Elections in Suharto's time respected electoral secrecy (the motto for the election was LUBER: *langsung, umum, bebas, rahasia* - direct vote, public (for those eligible to vote), free (from intimidation), and secret - but the election campaign regulations and counting system, for example, still favored *Golkar* rather than any other parties.

⁹² Known active and retired military figures sat in the DPR military faction, while political party members from *Golkar*, PPP and PDI were unknown figures, except for the party chairs or faction leaders. *Golkar* and the other parties, PPP and PDI, wanted to be seen as reformists because their existence depended on their present actions supporting the reform agenda. Maintaining the status-quo carried too much risk during the reform era in view of the upcoming election.

4.2 The Law on Structural Organization, *Susduk* Law (Law 4/1999)

4.2.1 Overview of the law

Susduk Law no. 4/1999 was enacted with the purpose of determining how many members would be in the MPR, DPR, and DPRD's for the next five years, and how many appointed members from the military (ABRI) would be included in the DPR and the DPRD's. Therefore, the main agenda in enacting the 1999 *Susduk* law was also to determine the number of military members in each institution, and the composition of each body. Deliberation of the law highlighted the "continuity and change" within the DPR, because the DPR discussed the bill using the procedure of a weak parliament but accepted a progressive law to lay the foundations for a more democratic institution. During the authoritarian regime, the DPR was a rubber-stamp institution and only approved bills coming from the government. For this reason, it was unsurprising that the procedure reflected the tradition that the government was superior to parliament; the parliament had been constructed to support the authoritarian regime (Datta, 2002). All parliamentary factions were given time to present their official views, by reading out a speech, but there were no open questions during the plenary session. This seems to suggest that the government sought legitimacy from parliament only on the surface, and actually there was no question of any alternative: the DPR was expected to continue supporting the government.

The *Susduk* law was discussed in the usual bureaucratic style. After the plenary session, which involved the ceremonial reading of speeches, the discussion was moved to a smaller forum, a 50-member committee. Such committee meetings were mostly closed to the public (*bersifat tertutup*) according to the information written on the cover documents of the minutes⁹³, which probably is based on the instructions issued to members when the working meetings began. A total of 258 editorial problems came up in relation to this *Susduk* law. The number of editorial problems was calculated so that it was possible to anticipate the workload and complete the legislative process quickly. As the discussion was based on the factions' list of problems (DIM document), the chairman of the meeting would read one issue raised in the DIM, then ask each faction to react to it. The chairman then repeated the same query, "Could we agree on the statement of this DIM number..." ("*Apakah dapat disetujui DIM ... (nomor sekian)?*"), in relation to every single issue stated in the DIM document. The same repeated queries showed the bureaucratic style of the DPR deliberation.

If any faction questioned an issue, the government was required to respond to the query; if the faction members were not satisfied, the discussion was taken to a private meeting of leaders (*rapat lobi*), or to an even smaller group of meetings, such as the so-called Formulation Team (*tim perumus*) or to a Small Team (*tim kecil*). The deliberation inside smaller meetings was not record-

⁹³ All cover paper of the minutes of Law 4/1999 stated that the meetings were closed to public (See Minutes Law 4/1999 p. 553, 623, 710, 839, 969, 1085, 1119, 1196).

ed or noted in any way, so the content of such discussions was and is unknown⁹⁴. Often, following the regulations on procedure, important decisions were sent to the leaders to be approved. As the issue would affect the position of political parties, faction leaders were responsible for the decision made. This seems to confirm that oligarchic practice⁹⁵ existed in the DPR, and were even encouraged by the procedures used.

The DPR continued to use the same procedure as in Suharto's parliament. The same procedure also laid down that the rules for the conduct of the meeting should always be read at the beginning of the first committee meeting. In the case of the law that we are now examining, this was done in the first working meeting, held on 7 December 1998. The rules read by the chairman were as follows:

Ketua Rapat: ...kami sampaikan cara pembahasan dan pengambilan keputusan terhadap materi-materi DIM yang ada. Pertama, apabila materi bersifat redaksional langsung menugaskan kepada tim perumus merumuskan dengan bahasa Indonesia dan bahasa hukum yang baik, baku dan benar. Kedua, [materi] dibahas per fraksi untuk 2 kali putaran. Ketiga, apabila setelah 2 putaran tidak cukup... substansi yang belum disetujui, diselesaikan melalui forum lobi, apabila belum selesai... dipending dan dibawa lagi ke Pansus dan dibahas di rapat panja. Tiap fraksi membentuk tim perumus dan tim kecil. (Minutes Law 4/1999, Working Meeting-1, 7 December 1998 p. 627)

Chairman: ...we hereby give information about the method of work and how decisions will be made. The basis of the discussion will be issued raised in the DIM document. First, if the issue is editorial we assign the formulation team to formulate the wording in good Indonesian language and with correct legal terminologies. Second, [any issues] are discussed by each faction for only two rounds. Third, if the second round is not enough...any issue that has not yet been agreed upon will be settled in a *forum lobi (rapat lobi)*, and if this is still not settled...it will be considered to be pending, and will be returned to the committee meeting to be discussed there. Every faction needs to propose members for the Formulation Team and Small Team.

From this excerpt, four points can be isolated for consideration. First, the DIM document was indeed an editorial questions concerning the bill. If a faction agreed with the government version of the bill's wording, it would not propose any changes to the article in the DIM document. If, on the other hand, a faction proposed suitable alternative wording for the article, then the committee meeting and the whole faction would discuss it and agree on a suitable wording for that article.

Second, the time available to discuss the same issue was limited, that is, there could be only two rounds of discussion. After the chairman had read the problem list, if one or more of the factions held a different opinion on the original bill or the government's proposal, then each faction delivered these opinions. Only four speakers, one from each of the four factions, were allowed to speak in the forum. If any queries remained, another round of deliberation began, again with one speaker from each of the four factions speaking; this could be either the same or different persons. Under this two-round-regulation, only

⁹⁴ Important issues were often delegated to these small meetings for which no notes are available. I deduced this by looking at the contents of the law, and from interviews.

⁹⁵ See Minutes Law 4/1999, Working Meeting 15 December 1998 p. 1196.

eight persons in total were allowed to speak on the same issue; in other words, not all the (50) members of the committee had a chance to deliver their opinion. Obviously, this two-round model made it impossible for all members to give their opinions. This implied that a DPR member was not truly a representative from a certain constituency; indeed, members of parliament were not associated with a certain electoral district. DPR members always referred to their faction or party membership. It was well known that the representativeness of DPR members was derived from a political party and decided at the national level only. In these terms, the practice of limiting speaking time and limiting the decision making to the leaders, rather than extending it to ordinary DPR members, was appropriate for the DPR. The limitation prevented members from discussing issues from multiple perspectives.

Third, as stated previously, the regulation allowed and encouraged the oligarchy to operate through *rapat lobi*. This meeting was attended only by a small group of political elites, the DPR leadership and the faction leadership. This small group made the final decisions about the law, which suggests that there was some political negotiation involved within the process, but that the voices of ordinary members did not count.

Fourth, given the fact that there had to be an announcement at the opening of the meeting about how the work would be done, it is questionable whether DPR members completely understood the mechanisms within the legislative process. The parliamentary procedure, the *Tatib*, did not elaborate clearly on the legislative process and did not detail how the members might benefit from this procedural guidance in a political sense. The legislative process ran only on the basis of tradition, tradition which, ironically, was based on regulations that were set down by an authoritarian regime and that undermined the role of parliament and each representative member. With this in mind, it is unsurprising that the *Tatib* was simplistic, and that the way of working needed to be read out at the beginning of every meeting in order to ensure that members followed the correct procedure. Members also accepted the chairperson's interpretation of the procedure.

As the intention of this *Susduk* law was to regulate the *number* of members in each institution, the most important parts of this law were the articles regulating the number of members and the composition of the parliament. As outlined earlier, during Suharto's government, the number of MPR members was around 1000, followed by 500 DPR members, and 45 - 100 DPRD members at provincial level and 20 - 45 at district/city level. Under this law, the composition of the MPR and DPR changed markedly in terms of numbers, probably reflecting the excitement surrounding the coming of this new era and the reform spirit of parliamentary empowerment, or the economic savings possible during the recession. Although the rationale behind reducing the numbers was still unclear, the number of MPR members was reduced from 1000 members to just 700, only 200 of whom would be appointed. Meanwhile, the number of DPR members remained at 500, with 462 elected members and only 38 appointed members from the military (ABRI). According to the Minister of Home Af-

fairs when proposing the bill, since the number of members was an important aspect within this law, the intention to change the configuration of each institution and empower the legislative institution was the main agenda⁹⁶. The atmosphere during discussion of the bill was dynamic and lively. Many members, in giving their opinions, referred to their excitement regarding the coming era, especially in terms of the DPR becoming empowered. The military faction, while giving the overview of their faction the Faction Overview (*Pandangan Fraksi*) in the DPR session on 14 October 1998, confirmed this in their own case, stating that:

Perlu upaya pemberdayaan MPR dan DPR melalui peningkatan fungsi, peranan, hak-hak dan kewajiban dari lembaga serta anggotanya sehingga dapat mengimbangi kekuasaan eksekutif dan mengurangi bahkan menghilangkan pengaruh eksekutif atas legislatif. Minutes of Law 4/1999, Plenary Session 14 October 1998, p. 175.

The empowerment of MPR and DPR is needed in order to increase the functions, roles, rights and obligations of each institution and its members so they are able to balance the power of the executive's, to reduce, even to eliminate the influence of the executive vis-a-vis the legislature.

Indeed, the focus of the deliberation was on the empowerment of the DPR, that is, on the role of the commission in the work of the DPR, and of the factions and the political parties. Despite the fact that the title covered the four institutions (MPR, DPR, and the DPRD at province and district/city level), the main focus of committee members was clearly on DPR issues, with the emphasis on the need to empower the DPR or to revise the DPR Procedure, or *Peraturan Tata Tertib/Tatib*. All the members realized that, under the previous regime, the DPR had been powerless against the President. The weakness of the representative institutions – that is, of both the MPR and the DPR -, was clearly seen when the President resigned in May 1998.

Since the president was constitutionally appointed by the MPR (half of whose members were from the DPR), the president was supposed to act as the executor of the MPR mandates (*mandataris MPR*) and be accountable to the MPR in session. However, in violation of the constitution, President Suharto acted like a king. Even when he resigned, the MPR/DPR leadership⁹⁷ went to the Presidential Palace to receive his resignation rather than the president presenting himself to parliament, and the president did not deliver his speech of accountability in front of the MPR Plenary Session as he was supposed to do⁹⁸. This clearly shows that president's position had become ostensibly higher than that of the other institutions of state, a situation that the DPR did not want to allow to arise again. As shown in the excerpt above, the DPR realized that it

⁹⁶ See Minutes Law 4/1999 on Plenary Session 2 October 1998.

⁹⁷ At that time the leadership of the MPR and DPR institutions was united and the chair of Golkar was the leader of the MPR/DPR. Deputy leaders were from the military, PPP, and PDI. Nowadays, in order to differentiate the function of each institution, leadership of the institution is held by a number of people from the winning political parties and each institution has its own leadership.

⁹⁸ See *DPR RI dalam menyikapi proses reformasi dan berhentinya Presiden Soeharto*. 1998. Jakarta: Sekretariat Jenderal DPR.

had to play a role balancing the executive power, otherwise the authoritarian government could return.

At that time the DPR was still elitist in nature, concerned only with its *status*. With this elitist culture, the DPR only reacted to bills proposed by the government. As in President Suharto's time, the DPR Leadership also perpetuated the idea of a hierarchy of DPR members, and thus the practice of oligarchy.

Ketua Rapat (Budi Harsono) ...hampir seluruh DIM sudah kita bahas hanya dua DIM yang kita tunda, karena masing-masing Fraksi masih menunggu petunjuk dari Pimpinan Fraksi dan Ketua Umumnya...(Minutes Law 4/1999, Working Meeting-7, 15 December 1998 p. 1196)

The Chairman (Budi Harsono): ...almost all DIM issues have been discussed, only two issues remain to be discussed as each faction waits for approval/guidance from the faction leadership and the party chair.

This quotation shows that the oligarchic practices were common in the DPR, and even regulated in the procedure. The main decisions would be reached by the leaders (at either DPR or factional level) and party chairs. The tradition of awaiting guidance from leaders to settle certain issues was common and reflected within the law. Later, in the amended constitution, the DPR would be given greater power, but with the same traditions of hierarchy, status and oligarchy still holding in the DPR, no significant change occurred there.

4.2.2 The legislative process

The legislative process of Law 4/1999 ran in a different way than that described in Figure 4, shown in Chapter 3, although the fundamental practice remained the same. In 1999, the legislative process still consisted of four steps in the discussion stage (*Pembicaraan Tingkat I-IV*); it had not yet been simplified to two levels.

In detail, the discussion of Law 4/1999 began on 16 September 1998, when the bill was proposed by the government and introduced in the DPR Plenary Session on 2 October 1998 (the government explanation or *Keterangan Pemerintah*). Discussion Stage I of the legislation started but no agreement was reached at this level. Following that, Discussion Stage II started at the DPR Plenary Session on 14 October 1998, when the factions gave their overviews on the bill (Faction Overview or *Keterangan Fraksi*). The government replied to the factions' overviews on 21 October 1998 (Government Reply or *Jawaban Pemerintah*). The government's reply signaled agreement to review the bill in the DPR, but there was still no active conversation or any parliamentary debate during this stage of discussion. Instead, speeches were read out, and agreement was reached only when all the problematic wording in articles of the bill had been resolved. They then proceeded to the next level of discussion.

A special committee with around 50 DPR members, based on the distribution of factions in the DPR, was set up to discuss the bill. Because the bill's content covered topics related to state institution, the MPR and DPR, which were usually discussed in the DPR's Commission III, as well as a regional institution,

which was usually discussed in the DPR's Commission II, the bill was deliberated by a special committee (*pansus*) and a representative from the Ministry of Home Affairs and/or Ministry of Law and Human Right was appointed to represent the government side. Figure 5 below shows the proceeding.

Legislative Process of Law 4/1999 (4 steps of discussion)

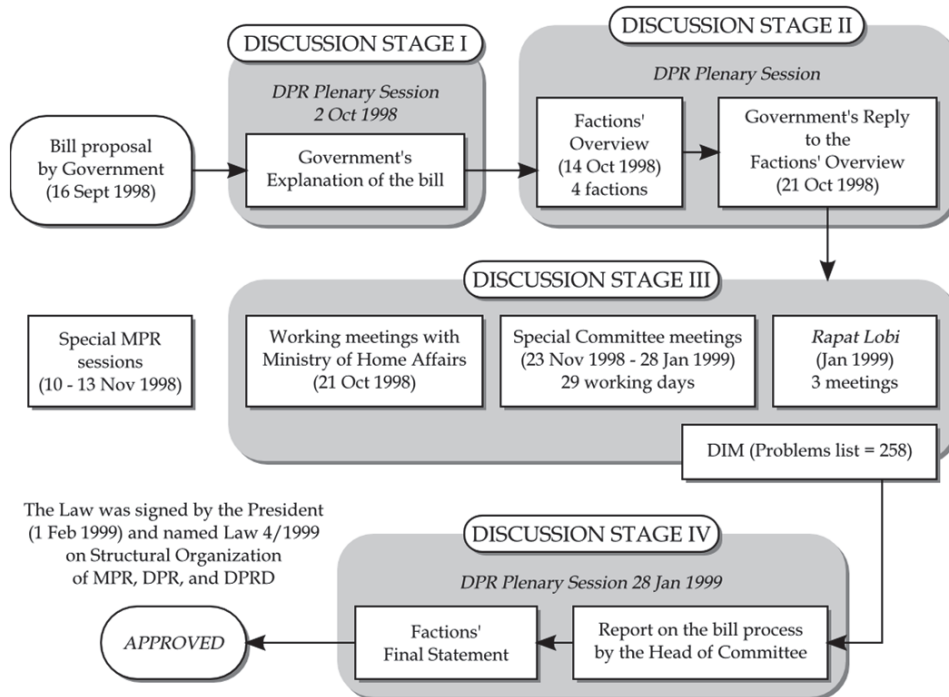


FIGURE 5 The legislation process of Law 4/1999, compiled from the parliamentary debates.

Discussion Stage III began with a working meeting with the Ministry of Home Affairs on 21 October 1998. The first meeting mainly discussed the schedule for future meetings, which could only begin after the Special MPR Session (*Sidang Istimewa MPR*)⁹⁹ to be held on 10 - 13 November 1998. The bill was discussed in special committee meetings, smaller forums - not the plenum - from 23 November 1998 through 28 January 1999, on around 29 working days. From the Fac-

⁹⁹ A special MPR Session, held 10 - 13 November 1998, which mainly addressed important issues of *reformasi*: holding a government that is clean and free from corruption, collusion and nepotism (known as KKN in Indonesian terms), restricting the terms of office of president and vice president, developing regional autonomy, respecting human rights, etc. See Government Publication on TAP MPR No. X/MPR/1998 tentang pokok-pokok reformasi pembangunan; TAP MPR No. XI/MPR/1998 tentang penyelenggaraan pemerintahan yang bersih dan bebas KKN; TAP MPR No. XIII/MPR/1998 tentang pembatasan jabatan presiden dan wakil presiden RI; TAP MPR No. XV tentang penyelenggaraan otonomi daerah; TAP MPR No. XVI tentang politik ekonomi dalam rangka demokrasi ekonomi; TAP MPR No. XVII/MPR/1998 tentang Hak Asasi Manusia (HAM).

tions' Overview on the bill, a DIM list was drawn up, which contained around 258 editorial problems.

Throughout the discussion, there were also *rapat lobi*, meetings special for leaders only. These meetings were held with the factions' leadership (on 6, 13 and 14 January 1999); with the party leaders, government, and committee leadership (on 22 January 1999); and with the factions' leadership again (on 25, 26, 27 January 1999). There are no meeting notes or documents covering these meetings, despite their importance in determining the results, although the holding of these events was mentioned in the meeting proceedings.

After consideration of the DIM was completed and all the editorial problems had been resolved (any disagreement was usually settled during *rapat lobi*), the bill moved to the fourth round of discussion, Discussion Stage IV. This was held during the DPR Plenary Session on 28 January 1999. In a formal ceremony, the plenary was opened with the Head of the Committee that had handled the bill reporting on how the discussion of the bill had proceeded, and after this all DPR factions delivered their final views on the bill in the form of a speech, that is, the Factions' Final Statement (*Pandangan Akhir Fraksi*). Without any delay, the bill was then approved, and sent to the government. It was signed by the president on 1 February 1999 and named Law 4/1999 on the Structural Organization of MPR, DPR and DPRD.

The legislative process followed here was quite different from that followed in western parliamentary tradition. Here there were the various rounds of discussion, the so-called Discussion Stages, which were based on events, instead of the Reading stages¹⁰⁰; heavy reliance on the parliamentary factions rather than individual members; the preference for conducting meetings in a committee or smaller forum, and with everything closed to the public, in contrast to open plenary sessions; and the fact that agreement was reached within a small forum, either by the group of party leaders or a 50-member of committee, instead of by all DPR members. Although in the final stage of the process the bill would be formally approved in the plenary session, this was purely ceremonial, as the bill had already been agreed on by the committee. What could be considered as a report stage was the report of the Head of Committee in the plenary session, preceding the Factions Final Statement in the Discussion Level IV. However, this was not a report on agreement reached in previous discussions, but only a report on the legislative process, how, when, and with whom the deliberations were conducted. *Fraksi* reported their standpoints, based on the wording article they agreed. No ordinary members sitting on the floor were encouraged to speak, only the speakers on the podium, and the House Leadership. There was also no vote in favor or against the bill in the plenary, as voting was best avoided. Other DPR members outside the committee had no voice at all in the contents of the law.

¹⁰⁰ As explained previously, the Reading stages in the parliament refer to the 'passage of the bill' and require agreement by members of parliament before they can proceed to the next stage.

4.2.3 Empowering the DPR and the DPRDs

The law was said to mark the first stage in increasing the power of the DPR compared to that of other (state) institutions. Furthermore, the law offered some prospects for the realization of reform. Following the departure of President Suharto, the challenge was to implement the policies that would ensure a more democratic Indonesia. For the upcoming election, laws were prepared to take into account the new political parties and the reformed election institution, and for this the *Susduk* law was passed.

After the debate, it was concluded, firstly, that the military faction clearly had an important position to play in government, and secondly, that state power was only exercised by the executive, without any clear separation of powers. The law had tried to address both the position of the military and the influence of the executive over the legislature (Minutes of Law 4/1999, Plenum 14 October 1998, p. 175). This showed the willingness of all actors in the DPR to support the reform agenda. It is also quite interesting that the positive remarks were primarily delivered by the military faction (FABRI), whose members had been appointed to the DPR. The doctrine of a dual function had justified the existence of the military in the legislature and in all civilian bureaucracy, from central government down to the village level (Webber, 2006: 400). The military had traditionally been loyal to President Suharto, and so its support for the reform agenda was open to doubt. However, during the discussion of the bill, it was the military faction's critical comments on Indonesian political change that carried the most weight. When the military faction, FABRI, delivered its opinion, the government had to elaborate the meaning of the concept in the bill proposal, even provide expert opinions to support certain new concepts to address the military's arguments. The other, elected, factions did not deliver such smart opinions and only reacted, mostly consenting to the government's proposal.

The military faction in the DPR made an interesting assessment of Indonesian democracy. A military member, Hendi Tjaswadi, delivered a speech in which he declared that the 'post New Order [regime] is the mark of democracy's revival'¹⁰¹. This democracy was not a good one, as the Head of Committee explained: 'Indonesian democracy had always been labelled "guided democracy" or "*pancasila* democracy", which in the end is not democratic'¹⁰². According to the military faction, this stemmed from the following:

Faktor instrumental berawal dan bersumber dari UUD 1945 yang memiliki sifat sederhana, singkat dan luwes. Sifat-sifat ini membuka peluang bagi penguasa untuk secara leluasa memberikan penafsiran subyektif...Sedangkan *faktor kultural* adalah karakteristik budaya bangsa Indonesia yang komunal, paternalistik dan pada umumnya memiliki tingkat sensitivitas yang tinggi.... Oleh karena *faktor budaya* masyarakat yang sangat kental dengan corak paternalistik serta diwarnai dengan kultur neo-feodalistik sebagai warisan kolonialis, menyebabkan tatanan kehidupan politik dan tatanan kehidupan bangsa dalam berpolitik menjadi makin tidak menentu. Akibatnya komunikasi, proses partisipasi dan budaya politik dalam

¹⁰¹ See Minutes of Law 4/1999, DPR Plenary Session, 2 October 1998, The Government Explanation p. 190.

¹⁰² See Minutes of Law 4/1999, DPR Plenary Session, 28 January 1999, Report from the Head of Committee p. 215.

sistem politik nasional mengalami stagnasi dan tidak dapat berjalan sebagaimana yang diharapkan sesuai amanat UUD 1945. Disamping itu, dampak globalisasi dari perkembangan lingkungan strategis membawa bangsa Indonesia memasuki suatu zaman baru yang antara lain ditandai dengan meningkatnya tuntutan atas hak asasi manusia, meningkatnya kepekaan masyarakat akan rasa keadilan, meningkatnya tuntutan kemerdekaan, meningkatnya proses penyelenggaraan negara yang transparan dan demokratis. Minutes of Law 4/1999 DPR Plenary Session, 14 October 1998, p. 174-176, Faction Overview, FABRI. Emphasis added.

The **instrumental factor** rooted in the nature of the 1945 Constitution, which is simple, short and flexible. Its nature allowed the executive to interpret it subjectively... Meanwhile, the **cultural factor** relates to the cultural characteristics of Indonesians, who are communal, paternalistic and generally have high sensitivity.... Therefore, given these strong **cultural factors**, the paternalistic style and neo-feudalism as a legacy of colonialism, the nature of political life and the nation state became increasingly unpredictable. This was a barrier to communication, resulting in a style of participation and political culture in the national political system, which was stagnant and not in accordance with the mandate of the 1945 Constitution. In addition, the impact of globalization and strategic developments in the surrounding area has brought the Indonesian state into a new era, which is marked by, among other things, increasing demands for human rights, for a just community, for more autonomy and independence, and for the implementation of state machinery that is more transparent and democratic.

As explained above, there were indeed structural and cultural problems in the political system. The military faction compared the communal characteristics of Indonesian societies with individualistic societies found elsewhere but said that, for various reasons, Indonesian organizational culture was characterized by patron-client relationships, that were upward-oriented and primitive¹⁰³. The challenge for the reform agenda was to address these weaknesses and transform the DPR into a more powerful body. This implied the existence of a political culture in the DPR that was communal, based on a patron-client relationship, and needed reform, but the military faction did not explain how to improve it.

This law took an important step toward the consolidation of democracy in Indonesia, particularly the concept of democracy. In fact, even during the New Order era, the government had already used 'the language and institutions of democracy' (Ramage, 2005: 445). Terms used in democratic countries, such as 'representation, popular sovereignty, legislation, election, rule of law, courts and the constitution', the structures of a modern state, already existed in Indonesia, but not the real implementation (*ibid*). When middle-class Indonesians became more educated and knew better how democracy should be implemented, the political culture in the Indonesian parliament impeded its progress. The members of parliament only knew the political styles of colonial times and their legacy, Sukarno's personal rule, and Suharto's military-based authoritarian approach (Liddle, 1996: 179-208).

For the local parliaments, the DPRDs, this law did not change much, but the discussion on the DPRDs generally supported change in the regions, and it formed the basis for discussion of the next law on regional governance. In a working meeting on 9 December 1998 (p. 870-1), most factions agreed that the

¹⁰³ See Minutes of Law 4/1999 DPR Plenary Session, 14 October 1998, p. 174-176, Faction Overview, FABRI.

DPRDs should be empowered; the DPRDs should no longer merge as one entity with the regional heads, and their functions should be split up. Most members agreed that, in future, the DPRDs should act as the Regional Legislative Bodies (*badan legislatif daerah*) and the executive governments would become the Regional Executive Bodies (*badan eksekutif daerah*). The separation of regional-level power, between the DPRDs and the regional heads, was an important measure to address the issue of regional separatism. However, even though the initial discussion of empowerment had already been started during the consideration of this law, this view did not at this stage carry the day, and it was only realized later, in the law on local governance.

4.2.4 Policy Implication of Law 4/1999

In terms of actual content, this law only regulated the routine issue of representation in the state institutions. The result of the deliberation process was agreement on the number of members, but there was no significant change to the structure of either the DPR or the DPRDs. However, the need for empowerment of the legislatures was raised during the discussion of this bill, and this issue was taken up again during discussion of the constitutional amendment. Some degree of empowerment for the DPRDs was then realized in Law 22/1999. Law 4/1999 regulated the number and composition of members inside the state institutions with respect to only MPR and DPR. The issue that gained most attention was of course the appointed military seats, which reduced and reflected the government's commitment towards *reformasi*. Also, despite the demand within the reform movement for democracy, the DPR still used its outdated procedure in enacting laws, even if the military faction had shown its commitment to democracy.

With regard to the DPRDs, the question of redistributing responsibility for regional affairs was first aired during the debates on Law 4/1999. The DPRDs were said to have been formed as regional legislative bodies, but this view was only explicated in the Law on Local Governance, Law 22/1999, which is discussed below.

4.3 The Law on Regional Governance, *Pemda* Law (Law 22/1999)

4.3.1 Overview of the law

During the transition government, the regions - especially those with abundant natural resources - demanded that the authority of the central government should be reduced and they threatened to secede from the Indonesian state if their demands were not met. Under this pressure, the central government granted regional autonomy through the enactment of Law 22/1999 (and Law 25/1999 on Fiscal Balance). The law regulated the policy of decentralization, transferring responsibility from the center, including responsibility for regional

revenues and budgeting, to the regional governments. It laid down that most regional affairs were to be conducted at district/city level, leaving the province as a coordinating agent for programs affecting two or more districts. Thus, the provinces had limited autonomy, while districts had authority in almost all aspects of governance, except those belonging to the center¹⁰⁴. The policy seemed to highlight the role of the provinces in the exercise of presidential power within the regions¹⁰⁵. As is commonly known, the main reason for this was the risk of attempted secession, because a province covers a bigger geographical area than a district and thus arguably might easily form a new state, as happened in the province of East Timor, which seceded from Indonesia in 1999. Districts/cities are smaller in size and would be less eager to separate from the united country. Giving regional autonomy was a compromise, designed to placate resource-rich provinces, such as East Kalimantan and Riau (rich in oil and natural gas), so that they would not end up like East Timor.

As a result, the law changed the relationship between provincial (Level I) and district/city (Level II-lower) governments. Previously, the district/city governments had had to report to the provincial government since, in the hierarchy, districts/cities were under provinces¹⁰⁶. However, with the new law, there was no longer a hierarchical relationship, and thus 'the district/city heads would be responsible to the local parliament, the DPRD's' (Alm et al., 2001: 85). The elimination of the hierarchy was shown in the changed name. Article 121 stipulated that provinces were no longer Region Rank I (*Dati I*) and districts/cities were no longer Region Rank II (*Dati II*); instead, they became known as provinces, districts/regencies and cities/municipalities.

The law also changed the power of the DPRD's. Previously the DPRD's, like the national DPR, had been marginalized in politics. The DPRD's had been part of the regional government, with the emphasis on the role of the regional heads over the councils. The law then was amended so that the DPRD's were turned into legislative institutions as partner of the executive, namely, the regional heads.

This change gave the DPRD's more important position. For the first time, the law separated the regional powers, specifying that the DPRD's were the Regional Legislative Bodies (*Badan Legislatif Daerah*) and the regional governments the Regional Executive Bodies (*Badan Eksekutif Daerah*) (Article 14), and guaranteeing more clearly the DPRD's' tasks and functions. The DPRD's' task included electing the regional heads (governor, regent/mayor) by proposing their appointment and dismissal; enacting regional laws or regulations (*Perda*), including the regional budget (APBD); and overseeing and ensuring the accountabil-

¹⁰⁴ Article 7 of Law 22/1999 guaranteed that each region would have all authority of the government except for foreign affairs, defense and security, justice, monetary and fiscal issues (currency), religious affairs and others. Note, that the term 'others' was cautiously applied so that the central government might be able to re-control regions under this stipulation.

¹⁰⁵ The governor as the head of a province is said to be the president's right hand in the region. See Minutes of Law 22/1999, DPR Working Meeting, 17 March 1999, p. 735.

¹⁰⁶ The provinces, headed by the governor (*gubernur*), represented the central government in the regions.

ity of the regional heads. The DPRD's task of electing the regional head was thus restored. Previously, even when the law stated that the DPRD's should elect the heads, in practice, the candidates had to be either first approved, or were actually appointed, by the central government. Thus, the new law implemented real changes and was seen as an initial effort to empowering the DPRD's.

The law also focused on decentralization. It was expected that by devolving authority to the regions, the regional government would be made more responsive to citizens' needs and the amount of public services would correspond better to the needs of each region. In other words, it recognized differences instead of underlining similarities with other regions nationally (Alm et al., 2001: 86). Article 1 on regional autonomy highlighted the role of "local community's interests, initiatives and aspirations" under the scope of "the Unitary State of the Republic of Indonesia". In cases of regional conflict, such as in Aceh and Papua, there was no limit to what could be granted under regional autonomy as long as the state remained united. Subsequently, in order to avoid the threat of secession, the law delegated wider powers than the regions could have imagined. The range of issues covered almost all aspects of regional government: regional authority; the regional heads (including their election and the election committee); financial affairs (income and tax); lower levels of government (sub-district and village) and urban areas; public officers; and cooperation with other regions.

Despite the demand for regional power and the threat of secession, the introduction of regional autonomy under this law in fact took place too hastily. The goals and strategies of decentralization had not yet been explained and discussed, and the central government, including the DPR, was unsure about 'what it wanted to achieve through decentralization' (Alm et al, 2001: 87). The law was far from a 'well thought-out plan' (*ibid*). The law sought to cover too broad a field, and further guidance was needed on many issues. The chaotic implementation of decentralization came out later, when the lack of structure in the law, exacerbated by early local interpretations of the law, became apparent. The problems with the implementation of the law also stemmed from the outdated deliberation of the bill in the DPR. In later years, a number of issues covered in this law were dealt with again in other laws, such as the Law on Regional Election, Law on Village, and Law on Regional Finance, Budget and Revenue. These laws showed that Law 22/1999 did indeed cover very broad issues.

4.3.2 The legislative process

The legislative process of Law 22/1999 examined here will show the confusion among DPR members when they were enacting this ground-breaking law. Due to the urgent demand for reform and for regions to govern themselves, the government prepared the bill with haste. Then the law was discussed quickly, with only three months spent on its deliberation. The bill was introduced in the DPR Plenary Session on 10 February 1999 (Discussion Stage I), and Discussion Stage II started in the DPR Plenary Session on 19 February 1999, when the four fac-

tions (FABRI/military, FPP, FPDI and FKP/*Golkar*) gave their overviews on the bill. The government replied to the factions' overviews on 26 February 1999. This took place in the DPR Plenum in the usual format, meaning that one person from the government and one from each *fraksi* came to the podium to deliver a speech. Other members of parliament listened, and did not get the chance to question the speaker on the podium. This is shown in Figure 6 below.

Legislative Process of Law 22/1999 (4 steps of discussion)

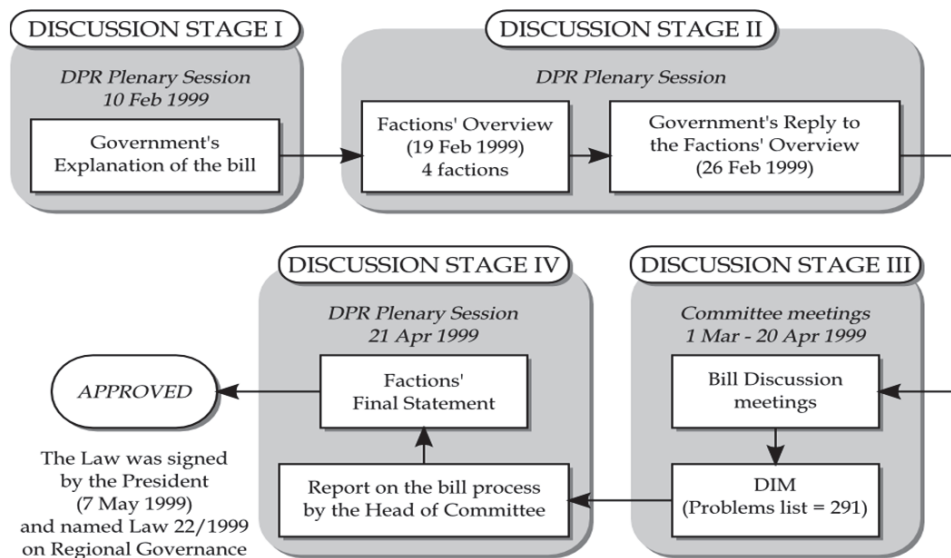


FIGURE 6 The legislation process of Law 22/1999, compiled from the parliamentary debates.

Only in the committee meetings at Discussion Stage III did real discussions on the bill begin, but this again was by only some 50 DPR members. The meetings ran from 1 March to 20 April 1999. During this time, 291 editorial problems were discussed from the DIM list, which was drawn from the bill and the Factions' Overview. Using the same old procedure, DPR members did not seriously question the new issues on decentralization or the proposed different character of the DPRDs that was introduced for the first time in the bill. The legislative procedure did not allow members to ask anything; all they could do was react toward the wording of the articles.

After the editorial problems had all been deliberated upon, the bill moved on to the next stage. Discussion Stage IV was held in the DPR Plenary Session on 21 April 1999, preceded by the report on the procedure of the meeting and information from the Head of the Committee, and followed by the Factions Final Statement, when all the DPR factions delivered their final views on the bill. The bill was approved and sent to the state secretariat, and then signed by President Habibie on 7 May 1999; thus was named Law 22/1999 on Regional Governance.

Like the legislation process for Law 4/1999, this process involved actual deliberation only in committee meetings: decisions were reached by a small committee and agreed on by 50 DPR members (and the government) instead of by all members in the plenary session, although the law was formally enacted in the plenum. The legislative process also still ran in four stages of discussion.

4.3.3 On the DPRD's

The demand for decentralization had economic and political motives (Amri, 2000: 4). The regions wanted a share in economic power, which had previously been controlled by the central government. Politically, citizens in the regions also wanted to be involved in the official administration of public affairs; they wanted something that was closer to where they lived. Law 22/1999¹⁰⁷ addressed this demand from the regions, emphasizing that the new relationship between state and regions was based on the principle of decentralization, and on the district/city level (previously called as Region Rank II or *Dati II*). This principle affected the relations between the province and district/city so that the district/city was no longer subordinate to the provincial government (that is, it no longer had a hierarchical relationship to it), and the executive and legislative functions were strictly separated. The division of the DPRD into two types at the regional level, simply followed the pattern of the Dutch colonial administration, and this was never reviewed whether regions need to have two level of DPRD's. However, such leveling may suggest a strategy against the creation of powerful regional centers.

The new Law 22/1999 ensured that the regional power was held jointly by the DPRD as the Regional Legislative Body, and the regional head as the Regional Executive Body. As stated by the Minister of Home Affairs at that time, Syarwan Hamid, the definition of the regional government within this law differed from Law 4/1999¹⁰⁸, and he further stated that:

...Pemisahan antara DPRD dengan kepala daerah dimaksudkan untuk lebih memberdayakan DPRD dan meningkatkan pertanggungjawaban Pemerintahan Daerah kepada rakyat. ...DPRD memiliki hak yang lebih luas diharapkan mampu menyerap dan menyalurkan aspirasi masyarakat, dan melaksanakan fungsi pengawasan secara efektif. Pada dasarnya, hak-hak DPRD tersebut adalah sama dengan hak-hak DPR. (Minutes of Law 22/1999 DPR Plenary Session, 10 February 1999, p. 109 Government Explanation, delivered by the Ministry of Home Affairs).

...the separation between the DPRD and the regional head was meant to empower the DPRD and increase the sense of accountability of the regional government to the people...With its wide authority, we expect that the DPRD will be able to absorb and channel people's aspirations and carry out its oversight function effectively. Basically, the DPRD's rights are similar to the rights of the DPR.

¹⁰⁷ Together with Law 25/1999 on fiscal balance between the state and regions, both laws are usually discussed when studying decentralization in Indonesia. In the present study, Law 25 is not discussed, as I focus on the DPRD, and not on decentralization.

¹⁰⁸ See Minutes of Law 22/1999 DPR Plenary Session, 26 February 1999, p. 180.

With this good intention, the government expected that the DPRD and citizens in the regions would recognize their increased and upgraded authority and behave accordingly, running the administration and passing the necessary regulations (*Perda*). To emphasize the empowerment of the DPRD, the order of the article in the law was changed, with the DPRD mentioned before the Regional Head¹⁰⁹. This was in contrast to the previous law, which underlined the powerful role of the regional head. However, changing the order of the article so that the DPRD was placed before the regional head was not enough in itself to ensure the empowerment of the DPRD; this did not automatically change the people's perceptions of the status of the regional head. The important point that resulted from the law was that the DPRD got a strong position as a legislative body within the region, with powers even to legislate on certain local regulations and on its own working procedures, and this would benefit DPRD members themselves.

The chair of the committee in the DPR during the deliberation process had asked whether the central government would be able to control 310 regions with their new decentralized power¹¹⁰. The same question was also asked by the many regional heads. The government's reply was simply that since the regions had demanded regional autonomy, they must be ready to deal with the consequences, and the province must help the center to overcome any problems¹¹¹. This was not a satisfactory reply, as pointed out by the military and PPP factions¹¹², but the government promised to make further provisions.

This debate actually raised two important issues. First, DPR members clearly were not aware of the government's agenda for delivering the policy of decentralization. Not only during particular debates, but from the introduction of the bill, the same questions came up during the deliberations, such as why there was no hierarchic relationship between province and district; why the DPRD needed to be empowered; and how the center would control the regions. If the policy was unclear to DPR members, it is no wonder that it was also unclear to the regions how they were going to implement it. Second, 'controlling' the regions had always been the (central) government's responsibility; now the DPR as the national parliament was unlikely to play a large role in this. There was also no debate on how the DPR as the parliament would oversee the implementation of the law.

The government did not answer the question put by the chair of the committee clearly, and at the following meeting, the next day, the government complained that 'if empowering the DPRD was not considered appropriate, the spirit to empower them would weaken again'¹¹³. It was likely that the government thought that a positive intention was enough to guarantee that decentralization would occur sooner rather than later. After this remark, the delibera-

¹⁰⁹ See Minutes of Law 22/1999, DPR Working Meeting, 22 March 1999, p. 948 – 951.

¹¹⁰ At that time the number of regions was 310. Minutes of Law 22/1999, DPR Working Meeting, 16 March 1999, p. 601.

¹¹¹ See Minutes of Law 22/1999, DPR Working Meeting, 16 March 1999, p. 603 – 4.

¹¹² See Minutes of Law 22/1999, DPR Working Meeting, 16 March 1999, p. 602.

¹¹³ See Minutes of Law 22/1999, DPR Working Meeting, 17 March 1999, p. 673.

tion in the committee continued without anyone bothering to draw attention to the fact that the important issue had not been answered by the government. As usual when queries were not answered satisfactorily, the discussion would be continued in a smaller forum, where minutes and notes were not taken. For this specific law, the government promised to prepare around 30 Government Regulations (*Peraturan Pemerintah*, which were commonly provided if a law needed further specification) and 197 Presidential Regulations (*Keputusan Presiden* or *Keppres*). However, this promise was not fulfilled¹¹⁴.

With the DPRDs having been granted many new functions, the law only stipulated that all the functions would be regulated by the internal procedure of the DPRD (*Tatib DPRD*)¹¹⁵ itself. Doubt arose on account of this clause; as one member from the PDI faction (Buttu R. Hutapea) stated, never in history had the DPRD *Tatib* gone into such meticulous detail. He said that in his 20 years of experience as a DPRD member, the DPRD would traditionally seek instructions from the central government before doing anything, and this was true above all regarding the election of the regional head¹¹⁶. Despite all the doubts raised by the remarks, in the end all the DPR members agreed that the regions must know what was best for their own citizens, and thus should regulate themselves according to what they needed¹¹⁷. They noted that it had been common until now for the DPRDs to implement policies only if relevant guidelines were available. This indicated, they thought, that the DPRDs would not be ready to take on as much power as they were now being given under this new law. DPR members expected that the central government would provide the regulations as promised.

The central government did not fulfill its promise to provide the necessary regulations, and due to the lack of policy and administrative guidance, it is no wonder that the decentralization and the performance of the DPRDs were somewhat chaotic in practice. Unfortunately, throughout the consideration of the law, neither the government nor DPR members revealed any knowledge of how to draw up specific guidelines on how to implement the decentralization and how the DPRDs might support the policy. As Alm et al. (2001) noted above, the lack of any clear policy and the absence of clear guidance caused the confu-

¹¹⁴ When the law was revised in 2004, the initiator of Law 22/1999, who was the former Minister of Home Affairs, Ryaas Rasyid, said that for an effective implementation of the policy of decentralization, Law 22/1999 at that time needed further regulations (or law ordinances) around 30 Government Regulations (*Peraturan Pemerintah* or PPs) and 197 Presidential Decree (*Keputusan Presiden* or Keppres), which were not provided by the central government. Without the proper guidance, the new policy had, surely, caused the chaotic implementation of regional autonomy, and the central government ought to have been responsible for this (Minutes of Law 32/2004, DPR Working Meeting, 2 August 2004, p. 35-45).

¹¹⁵ The Minister of Home Affairs said that 'everything would be distributed to the DPRD, all mechanism, including on how to elect the regional head, and the mechanism would be regulated by DPRD *Tatib*' (Minutes of Law 22/1999, DPR Working Meeting, 19 March 1999, p. 768).

¹¹⁶ See Minutes of Law 22/1999, DPR Working Meeting, 19 March 1999, p. 769

¹¹⁷ FPPP (HM Alfian Darmawan): 'we gave all [mechanisms] to the regions...we experienced, that if we regulate ourselves [*sic*], [the regulation] won't be beneficial anyway (Minutes of Law 22/1999, DPR Working Meeting, 23 March 1999, p. 1086).

sion in the regions. The regional heads and the DPRD were confused when implementing decentralization based on their own regional plans. The policy would be foreign to DPRD practice, because not only had the DPRD never conducted themselves independently before, but it would also be strange for them to pass subsequent regulations using only the internal procedure of the DPRD *Tatib* as the guidelines. The implications of the law are discussed below.

On the positive side, the decentralization law was seen to have successfully reduced regional intentions of seceding, as the law made it easy to establish a new region. From the national perspective, this certainly was an important outcome. Decentralization was definitely successful in some regions, like in the new province of Gorontalo, which used to be part of North Sulawesi Province¹¹⁸ (PGSP Project, 2011), but such success was not a nation-wide story.

4.3.4 Policy Implications of Law 22/1999

In terms of the regions, the new law (Law 22/1999), enacted by the “reformed” parliament was considered extraordinary, a “big bang approach”, as the law marked Indonesia adopting ‘the world’s most decentralized system’ (Crouch 2010: 87). The law gave certain concession to the regions, allowing them to regulate themselves and to make decisions affecting their own prosperity. Disguising the law as a means of DPRD empowerment, insofar as it let the DPRD legislate the rules of the game, the center in fact made the DPRD a scapegoat for the lack of readiness towards decentralization. During deliberations on the bill in parliament, the central government promised to provide guidance as to how the law should be implemented, but this never appeared.

Unintentionally, the law also facilitated the establishment of new regions, at both provincial and district levels. When the law came into force in 2001, the new number of regions increased 26.9% for provinces (from 26 to 33) and 45.2% for districts/cities level (from 303 to 404)¹¹⁹. The new regions primarily highlighted the importance of the “native son” (*putra daerah*), meaning that it made easier for natives of the regions to hold certain local government positions, regardless of their merits and abilities. This not only favored certain tribes and stressed personal status, but also undermined the abilities of others and created conflict with other tribes living in the same regions previously. Favoring certain tribes over others in a multi-tribal country such as Indonesia would undermine the ideals of pluralism and diversity in the country that had always been known as friendly and tolerant.

With their new legislative power, the DPRD became more confident, since they were now in equal position with the regional heads. The DPRD then

¹¹⁸ Gorontalo separated itself from the main province of North Sulawesi due to its differences in tradition and history. Gorontalo always claimed that it differed from North Sulawesi and could not agree with all the policies implemented by the main province. The success of Gorontalo province was probably due to its self-government, which was in accordance with the wishes of the Gorontalo people.

¹¹⁹ See government publication for the number of regions (*Daerah Otonom Indonesia*, 2013).

enacted local regulations (or *Perda*) as ordinances to implement Law 22/1999. *Perda* produced after enactment of the law were considered positive for the region, but at the same time, they also created tensions. This was particularly seen in relation to the regional heads, but it also produced controversial *Perda*, such as a *Perda* on Islamic Law (known as *Perda Syariah*) and *Perda* on Taxes and Revenue, as discussed below.

The DPRD members produced local regulations not to develop public services but to regulate unimportant matters. Many DPRD members throughout Indonesia¹²⁰ enacted *Perda* on implementing Islamic law (*Perda Syariah*). The *Perda Syariah* stipulated that Muslims must adhere to Islamic teachings and behavior, such as following approved Islamic dress codes, reading the Koran regularly, and even passing Koran-readings as a requirement for registering for a position in the civil service. Such Islamic *Perda* also involved discrimination primarily against women and non-Muslim citizens, and aimed to control citizens who were not leaders (Jati, 2013: 312). Most Indonesian laws, even the constitution, already guaranteed human rights and equality; it was set down that one's behavior to others must be moral and ethical. Indonesia is a secular country, not an Islamic one. Thus, passing *Perdas* that introduced 'Islamic sharia' as the basis of public morality was similar to downgrading Islamic law as a religious value, especially if the religious values were also used to impose rules upon non-Muslims. *Perda Syariah* was clearly contrary to the human rights granted by the constitution, which stood higher in the legal hierarchy¹²¹.

Perda for taxes and levies were also heavily produced after the Law 22/1999 was in force in order to create more revenue for the regions. The regional budget was granted by the central government. Around 70% of it was allocated to paying the salaries of government officials, so additional finance was needed to run the regional programs or policies. Many unusual taxes, such as parking fees and additional airport fees, were levied, but these often discouraged new investment in the region. During the period of financial crisis and in the face of the need to attract investment, the *Perda* taxes were extremely detrimental.

As a separate body from the regional executive, the DPRD questioned every policy implemented by the head of the region. It even went so far as to reject the annual progress or accountability reports of the head for political reasons¹²².

¹²⁰ District/city governments in the provinces of Aceh, South Kalimantan, West Nusa Tenggara, West Sumatra, Tangerang etc passed *Perda* on the wearing of headscarves for Muslim women and Koran-reading skills for gaining certain positions in the government (Jati, 2013: 316).

¹²¹ Law 10/2004 in Indonesia relates to the legal hierarchy and states that the Constitution is the highest law in the country, followed by MPR Decree (*Ketetapan/Tap MPR*); Laws (*Undang-undang/UU*); Government Regulations acting as laws (*Peraturan Pemerintah pengganti UU*); Government Regulations (*Peraturan Pemerintah/PP*); Presidential Decrees (*Keputusan Presiden/Keppres*) and Local Regulations (*Perda*). Under this law, regulations or laws passed at the lower levels should not contravene those higher up. Thus, *Perda* should not conflict with human rights (that is, should not impose religious principle), as the position of *Perda* is below that of the Constitution.

¹²² When an accountability report by the head of a region was rejected, the head could not run in the upcoming election as a candidate for head of region.

While previously power in the regions had been in the hands of the regional heads, after the law was enacted, it was the DPRD's that ruled the regions. In the face of possible impeachment or of losing the chance to be re-elected, the regional heads had no option but to do what the DPRD's wanted, which usually involved increasing the amount of the budget used to pay DPRD members. Posts for DPRD members included opportunities to travel all over the country and even abroad, and allowances for training or community outreach activities, were created as ways of getting more money. DPRD members became united as single institution against the regional heads in order to get what they wanted, basically a bigger share of the budget and more allowances.

When studying the decentralization law of 1999, it is clear that there was no obvious objective or purpose¹²³ for decentralization in the country. In fact, many have argued that:

‘the formation of new local governments in Indonesia has nothing to do with economic efficiency and is more a matter of entertaining local political interest... giving the opportunity for wasting economic resources and for creating more corruption through local empowerment’ (Brojonegoro, 2009: 199).

The reason for giving the DPRD's new legislative power was also unclear. The parliamentary debate did not reveal much about the rationale behind giving the DPRD's a legislative character. It was likely that DPRD empowerment simply followed on from the DPR's empowerment. When a member from a military faction asked the government about this¹²⁴, it was agreed that the matter would be discussed later in another small meeting, such as in a so-called Formulation Team (*tim perumus*) or Small Team (*tim kecil*). However, no notes of any such discussion have survived, or none at least are available. It can only be guessed that both parties, the DPR and government, agreed on and proceeded with the policy of decentralization while both were quite ignorant of its purpose.

The published debate only recorded polite exchanges between member of parliament and the government representatives. Many claimed that this was part of Indonesia's ‘tradition of consensus politics’ (Scheneir, 2009: 308), which aimed to reach an agreement that everybody would accept. Of course, there would be many (political) reasons why the decentralization policy was not articulated clearly in either the laws or the regulations. However, administratively, one of these reasons also stemmed from the legislative process within the national parliament, where complicated matters that arose in one meeting were passed on and delegated to even smaller meetings, a procedure that resulted in increasingly unclear guidance on the ultimate purpose of the policy of decentralization.

There were considerable protests over the Koran-reading requirement, many complaints from businessmen, and outcry on the part of many ordinary people about corrupt behavior within the DPRD's. The DPRD's (and the regional

¹²³ As stated by scholars focusing on decentralization topics such as Alm et al (2001: 88), Amri (2000) and Bell (2001).

¹²⁴ See Minutes of Law 22/1999 p. 100.

executives) demonstrated their inability to understand their roles and functions within the regions (Suwandi, 2002: 15). Another direct consequence of the law was an increase in the number of districts throughout Indonesia, which had effects at the national and regional levels. The national institutions - both the DPR and the government - opened channels through which to facilitate the creation of new regions. Local elites demanded the establishment of a new region to differentiate their unique area from other regions, as well as to satisfy their desire for regional power, which had previously been enjoyed only in circles close to Suharto. Their efforts paid off, and money was provided to supporters in the DPR so that the elites in the new regions were guaranteed positions¹²⁵. Due to these problems, the law was revisited again and revised in 2004. The DPRD's right as a legislative body was withdrawn. The DPRD once again became just one cog in the regional government machine and could only enact local regulations with the consent of the local executives. This revised law will be examined in the next chapter.

4.4 Conclusion

The laws enacted in 1999 marked the start of the process of parliamentary empowerment at both national and regional levels. However, this was driven primarily by the *reformasi*, and in consequence its effects were only short-term instead of the longer time period that is usually expected with policies whose consequences are so wide-ranging and serious. This chapter has looked at the context in 1999, including the political situation and the old political configuration in the DPR. Although the members of the DPR at that time had been elected during President Suharto's regime, they were also affected by the reform euphoria. Using old parliamentary procedure, the members of the DPR tried to show that they were also in favor of reform. In this chapter, we have also looked at the general content and the legislative process of two laws related to the DPRD's, Law 4/1999 and Law 22/1999. The overview of the legislative process of the two laws focused particularly on the event-based nature of discussion, the importance of factions, the style of deliberation, and the pattern of decision-making in small committees or private meeting of leaders (*rapat lobi*), instead of with the involvement of all DPR members. The DPR also treated as a law-making machine, showed in the speed in passing the law and bureaucratic manner in deliberation (reacting on article wordings).

Law 4/1999 was mostly concerned with the number of members in each elected institution, the MPR, DPR and DPRD's, while Law 22/1999 addressed the new policy of regional autonomy/decentralization and the empowerment of the DPRD's. Although they both went through the same process of deliberation, based on solving editorial or wording problems, the implications

¹²⁵ According to the law, a new region can be established if three sub-districts want to unite into one district, and three districts/cities want to unite into a province.

of the enactment of the two laws varied. Law 4 had little significant impact at all, but the implications of Law 22 were massive. After the enactment of Law 22, the DPRD had more power and arguably bullied the regional heads into doing what they demanded. The local regulations, or *Perda*, such as the controversial regulations regarding Islamic sharia and taxes, created tensions, discriminating against women and various group of citizen while favoring law-makers.

The root of these problems can be considered to be the on-going elitist political culture. Government officials had access to a lot of information, but did not even share information about the agenda with DPR members. Thus, the DPR had no idea about the intentions behind certain clauses or articles. For example, in the cases discussed here, the DPR did not know why the number of MPR members was reduced from 1000 to 700. With respect to decentralization, the government did not clearly state its objectives and purpose and the DPR did not understand what was required; it was therefore unable to carry out its legislative functions satisfactorily. Neither law was satisfactory, and the following chapter will discuss the revisions that these two laws later underwent.

5 THE PERIOD 1999 - 2004: THE ADOPTION OF THE CONSTITUTIONAL AMENDMENT

It is a fight between those who want to re-establish democracy and those who want to suppress the people and take away their sovereignty.
- *Time*, 22 February 1999¹²⁶

The transition government succeeded in holding an election for a new legitimate government on 7 June 1999. This has been described as 'the first genuinely free election since 1955' (Crouch, 2010: 26). Thanks to the new laws enacted during the transition period, especially in relation to elections and political parties, there were more than 200 new political parties (Mietzner, 2008: 438). The election committee certified 48 political parties to run in the election and 21 of them gained seats in the DPR. Apart from minor problems related to voter registration and relatively insignificant conflicts regarding the results, the election ran smoothly by international standards, with high voter turnout at 93% (International Idea, 2014).

The *Golkar* party, chaired by Akbar Tanjung, and the PPP chaired by Hamzah Haz, survived despite their background as 'old' parties¹²⁷. It was a considerable achievement for *Golkar* to be able to continue and rise as a new moderate political party: there had been strong predictions that it would disappear with Suharto's departure (Mietzner, 2008: 438). Under the new election law, the privileges of *Golkar* had been abolished and all the political parties were given a fair chance. *Golkar* thus became a regular political party.

Known figures from the *reformasi* also created new political parties, including Megawati Soekarnoputri with her *Partai Demokrasi Indonesia-Perjuangan*/PDIP; Amien Rais with his *Partai Amanat Nasional*/PAN; and Abdurrahman Wahid, otherwise known as Gus Dur, with his *Partai Kebangkitan Bangsa*/PKB. New figures also arose with new political parties, such as Hidayat Nur Wahid

¹²⁶ Quoted from Anthony Spaeth, 'Leap of Faith,' *Time*, 22 February 1999. The remark was said by Mochtar Pabotinggi.

¹²⁷ The PDI party members moved to Megawati Soekarnoputri's new party, PDIP, or formed other new parties. The PDI from the New Order era then no longer existed.

from *Partai Keadilan*/PK¹²⁸ and Yusril Ihza Mahendra from *Partai Bulan Bintang*/PBB. These parties were extremely fluid in their ideologies, whether Islamist, nationalist, or secularist, and could not be firmly categorized as ‘right’ or ‘left’. The members of one political party often transferred to another if the former did not satisfy their political ambitions, without any ideological considerations. For instance, a candidate or a member of parliament (MP) might jump from the Islamic party, the PKB, during one election period to the nationalist party, the PDIP, during the next¹²⁹. Party cadre organization was poor and based on ‘personal contacts and access to networks of patronage’, which emphasized the importance of *money* for advancement in a political career (Fealy, 2001: 100-101).

Despite their image as Islamic parties (and the use of green, which is traditionally considered an ‘Islamic’ color in relevant context), the PPP, PKB and PBB (and even PK) did not clearly declare any intention of encouraging a strong Islamic ideology, nor did they present themselves as right-wing parties. Instead, they declared support for the Indonesian *Pancasila* (five principles) as the state ideology¹³⁰. The Indonesian political parties were also known for their corruption, with members apparently quite happily following the direction of their party leaders¹³¹.

The law enacted in 1999 facilitated a relatively smooth transition from the old government to the new, reformed one, as seen in the peaceful election that took place on 7 June 1999. Although Habibie’s presidency was considered merely transitional, its nature and the strong demand for reform, together with the important legislation passed then, laid a firm foundation for the period that followed it, 1999 - 2004. This marked a real period of change in Indonesian politics. Also during this period, Indonesia continued its transition away from authoritarianism and saw new parliamentary members amending the “sacred” consti-

¹²⁸ This party was established by Islamist students based on Egypt’s Muslim Brotherhood (Liddle and Mujani, 2007: 835), and later changed its name to PKS-*Partai Keadilan Sejahtera* in 2003. The party is known for its ‘highly committed membership’ and good cadre organization, which is exceptional in Indonesian party politics (Fealy, 2001: 101; Aspinall and Mietzner, 2010: 10)

¹²⁹ For example, the politician, Rieke Dyah Pitaloka, jumped from PKB to PDIP.

¹³⁰ See the explanation of *Pancasila* in Chapter 2. The first principle, Believes in One God, (*Ketuhanan yang Maha Esa*) was historically controversial, as in the 1950s, orthodox Islamic parties wanted Indonesia to become a fully Islamic country, by adding seven words to the effect that Muslim adheres to Islamic sharia. However, it was then agreed that the first principle accommodated all religions practiced in the country, including basic beliefs/faith (*aliran kepercayaan*) (see the discussion in Morfit, 1981: 840-841). During the constitutional review in 2002, the PPP and the PBB took the opportunity to argue for the insertion of ‘an obligation for adherents of Islam to carry out sharia law’ into Article 29 on religion, which accordingly changed the first principle in the *Pancasila* (Ellis, 2002: 32-33). Due to their fear of the country becoming an Islamic state, the secular nationalist parties (such as the PDIP and *Golkar*) then proposed that the Preamble of the constitution, in which the *Pancasila* was stated literally, not be amended. By doing so, they expected to end the argument.

¹³¹ See the discussion regarding Indonesian political parties in Fealy (2001), Mietzner (2008) and Tomsa (2008).

tution¹³², as another attempt was made to lay more democratic foundations for the future. The installation of the new political parties and the survival of old players in parliament, such as *Golkar* and the military, represented a struggle between the status quo and reform, as illustrated by the quotation at the beginning of this chapter. The pulse of reform weakened, and those in favor of the status quo revealed their original interest in the DPR, which related mostly to the financial gains made possible by access to the budget. The conflict between continuity and change was seen in the fact that the old procedure was used for the reform. The free democratic election held in 1999 was the first of its kind since 1955, but the president was still elected, or perhaps rather appointed, by the MPR assembly. The 1945 Constitution was amended, but it was patched in places rather than revised as a whole; that is, articles were crafted on the basis of the old constitutional document and more democratic values were inserted into it, instead of creating a totally new constitution. Moreover, the old players, like the military, were still involved in the reform process, despite their previous support for Suharto's authoritarian regime. When Suharto left the presidency, these military and *Golkar* members and previous Suharto supporters did not lose their legitimacy within the DPR or in the government bureaucracy.

This chapter discusses the results of the legislation enacted during the previous period. With the arrival of the new political parties inside the DPR, the legislative process became simplified; however, the event-based approach was retained and the parliamentary procedure accommodated the many political parties and the new elites. The laws enacted during this period included the *Susduk* law and the *Pemda* law (Law 22/2003 and Law 32/2004 respectively), which resulted in revised versions of the laws discussed in the previous chapter. These laws, which concerned the DPRDs, will be looked at here against the background of the DPR members who enacted them during the DPR session 1999 - 2004. DPR members, or the parliamentary elites, did not pay much attention to the fact that they were stripping the DPRDs of their political power as legislative bodies and only leaving DPRD members with the *status* of the council members, without any significant power. The status of the DPRDs, which looked like a parliamentary institution, was no longer going to be that of a people's representative council, but of an institution that generated income for the local political parties and for members of the DPRD themselves. The DPRDs were pushed towards becoming supervisory bodies, rather than parliamentary bodies. The DPRDs' short-lived character as strong regional legislative bodies were abolished in these laws (notably *Pemda* law).

Despite the fact that reform continued and there were changes inside the DPR, the legislation was still passed following the old, consensus-seeking legislative process in the DPR. This ostensibly highlighted the "continuity and change" inside the parliament, although it can also be said that it portrayed rather *continuity with modifications*, as seen with reference to the legislative process

¹³² President Suharto made the 1945 Constitution a sacred document and endorsed a policy that forbade its revision or amendment. See Chapter 2 on the constitutional amendment.

outlined below. In reviewing the laws, this chapter outlines the political situation inside the DPR, its legislative process, and the concept of the DPRDs.

5.1 Background in 1999 - 2004

New DPR members for the period 1999 - 2004 took their seats following the election held on 7 June 1999. With so many new political parties, the number of *fraksi* inside the DPR increased from only four to nine. The PDIP won with 33% of the votes, followed by the old parties, *Golkar* with 22% and the PPP with 12% (website Election commission, *Komisi Pemilihan Umum* 1999). Megawati, whose political rights and party, the PDI, were suppressed during Suharto's time, had formed a new party, the PDIP. This party was known in Indonesia as a party for 'little-people' or a grassroots party (*partai wong cilik*). The popularity of Megawati and the PDIP increased and their support grew. However, the increased number of political parties was not the result of good processes of recruitment and regeneration¹³³.

TABLE 5 DPR configurations 1999 - 2004 based on the parliamentary debates of the laws.

Factions in DPR 1999 - 2004 ¹³⁴ 9 factions	Total members	Laws discussed in this chapter and date of signing
1. PDI Perjuangan (FPDIP)	153	Law 22/2003 (31 July 2003) Law 32/2004 (15 Oct 2004)
2. Partai Golkar (FPG)	120	
3. Partai Persatuan Pembangunan (FPPP)	58	
4. Kebangkitan Bangsa (FKB)	51	
5. Reformasi (F-Reformasi= PAN+PK)	41	
6. F-TNI/Polri (military)	38	
7. Partai Bulan Bintang (FPBB)	13	
8. Kesatuan Kebangsaan Indonesia (F-KKI)	9	
9. Perserikatan Daulatul Ummah (FPDU)	9	

¹³³ The PDIP gained popular support based on sympathy for Megawati as a victim of the Suharto's era. Political parties generally ran their activities based on the strength of the chairs' money or money generated from government position. This is a common view on Indonesian political parties, as is their unfavorable image, of 'low membership, lack of independent funding sources and weak programmatic distinctiveness' (Mietzner and Aspinall, 2010: 10), but this did not apply to PK/PKS, see Footnote 128 above.

¹³⁴ Another source suggests that there were 10 factions in the DPR in 1999 - 2004, with the additional faction, F-PDKB (*Partai Demokrasi Kasih Bangsa*), with five members. However, this faction was not mentioned during enactment of the laws studied here.

The parties in the DPR came to be grouped as the factions or *fraksi*, shown in Table 5. As seen from the table, there were new factions, resulting from the arrival for the first time of new political parties. The military continued to be represented in the DPR, although their number of representatives was reduced from 75 to only 38¹³⁵.

During the first post-Suharto election, many celebrities known at the national levels, such as artists, models, ex-ministers, television anchormen and women, and the children of famous figures, appeared on television as vote-catchers for the political parties. These persons were chosen candidates in certain electoral districts to fill the seats in the DPR. Usually such people had links to the area for which they were standing, either because they had been born there, or it was the hometown areas of their parents or spouse, or they had been educated there¹³⁶, but usually they were not resident there, as most of them lived in Jakarta, the capital.

Under the old political system, in which it was the MPR assembly that elected the president, Megawati Soekarnoputri did not succeed in securing the presidency, despite the popular votes gained by her party. There was a different political configuration among the 700 members of the MPR, and the PDIP was assigned only 27% of the MPR seats (Crouch, 2010: 28). Megawati's reluctance to join in a coalition, along with Habibie's stepping down as a presidential candidate in the MPR, encouraged Amien Rais¹³⁷ to establish an alliance of small parties known as the Central Axis (*poros tengah*), which supported Abdurrahman Wahid, known as Gus Dur, against Megawati. Supported by the coalition, and probably due to support from *Golkar*, military and various interest groups (*fraksi utusan golongan dan daerah*), Gus Dur became president, despite the fact that his party, the PKB, had gained only around 12% of the votes, and he himself was unable to walk without help or to see clearly. Although Megawati Soekarnoputri finally became vice president, the election of Gus Dur as president showed that the (new) elitist culture inside the MPR was determining the direction of the political state regardless of the fact that the winning party was supported by popular votes.

Despite his popularity as a democrat and leader of Indonesia's biggest traditional Islamic organization, President Abdurrahman Wahid's 'erratic behavior' and policies soon alienated him from the political parties who had initially supported his presidency (Crouch, 2010: 28-32). A position in the cabinet was important for political parties in order for them to finance their political activities, and they assumed that the president would realize this. The president sacked several ministers from political parties, including General Wiranto, a leading military figure and loyal *Golkar* supporter.

¹³⁵ Habibie's administration thought that the military's political power still needed to be accommodated during this period (Ambardi, 2009: 103).

¹³⁶ The most famous example would be Puan Maharani, Megawati Sukarnoputri's daughter and PDIP chairperson, who was elected from the Central Java electorate despite her domicile in the capital, Jakarta. The PDIP won in Central Java.

¹³⁷ Amien Rais of the PAN party became the MPR Speaker and Akbar Tanjung of *Golkar* was the DPR Speaker.

Abdurrahman...had won the presidency through deal-making in the MPR. His coalition partners joined him not because they shared his political vision but because he offered them patronage opportunities. The president believed that the system was purely presidential and ignored the post-New Order reality that the parliament could in fact initiate proceedings to dismiss the president (Crouch, 2010: 31)

Unhappy with the president's move to undermine the coalition, the political parties inside the DPR withdrew their parliamentary support. In early 2001, the DPR proposed that the president should be impeached, on the grounds of corruption¹³⁸, and in July 2001, this impeachment was carried through. In line with the constitution, the vacant presidential position was filled by the vice president, and this is how Megawati Soekarnoputri finally became president.

With the removal of her predecessor always in mind, Megawati conducted her presidency with great caution. She included in her cabinet all the political groups that were represented in parliament, and she chose as vice president the PPP chairman, a conservative Islamic party member who had rejected her as president in 1999 (Crouch, 2010: 32). Megawati's cabinet was filled with almost all the political parties sitting in the DPR, in order to secure the necessary support for her presidency. With weak leadership from the president and a poor performance from the PDIP parliamentarians, corruption tended to increase. One DPR member from the PDIP faction, Sophan Sofyan¹³⁹, openly expressed his dissatisfaction with the corruption and left the PDIP party in 2001, despite his position as the head of the PDIP *Fraksi* in the MPR. However, despite such incidents as these, the government was stable enough for the MPR to continue its reform of the constitution, including adopting articles on direct presidential election¹⁴⁰ and ending appointments to the MPR, replacing this with elections based on the establishment of a new institution, the DPD. Due to this constitutional amendment, several laws needed to be revised, including the electoral and *Susduk* laws. These laws were enacted towards the end of Megawati's presidency (Crouch, 2010: 34), an indication of the power struggles that were taking place during the process.

¹³⁸ The allegations of corruption under the *Bulog* case were not brought to trial, which showed that the scandals were raised merely for political reasons. This case was intended to eliminate the president. The government was not interested in taking the allegations to court. The case became an additional point in favor of a constitutional amendment which required that a proposal to impeach the president had to follow consultation with the Constitutional Court, and not merely based on the wishes of the DPR/MPR.

¹³⁹ Sophan Sophian was an established actor whose films were widely aired in Indonesia in the 1990s. He joined the PDIP and got the DPR seat, but was disappointed with the DPR, whose members did not care about being representative, and instead pursued their own ambitions and corrupt practices, especially in the PDIP. Sophian also highlighted increased corruption cases within the DPR and Megawati's weak leadership. Despite this frustration, Sophian's formal resignation from the PDIP was due to sickness. In 2004, he supported Amien Rais's (PAN) campaign for presidency (*Tempo*, 14 May 2001).

¹⁴⁰ President Megawati, with her nationalistic view, tried to block the process of constitutional amendment, and wanted to retain the indirect election by the MPR. Realizing that her popular support was decreasing, she thought that 'money could be used to win over the support of the MPR members' for securing her presidency (Crouch, 2010: 34).

The revision of the *Susduk* law was mainly intended to regulate the DPD (Regional Representative Council), a new state institution. The DPD was created to eliminate the need for appointed members in the MPR. The constitutional amendment laid down that DPD members would represent their respective provinces, and that they would be individually chosen in the elections for the members of the MPR, DPR, DPD, and DPRD institutions. Each province would have four DPD members. The establishment of the DPD marked the end of the appointing power of the MPR. It meant that in the next election, in 2004, citizens would be able to elect representatives for the DPR and DPD at the national levels, and to the DPRD at provincial and district/city levels. After that, there would no longer be seats in the MPR reserved for the military and other social groups that had hitherto occupied seats by appointment. However, the departure of the military from the MPR and parliamentary seats was compensated for by positions in ministries and the continuing acceptance of a military style of 'command structure throughout the archipelago' (Case, 2009: 105). As already mentioned in Chapter 2, the 'territorial organization [command] structure' was introduced during Suharto's regime so that the military filled 'key positions' in the government administration from 'the national cabinet, to provincial and district administration', including in the DPRD, under the doctrine of *Dwi Fungsi* or the military's dual function (Crouch, 2010: 128).

Under the new election procedure, voters in Indonesia would receive four ballot papers in the next election¹⁴¹. The *Susduk* law regulated these five institutions, the MPR, the DPR, the DPD and the DPRD at two levels, province and district/city, and they were grouped together for elections to the legislature (*pemilu legislatif*).

The Law on Regional Governance or *Pemda* law, Law 22/1999, was also revised. The main reason for this was to establish direct elections at all levels. When the direct election of the president was introduced in the amendment to the constitution, the regions decided to follow suit for the election of their regional head in order to ensure greater legitimacy; the indirect election of the regional head by the DPRD was seen as not democratic enough.

However, this decision gave the central government, particularly the Ministry of Home Affairs, the opportunity to amend the law in favor of recentralization. The unintended result of Law 22/1999 was a substantial increase in the number of new districts throughout Indonesia¹⁴². The ministry supported the view that this had been a consequence of decentralization, and that it would ultimately lead the country to disintegrate¹⁴³. The ministry campaigned for fur-

¹⁴¹ Four ballot papers to vote members for DPR, DPD, DPRD Province, and DPRD District/city. Except for the capital, Jakarta, which only elected three representative institutions, as the special territory Jakarta has only one DPRD, at the provincial level.

¹⁴² The regions doubled when Law 22/1999 came into force in 2001. By January 2008, the number of provinces increased from 26 to 33 (26.9 %), while the number of districts increased from 293 to 465 (58.7 %) (National Geographic Indonesia 2008). By the end of 2013, there were 539 regions altogether, divided into 34 provinces, 412 districts, and 93 cities (Government Publication. *Daerah Otonom....*, 2013).

¹⁴³ The campaigns against regional autonomy or decentralization criticized it on the grounds that it was leading to national disintegration, *primordialism*, different policies

ther reform, demanding that the law should be revised, to promote recentralization. The most important reason for this was related to changes in the power relations between the central and regional government, especially regarding finances. It was claimed that decentralization had resulted in a loss of control over the regions by the Ministry of Home Affairs¹⁴⁴, as Sulistiyanto and Erb (2005: 7) explained:

With the implementation of Law no. 22/1999 and Law no. 25/1999, the role of the Ministry of Home Affairs [which had been the bastion of the unitary system and was controlled by powerful civilian bureaucrats and ex-military personnel] would be limited, and thus not everyone within the ministry was happy about it. Decentralization would require the transfer of governance [*sic*] from Jakarta to the regions, thus dismantling the privileges that had been enjoyed by the ministry in the past.

The Ministry's unhappiness was obvious, and so campaigns against decentralization were launched in order to get the law revised. Members of the central government supported the campaign, collecting examples of the failure of decentralization in order to encourage a revision of the law (Rasyid, 2005: 22). President Megawati held a strongly nationalistic view on the unity of Indonesia, and the Ministry of Home Affairs' campaign to revise Law 22/1999 was successful. Under the new law, the DPRDs were no longer regarded as a separate institution, regional legislative bodies, but rather returned to the status of being merely part of the country's regional government. The reason given for this was that Indonesia was not a federalist state.

This revision of the *Pemda* Law revealed not only the power struggle between different interest groups, especially the struggle on the part of the Ministry of Home Affairs to regain its previous power over the regions, as stated above, but also a 'naïve instrumentalism' (Cotterrell, 1992 (1977): 72):

naïve instrumentalism...assumed that all laws have specific purposes *against* which their effectiveness can be measured. In fact, their purposes may be seen differently at different times and they may exist for reasons quite different from those contained in explicit legislative or judicial justification'.

The public saw the law as having the good intention of applying the national policy of direct presidential election to the election of regional heads. However, the regional and the national elites realized that the underlying reason for the law revision was 'recentralization' (Minutes of Law 32/2004, Working Meeting, 2 August 2004), conveyed by two experts on the regions, Ryaas Rasyid and Pratikno. During the meetings in the DPR, Rasyid declared that to work effectively, Law 22/1999 needed several additional guidelines (or regulations)¹⁴⁵, and if the law was not accompanied by the necessary guidelines, then the decentralization policy would not run smoothly. It was unwise to suddenly judge

for maritime management, and a lack of hierarchy at the regional level, which undermined the provincial role over districts/cities (Rasyid, 2005: 15-23).

¹⁴⁴ The Ministry of Home Affairs and the Ministry of Defense were traditionally chaired by military personnel.

¹⁴⁵ A meeting on 2 August 2004 (p. 35) also revealed that in order to run effectively, Law 22/1999 had to be accompanied by around 30 PP and 197 Keppres, as Rasyid stated.

the law as bad and revise it accordingly, while actually the law was lack of further regulations and only came into force 2,5 years ago.

The configuration of factions in the DPR had changed, but the parliamentary procedure and the legislative process remained the same. This bill took longer to go through the DPR because, as before, all the factions had to deliver their views on bills, and there were now many more factions. Also, due to the increased number of factions, the amount of time needed to go through the Problems List (*Daftar Inventarisasi Masalah* or DIM). In the previous DPR, the DIM calculation, which showed how many editorial problems there were, was known¹⁴⁶ and this calculation arguably made it possible to anticipate the workload and timetable accordingly. The Problem List was compiled into one document from the Factional Views, and the legislative process worked from this. In contrast to what happened in the previous period, the number of items on the problem lists was not calculated this time, probably due to the large number of factional views. Each of the two laws is discussed in turn below.

5.2 The Law on Structural Organization, *Susduk* Law (Law 22/2003)

5.2.1 Overview of the law

As was the case for the *Susduk* law, the enactment of the present law was also a routine process. The law was meant to cover the so-called representative institutions¹⁴⁷, that is, those that were based on an election: the MPR, DPR, a new DPD, and DPRDs. The MPR had just finished amending the 1945 Constitution in line with the regulations for the new elected institution, the Regional Representative Council or DPD, and the *Susduk* law had to accommodate this new state institution into the law.

Overall, the content of the law did not change much. It referred to the institutions' functions, roles, membership, and working bodies, and explained how to exercise these activities. All these aspects were made part of the parliamentary procedure or *Peraturan Tata Tertib* (*Tatib*) for each institution. The bill produced a 415-page DIM document for discussion, based on a compilation of all factional views. The bill had 105 articles, and since each faction delivered a DIM document, the bill would have nine spokesmen presenting the factions' views, which meant nine times longer to study each article. Consequently, the discussion consumed quite a large amount of time.

The parliamentary debates on this law focused on three major issues: (1) whether the DPRDs should be included in the law, or whether its status and activities should simply be regulated by the law on regional governance; (2) the

¹⁴⁶ A total of 258 DIM arose from Law 4/1999 and 291 from Law 22/1999.

¹⁴⁷ The Indonesian term '*perwakilan*' ('P' in the abbreviation) in the names of the DPR, DPD and DPRDs refers to 'representative'.

use of the term “*susunan dan kedudukan*” or ‘structure and status’¹⁴⁸ in the title of the law; (3) the status and character of the MPR, and whether or not it could be considered a joint session between the DPR and the DPD.

The first issue had already come up in the previous DPR, especially from the PPP faction. This same point was tabled again by the PPP, which proposed that the DPRDs should not be regulated under this law, but only by the law on regional governance, of which it was seen to be a part¹⁴⁹. If the law included the DPRDs, this would strengthen the view that the DPRDs had similar rights to the DPR, and that the DPRDs were state institutions, while they actually covered regional areas, not the whole state. The PPP’s point apparently failed to convince the committee that the matter should be reviewed, and the majority remained convinced that the DPRDs’ existence must be regulated by the *Susduk* law.

The second issue related to the term ‘structure and status’. All the factions, except *Golkar* and the PBB¹⁵⁰ requested that the term be omitted, reasoning that the law regulated all aspects of the related institutions, and not merely their organization. From the beginning, the government had been convinced of the argument that the term was need in order to differentiate the law from other laws that regulated the institutions in matters concerning of elections and political parties¹⁵¹. The problem of the title was settled when a PPP member (Aisyah Aminy) proposed keeping the term as it was, since it was already popularly known. Interestingly, the issue was settled during informal conversations¹⁵². When the agreed decision was formally announced in the meeting, the committee agreed and the problem was solved. The DPR was relieved to settle the issue in the Indonesian style: a deliberation to reach a compromise (*musyawarah untuk mufakat*)¹⁵³.

Finally, the law also addressed whether or not the MPR was in fact a joint-session of two bodies. In the amended version of the constitution, the MPR now had members of the DPR, who had been elected at local constituency level on the basis of political party membership, and individually nominated members from the DPD, who had been elected at provincial level. If the MPR held a session, then all the members met, which basically meant joining two institutions together. However, it was eventually agreed that the MPR was not technically a joint session between the DPR and the DPD, as the aim of the MPR was different. The MPR session was to be attended by *members* of the two institutions, but it must be emphasized that the session focused on the goals of the MPR, not

¹⁴⁸ Literal translation of ‘*susunan dan kedudukan*’ is ‘structure and status’ but in the law, Indonesians translated it as the Law on Structural Organization, as used in this study.

¹⁴⁹ See Minutes of Law 22/2003, Working Meeting, 5 July 2003 p. 54.

¹⁵⁰ Despite the fact that the DIM document stated that the *Golkar* party shared the government’s preference to retain the term, its member (Evita Asmalda) suggested omitting it during the first meeting (Minutes of Law 22/2003, Working Meeting, 25 June 2003 p. 6-7).

¹⁵¹ See Minutes of Law 22/2003, Working Meeting, 25 June 2003 p. 11-12.

¹⁵² The conversation was held over breakfast. See Minutes of Law 22/2003, Working Meeting, 26 June 2003 p. 4.

¹⁵³ The remark was conveyed by FPG member (Baharuddin Aritonang). See Minutes of Law 22/2003, Working Meeting, 26 June 2003 p. 5.

those of each institution. For example, it was not the MPR that invited the president to deliver a state speech on the Budget Proposal and Financial Memorandum (*Pidato Kenegaraan RAPBN dan Nota Keuangan Negara*) every August¹⁵⁴. It was the DPR and part of its functions.

The legislation that was finally enacted, then, still included the DPRDs in the *Susduk* law and the title terms remained the same¹⁵⁵. The same inquiries occurred again when the bill was discussed during the next period of the DPR. This suggests that the (government's) explanation was a product of agreement by all members, although the reason for this is unknown. The law seemed viable during the period in question, but if the questions would be raised again, it would be a sign that the compromise made between the government and the various committee or faction leaders was not accepted by all members.

5.2.2 The legislative process

The legislative process of Law 22/2003 followed the simplified procedure introduced in 2001¹⁵⁶, with two levels of discussion, instead of the earlier four, but this change was actually insignificant as there was still the formal reading of speeches and the legislative process continued to be carried out in the smaller forums. The main events remained the same.

The constitutional amendment was completed in 2002, and the *Susduk* bill was first proposed and introduced at the DPR plenary session on 18 February 2003. Discussion Stage I started in the committee, instead of the plenary session, and lasted from 25 February to 8 July 2003. Although practiced in a smaller forum, the same events for the legislation ran in the same format, which included the Factions' Overview (*Pandangan Fraksi*) and the Government's Reply (*Jawaban Pemerintah*), as shown in Figure 7.

¹⁵⁴ The MPR's tasks are to amend the constitution, to inaugurate the president and vice president-elect, and to impeach the president and/or the vice president, as laid out in the constitution (Article 3, the 1945 Constitution of Indonesia, amended version). Every year, on 16 August (the day before the country's Independence Day celebration), the DPR invited the president to deliver a speech on the Financial Memorandum as an introductory budget for the following year in the DPR Plenary Session. This was one of the DPR's traditions. The DPD also wanted to invite the President to deliver a speech in the DPD's session, as the budget and financial issues were important in relation to the DPD's concern with the regions. With two institutions planning to invite the president to deliver a state speech, there was concern that the session could turn into an MPR session instead. In 2005, President Yudhoyono, the DPD and the DPR chairmen agreed that the President would deliver the same usual speech to the DPR, and deliver a speech on regional development aspects in the following week, before the DPD session (*Politik Indonesia.com* 26 July 2005).

¹⁵⁵ The discussion regarding the title and elimination of the term '*susunan dan kedudukan*' was not consistent with the DIM document. Despite the fact that most factions agreed on the term's omission, all finally agreed that the title was still suitable for the law and kept the term. The government, as a strong defender of the term, successfully affected the result to agree with what it had proposed (see Minutes of Law 22/2003, Working Meeting, 25 June 2003).

¹⁵⁶ See *Parliamentaria* (2001) that the simplified legislative process was still kept the basic events. The legislative process in this period is in line to the process explained in Chapter 3.

Legislative Process of Law 22/2003 (2 steps of discussion)

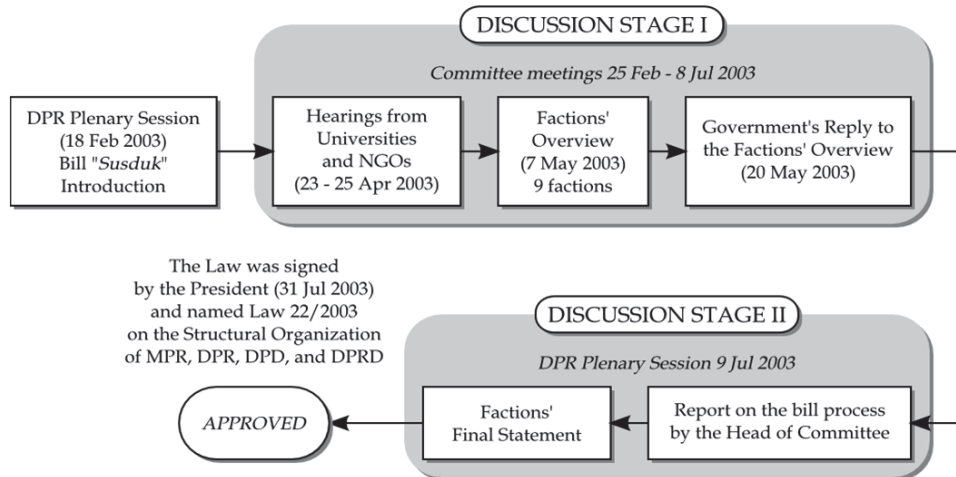


FIGURE 7 The legislative process of Law 22/2003, compiled from the parliamentary debates.

Discussion in the committee meetings was probably aimed at reducing the formal events at the plenary session, as it was more difficult to get all MPs to convene than to convene just the committee members. This suggests that the plenary is not about debate or about content, but merely a place for ceremonies and show for the sake of legitimacy. The change meant greater distance and seclusion from the public view, since meetings in the committee or otherwise outside the plenary are rarely publicized or followed by the media, and are sometimes even closed to the public.

Discussion Stage I started when a special committee was set up to discuss the composition of the committee that would handle the bill, on 25 February 2003. The committee held hearings with experts from universities and non-governmental organizations related to the issue, on 23 - 25 April 2003. After the discussion, the factions - FPDIP, FPG, FPPP, FKB, F-Reformasi, FTNI/Polri, FPBB, FKKI and FPDU - delivered their Factions' Overviews on 7 May 2003, followed on 20 May 2003 by the Government's Reply to the Factions Overview. The minutes on those dates above revealed that the change to deliberation of the bill at the committee level and not within the plenary session at all was meant to show that the DPR committee was trying to reduce the time spent in unnecessary formal occasions (the reading of speeches), so that it could discuss and process the bill directly. However, this change was then seen as strengthening the tradition of deliberation in the committee, which resulted in even greater public ignorance of what the DPR was doing and allowed the continuation of oligarchic practices.

Discussion Stage II was held in the DPR Plenary Session on 9 July 2003. The agenda was to hear the report on the meeting procedure and information from the Head of the Committee, followed by the Faction' Final Statement, dur-

ing which all the DPR factions delivered their final views on the bill. The bill was approved and sent to the government, and signed by the president on 31 July 2003 and named Law 22/2003 on Structural Organization of MPR, DPR, DPD and DPRD.

Although the discussion stages had been reduced from four stages to two, the change merely moved the process from the public plenary session to smaller, sometimes closed committee meetings. It emphasized the DPR's tendency to practice in smaller forums. DPR members did not recognize that holding all discussion of the bill in committee was a problem, even though the procedure actually undermined the importance of the plenum and even weakened the voice of rank-and-file DPR members. The meeting took place in a committee consisting of just 50 appointed DPR members (and the government). Other DPR members outside the committee did not have any say in the contents of the bill or the law, and had to rely for information and input on members on the committee from the same faction. Consequently, oligarchic practices again triumphed. The fact that the stages had been simplified did not mark an important new breakthrough in the legislative process.

5.2.3 Contents and Policy Implication of Law 22/2003

On a general level, the law regulated the number of members, and the roles, functions and working bodies of each institution: the MPR, DPR, DPD and DPRD. The original proposal for a new law arose from the constitutional amendment, but it reflected no significant policy concerning the establishment of the new DPD. That is to say, the aim was only to explicate - if not repeat from the previous law - what had already been stated about the institution; for the DPD, the law only repeated what was written in the constitution. MPR members were henceforth all elected, coming from *members* of the DPR and the DPD, and no longer including anyone who had been appointed (Article 2). The DPR had 550 members, all political party members elected in a general election (Article 16 and 17). The DPD was included in the law for the first time; the law laid down that it was to have four members directly elected from each provincial level (Article 33). The number of DPRD members remained the same as in the previous law, that is, 35 - 100 members for the DPRD Province (Article 53) and 20 - 45 for the DPRD District/City (Article 69).

Interestingly, in explaining the nature of each institution, the final law differed from the original bill. The original proposal from the government¹⁵⁷ regarding the DPR and DPRD was:

(Pasal 22) DPR merupakan lembaga perwakilan rakyat yang memperjuangkan aspirasi dan kepentingan rakyat sebagai badan legislatif; (Pasal 56) DPRD Provinsi merupakan lembaga perwakilan rakyat daerah yang memperjuangkan aspirasi dan kepentingan rakyat sebagai badan legislatif daerah; (Pasal 71) DPRD Kabupaten/kota....

(Article 22) DPR is a legislative body, the people's representative council which aims to represent the people's aspirations and interests; (Article 56) DPRD Province is a

¹⁵⁷ In the document "Draft awal" (original draft) of Minutes Meetings of Law 22/2003.

regional legislative body, the regional people's representative council which aims to represent the people's aspirations and interests; (Article 71) DPRD District/City.....*continues with the same sentences as Article 56.

From the quotation above, it is clear that the bill tried to explain the type of representative institution by inserting the term 'legislative body;' thus, both the DPR and the DPRD were declared to be legislative. With the DPRD, their position as the regional legislative bodies were already known because it had been established and described in Law 22/1999, which was still valid when this bill was deliberated. However, in Law 22/2003, the wording was changed to:

Pasal 24. DPR merupakan lembaga perwakilan rakyat yang berkedudukan sebagai lembaga Negara.... Pasal 60. DPRD Provinsi merupakan lembaga perwakilan rakyat daerah yang berkedudukan sebagai lembaga pemerintahan daerah provinsi...Pasal 76. DPRD Kabupaten/kota merupakan lembaga perwakilan rakyat daerah yang berkedudukan sebagai lembaga pemerintahan daerah kabupaten/kota.

Article 24. DPR is the people's representative council, which has the position of a state institution.... Article 60. DPRD Province is the regional legislative body, which has the position of regional governing body at provincial level...Article 76. DPRD District/City is the regional legislative body, which has the position of regional governing body at the district/city level.

The original wording more clearly explained the type of institutions of both the DPR and DPRD; it emphasized their legislative nature and the council's aim to represent the people's aspirations and interests. The newly passed law clearly placed greater emphasis on the position or status, regardless of whether the institution was at the national level (the DPR) or the regional level (the DPRD). The revised law remained silent on the character and position of the bodies as the people's representative councils. In other words, the clear distinction between legislative and executive, or parliamentary and governmental institutions, is lost in the revised version.

When the committee discussed the content of the article on the DPRD, it delegated the work to a Small Team (*tim kecil*), which reported that:

the law is necessary to increase the responsibility of the elected institution to develop democratic life, to guarantee citizen's representation both at national and regional level, and to advance the mechanism of checks-and-balances between legislative and executive. Minutes of Law 22/2003, Working Meeting, 2 July 2003 p. 4, emphasis added.

The intention of the law, as stated above, was ostensibly to review the DPRD's role as the regional legislative bodies. It was known when discussions began that the position of the DPRD as legislative bodies was favored by neither the regional heads, nor the national government. The DPRD had taken advantage of their legislative power to enact regulations that were (financially) profitable for their own members, and the regional head had to respect these regulations. Meanwhile, the state government, particularly the Ministry of Home Affairs, did not like the fact that the regional head took more account of the opinions of

its DPRD than of those taken at a higher level, such as of by governor or central government, due to the lack of a hierarchal relation¹⁵⁸.

The Ministry wanted to change this situation and referred to Article 18 of the Constitution, stating that, 'the regional government is made up of the regional government and the DPRD', which it interpreted to mean that the DPRD must be one part of the government in the regions¹⁵⁹. The Ministry, represented by its director general, suggested that

the DPRD's status as a regional representative council was sufficient for to the DPRD, and the law does not need to elucidate its character explicitly. Minutes of Law 22/2003, Working Meeting, 2 July 2003 p. 14.

implying that the DPRD's legislative character must be changed. Furthermore, the Ministry argued that 'if the DPRD is a legislative body, it should be differentiated from the DPR'¹⁶⁰. The DPR's mode of regulation was the law, while the DPRD's was *Perda* (local regulation). Maintaining the DPRD's character as legislative bodies would suggest that the DPRD's were similar to the DPR and this was not acceptable in a unitary state such as Indonesia¹⁶¹. The government remarks here illustrate its campaign to reduce the power of the DPRD's, and to do away with their legislative character (although the legislation function is retained), by appealing to the Constitution. Its emphasis on the unitary state, against the specter of federalism, effectively convinced the committee that the legislative character of the regional institution was not acceptable, as it would lead to a federal-style state and go far beyond mere decentralization. In the end, the committee agreed to the government's proposal and give the DPRD's the status of advisory councils, making them part of the regional government, thereby ending their character as legislative bodies.

The quotation below shows that a DPR member from the PPP agreed to eliminate the legislative characteristics of the DPRD's by questioning its legislative function:

FPPP (Abduh Paddare): *Jadi yang mengganggu ini adanya kata 'legislasi', karena legislasi itu mirip DPR...anggota DPRD Provinsi mempunyai fungsi membuat peraturan daerah saja, supaya menghindari kata legislasi.*

FPPP (Abduh Paddare): What is of concern here is the term 'legislation' because the term refers to the DPR [s function]...the members of the DPRD Province have the function of enacting regional regulations, thus avoiding the term 'legislation' [which refers to legislating a law]. Minutes of Law 22/2003, Working Meeting, 2 July 2003 p. 13-14.

¹⁵⁸ Interview with Cecep Effendi, 19 July 2011.

¹⁵⁹ See Minutes of Law 22/2003, Working Meeting, 2 July 2003 p. 12.

¹⁶⁰ See Minutes of Law 22/2003, Working Meeting, 2 July 2003 p. 14.

¹⁶¹ At this meeting, the government was concerned about the status of the DPRD's as legislative bodies, and referred to it as having an air of federalism. Indonesia disliked this term (even when the practice associated with a federal type of government in Indonesia), and preferred instead 'decentralization'. See Ferrazzi (2000) on Indonesia's rejection of the term 'federalism'.

The DPRD has functions of legislation, budgeting and oversight (Article 60 for the DPRD province, and Article 77 for the DPRD District), similar to its “senior” at the national level, the DPR. The term *legislasi* referred to passing laws in the DPR and passing local laws or regulation/*Perda* in the DPRD. The use of this term ‘legislation’ at both levels suggested that the DPRD functioned along the same line as the DPR, only at regional level, and this created confusion.

In fact, it was not only the term ‘legislation’ but also the abbreviations ‘DPR’ and ‘DPRD’ that led to problems. Their similarity gave the impression that the DPRD was ‘a miniature DPR’ and that the idea was to replicate what happened at national level within the regions¹⁶². When deliberating on both the *Susduk* and *Pemda* laws in 1999 and in 2003, the DPRD had not been consulted¹⁶³, and the deliberation process had followed the logic of the DPR and implemented something similar at the regional level, without any consideration of the consequences. The expectation was that, in exercising their legislative function, the DPRD would work in conjunction with the local governor/regent/mayor. In the same way, in order to exercise their budgetary function, the DPRD, together with the regional governments, would prepare and enact the budget, including the budgeting for the DPRD themselves. Then the DPRD would also oversee implementation of the local regulations and policies enacted by the regional government¹⁶⁴. Following the working procedure of the DPR in the regions is confusing especially because the regions are not federal states. The DPRD, despite the policy of autonomy, still need to address policy from the national perspective (vertically) and from the point of view of other regions - provinces or other districts/cities - (horizontally). These lead to the DPRD being unable to follow the DPR’s procedure more than to the limits of their autonomy.

Law 22/1999 was also not consulted while the *Susduk* law was being enacted, so it was not used as a point of reference when deciding on the wording of the new provisions concerning the DPRD, despite the fact that the law was still in force at that time. Law 22/1999 identified the DPRD as regional legislative bodies, but of course, given the intention of revising the law, no reference was made to the wording of the previous law when now determining the new position of the DPRD. It was clear, though, from the strength of the campaigns against the decentralization (*Pemda*) law, that revision of the law as it concerned the DPRD was only a matter of time¹⁶⁵.

¹⁶² Interview with Cecep Effendi, 19 July 2011.

¹⁶³ Consultation with the regions was merely with the executives (the head of regions and staff) and not with the DPRD’s members.

¹⁶⁴ According to the Chair (Minutes of Law 22/2003, Working Meeting, 2 July 2003 p. 16). The provision was read for the provincial level, but the same wording was then applied to the district/city level, replacing the term ‘Governor’ with ‘Regent’ or ‘Mayor’.

¹⁶⁵ As stated in the previous chapter, a direct implication of Law 22/1999 was an increase in the number of new regions. The national government could not stop the demand for regional self-autonomy. Meanwhile, many local regulations or *Perda*, were passed, thanks to the DPRD’s status as legislative bodies. Unfortunately, the *Perda* that were enacted primarily revolved around taxation, levies and upholding Is-

Another focal point for the DPRD's was the number of elected members, and the fact that candidates for election would be members of the political parties (Article 52 and 53). There was no statement in the new law of the characteristics of the DPRD's. The debates on the DPRD's referred to the constitutional formulation, that the DPRD's form part of the regional system of government. However, when discussing this law, the government represented by the personnel from the Ministry of Home Affairs, emphasized Article 18 of the Constitution, which stated that 'the regional (provinces, districts and cities) authorities shall include the DPRD's' together with the heads of regional governments (governors, regents, and mayors). This view was expressed to stress the united character of the two institutions. It provoked the committee members to think further about whether to maintain the DPRD's as separate regional legislative bodies, or to reduce them to being just single unit of regional governments, together with the executives. A consequence of that would be that the DPRD could again be controlled by the regional head, as in Suharto's time (Minutes of Law 22/2003, Working Meeting, 2 July 2003 p. 12-13). Changes to the articles on the DPRD's were also much discussed in the revision of *Pemda* law, Law 32/2004, outlined below.

Another interesting aspect of the 2003 law was the extent to which it delegated the task of settling the details of some of the articles of the law according to government (ministerial) regulations and some to the internal procedures, or *Tatib*, of each institution. This included how to exercise their legislative, budgetary and oversight functions. The *Tatib* has regulated the mechanism related to how to elect/change the chairpersons; how members would exercise their own or their institutional rights; how sessions would be held and the practices to be applied in the legislative process; and now all the roles and functions of the institutions would be regulated by *Tatib* only. This lack of common guidelines for all DPRD's effectively gave wide freedom to each institution, and consequently to the political parties, to regulate in whatever way was best for themselves, without public scrutiny. On the one hand, this was a dangerous measure, given the reputation of the political parties as working not for the public good but only for themselves, and the reputed greed, corruption, and rent-seeking of both DPR and the DPRD members¹⁶⁶. Delegating too much power to them risked giving them even more opportunities to use the state budget merely for political funding and patronage¹⁶⁷.

On the other hand, giving procedural autonomy to each institution could be regarded as an explicit recognition of the independence of assemblies of the

Islamic Sharia law. The worst aspect of decentralization was the DPRD's "abuse" of the regional head in order to achieve their own financial aims included in the regional budget.

¹⁶⁶ Annual political polls and surveys (for the last 10 years) in Indonesia have revealed that the 'political parties and parliament are seen as the most corrupt and the least trusted institutions in the country' (Lay, 2012: 214). This relates specifically to the DPR's (Ambardi, 2009), and DPRD's (Lay, 2012) behaviour.

¹⁶⁷ Robison and Hadiz (2004: 206). These authors also claimed that Indonesia was never fully reformed because the state preserved the 'political interests' it had under the old system.

parliamentary type. The institutions were recognized in broader terms, in line with other countries' parliamentary rules and practices. In the light of the dangers of a partisan misuse of procedural rules by the Indonesian DPR and DPRD, it would have been wiser to follow the practice of parliaments in Eastern Central Europe, especially Hungary, of having a Law on Legislative Process and a Law on Standing Orders (Ágh and Ilonszki, 1996; Körösenyi, 1999) or to have a law on the institution of parliament, as in South Korea, which will be discussed in Chapter 7.

Tatib, or Indonesian parliamentary procedure, is known to regulate the internal mechanism within the institution. For the DPR, *Tatib* was not sufficient to enforce other institutions, such as the President and/or the DPD during the legislative process, due to internal nature of *Tatib*, which applies to DPR members only. By upgrading legislative procedure to the level of law, and not only leaving it under the internal regulation of the *Tatib*, the mechanism of the legislative process and the actors (such as the DPR, the President, and the DPD) would have been clearly positioned and the process could have been better understood by the public. A law on the legislative process or a law on standing orders would also have allowed the public to follow the process within the institutions (DPR and DPRD), and it would be a way to reduce the need for further explanation of articles in the *Tatib*, which could be interpreted differently by the DPR and DPRD according to their liking.

A significant result of the constitutional amendment was the introduction of direct presidential election. In accordance with this principle, most DPR committee members thought that the election of regional heads by the DPRD was out-of-date. Most factions saw changing the election mechanism in the regions from election by the DPRD to election by the people directly as being on a part with changes to the mechanism at the national level. However, this view was not discussed at length during this *Susduk* discussion, but only later, when the Law on Regional Elections was revised. Consequently, the *Susduk* law did not have huge implications after its enactment.

As the constitution stated that members of the DPR and DPRD had to be elected, the military, which had had places there only by appointment, was excluded from both types of parliament. The presence of purely elected members and the direct presidential election represented a step forward for democracy in Indonesia. However, although the military were no longer given seats in parliament, they still remained a dominant player in Indonesian politics, with the president keeping ministerial positions - the Ministry of Home Affairs and Ministry of Defense - aside for (retired) military personnel¹⁶⁸. The rise of General Susilo Bambang Yudhoyono in the next presidential election also suggests that the military were (and still are) politically important.

¹⁶⁸ The tradition of placing military personnel in these ministerial posts has been maintained from President Megawati's era (Case, 2009:105). Only during President Wahid's term of office was the position of Minister of Defense held by a civilian.

5.3 The Law on Regional Governance, *Pemda* Law (Law 32/2004)

5.3.1 Overview of the law

This law was a revised version of Law 22/1999. It seems slightly strange that this law was revised so soon after coming into force in 2001. Within only two years of its implementation, which happened without proper guidance or supervision, and without a proper assessment of its consequences (Rasyid, 2005: 15), the law was revised too quickly. Revising the law certainly confirmed the recentralization efforts of the national administration, its efforts to regain its previous power over the regions. This is especially clear with regard to the DPRD: the previous declaration that it should be considered a legislative body was overturned, with the argument that Indonesia was not committed to a federal-type state and could not recognize any legislative body other than at the national level.

The government might easily have drawn up other regulations to guide the implementation of the existing law if the argument was that the decentralization project lacked guidance. It is clear that the intention was not really to achieve decentralization. Instead of providing such guidelines, the revised law was clearly intended to bring power back into the hands of the central government.

An unintentional outcome of the decentralization law was the increase in the number of regions. The number of districts increased by almost 50% after the law was enacted. One of the unfortunate consequence of this was that government posts in the regions were filled by natives of those regions (*putra daerah*), without any reference to their merit. This undermined the position of officers from outside the region and thereby created conflict¹⁶⁹. As stated in the previous chapter, some DPRDs also enacted local regulation, *Perda*, which discriminated against women and minorities. Moreover, as the DPRDs raised the income of their own members with other *Perda*, it was also alleged that the DPRDs to exercise money politics. DPRD members could be bribed to facilitate the enactment of *Perda* along certain lines. Even worse was the same sort of thing during the election of the regional head. The fact that it was the DPRD that elected the regional head increased the opportunities for bribery. DPRD members thus enjoyed a lot of financial rewards. In addition to this, the law required the regional heads to deliver an annual report and an accountability report at the end of their official terms and the DPRDs might accept or reject the accountability report of the former regional heads on the ground of DPRDs' preference, usually by the amount of money. If a regional head's accountability report was rejected, s/he might not be eligible for re-election for the next period.

¹⁶⁹ See Davidson (2005) on the conflict and violence that arose from the impact of decentralization/regional autonomy, and edited works by Erb et al (2005) regarding decentralization and conflict in Indonesia in general.

Regional heads could then feel that they were forced to meet the DPRDs' financial demands¹⁷⁰.

Due to such undesirable consequences as these, Law 22/1999 was revised. The legislation process and the policy implications of the new law, Law 32/2004, are outlined here in order to highlight the tension that accompanied recentralization. For the articles on direct elections in the regions, they followed the constitutional requirement for direct election of the president and the committee members working on the law sought to change the characteristics of the DPRDs and decide how to involve the DPRDs in the direct election process.

5.3.2 The legislative process

Law 32/2004 was discussed together with Law 33/2004 (revision of Law 25/1999) on the Fiscal Balance between the State and the Regions. Due to the alleged decentralization problems¹⁷¹ within the regions, a bill for the revision of Law 22/1999 was proposed by the government during the DPR Plenary Session on 24 September 2003. Soon afterwards, the government also submitted a bill to the DPR advocating the revision of Law 25/1999 on Fiscal Balance. Then, in the DPR Plenary Session held on 10 November 2003, nine factions delivered Factions' Overviews on the revision to Law 22/1999, echoing the importance of revising the law. In the same plenary session, the DPR Speaker also announced the government's intention of revising Law 25/1999. On 11 December 2003, nine factions again gave their (Factions') Overviews of the revisions to Law 25/1999 in the DPR Plenary Session. In the DPR Plenary Session on 16 December 2003, two special committees were set up to discuss the bills.

On 28 January 2004, the DPR leadership and the leaders of the faction held a meeting at which it was decided that the two committees should be grouped together into one. The bills were then re-drafted and corrected during 4 - 24 February 2004. The new proposed bills were now technically initiated by the DPR.

On 9 February 2004, the DPR sent a letter to the president informing her about the new drafts of both bills, the revision of Law 22/1999 and Law 25/1999, asking the president to appoint ministers to discuss them with the DPR committee. The president replied on 10 May 2004, stating that the Finance Minister and Minister of Home Affairs would represent the government to work on the bills.

As Figure 8 below shows, the draft bill for what would become Law 32/2004 was ready for discussion on 27 May 2004, and Discussion Stage I of the

¹⁷⁰ As reported in the Faction Statement on the problems that occurred within the DPRDs (Minutes of Law 32/2004, Final Faction Statement (FPDU) 29 Sept 2004, p. 202).

¹⁷¹ The problems included a made-up increase in the regional budget (and neglect of infrastructure development) with more regulations about taxes and revenue; other problems related with local regulations; lack of supervision from central government; and the conspiracy between the DPRD and regional government regarding budget accountability, lobbying for more financial provision within regions, etc. (Minutes of Law 32/2004, Faction Overview of FReformasi, 11 Dec 2003 p. 65-66).

bill ran from 1 June to 27 September 2004. During the initial stages of the discussion, beside the members' meetings, the committee held public hearings (called RDPUs) with regional government associations, they were APKASI, ADEKSI, ADKASI and APEKSI, as well as with the Asia Foundation and the *Forum Pengembangan Kawasan*, both of which are NGOs concerned with regional issues (18 May 2004). The committee also invited regional experts to the DPR meeting on 2 August 2004; they were Pratikno, from Gadjah Mada University (UGM) as an expert in local politics, and Ryaas Rasyid, former director of the Ministry of Home Affairs, who was a prominent figure in proposing Law 22/1999. The special committee also held special meetings (*rapat lobi*) for the revision of Law 22/1999 on 27 and 28 July, 20 August and 7 September (a total of four meetings), and for the revision of Law 25/1999 on 13 and 31 August, and 16, 21 and 24 September 2004 (five meetings in total). At the end of the deliberation process, the revision of Law 22 covered 16 chapters, and 240 articles, while the revision of Law 25 covered 14 chapters and 106 articles.

Legislative Process of Law 32/2004 (2 steps of discussion)

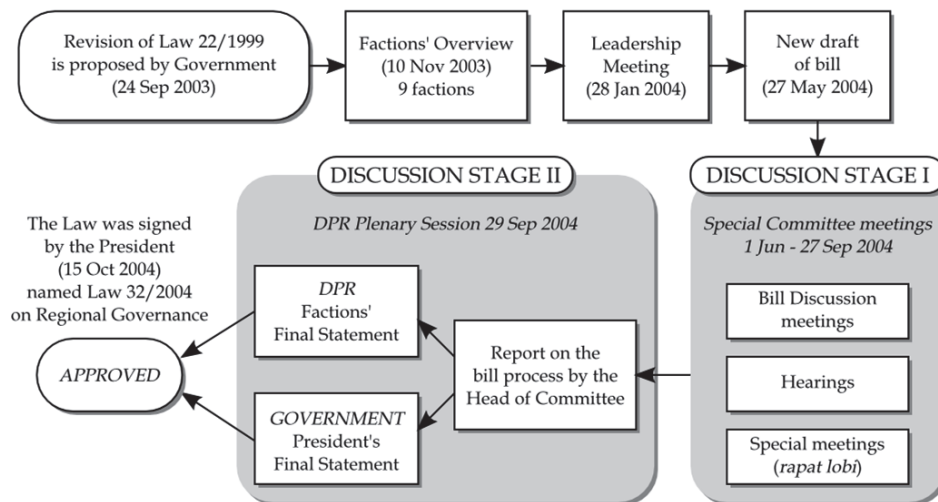


FIGURE 8 The legislative process of Law 32/2004, compiled from the parliamentary debates.

After four months of deliberation, the legislative process entered Discussion Stage II in the DPR Plenary Session on 29 September 2004. The agenda was to hear the report on the processing of the bill from the head of the committee, followed by the DPR Factions Final Statement (*Pandangan Akhir Fraksi*); and the Government's Final Statement (*Pandangan Akhir Pemerintah*). The bills were approved and sent to the government, and were then signed by the president on 15 October 2004, with the names Law 32/2004 on Regional Governance and Law 33/2004 on Fiscal Balance.

As with previous legislation, the discussion levels were simplified and reduced to two stages, although the same steps or events were involved. Most of the disagreement that arose during the deliberation process in Discussion Stage I was settled during the private meetings of leadership (*rapat lobi*). In fact, they could not move to the next Discussion Stage II until the first stage was completed: the committee had to continue the discussion until all main issues¹⁷² and all the problems were solved. Although it was stated that the bill was enacted by the Plenary Session of the DPR, it was actually enacted by all *factions*, represented by the elites, including the government, but not by all DPR *members*.

A small change in parliamentary culture could be observed. As the winning party in the DPR, PDIP members felt powerful, but being new, its *fraksi* and members did not know the parliamentary customs. In the new parliament, some of them occasionally criticized government bills, although their party had a strong position in government. In the parliamentary debates, PDIP members asked questions, quite often reflecting the nationalistic views shared by the PDIP Chairperson, Megawati. PDIP members, for example, raised the question of the possible danger of having independent election observers to check the implementation of direct regional elections (Minutes Law 32/2004, Working Meeting 25 July 2004, p. 6). The government apparently thought that PDIP members would automatically support any proposal from the executive, but in fact it was the PDIP members who most readily questioned the president's policies¹⁷³. This was probably an attempt to demonstrate the free mandate of parliamentarians, even when their party leads the government. The amount of criticisms was not very large; rather, it appeared that the PDIP members did not actually understand how to position themselves as supporters of the government in the DPR. This was linked to the skills and ability of individual members who were politically inexperienced and did not have much political training from their respective political parties. It may also have reflected the fact that because the smaller parties did not develop a strong or vocal opposition, the main government party had no need to respond to the opposition and defend the government.

5.3.3 On the DPRD

The problems in the regional laws that were passed revealed a lack of capacity at the regional level to properly realize the ideals of the decentralization program. The national elites did not realize that having worked hitherto only under the authority of the central government, the DPRD members lacked experi-

¹⁷² The main issues in Law 32/2004 related to *Pilkada*, the regional direct election. It also gave the governors the authority to guide and oversee matters of governance at district and city level. For the DPRD, the emphasis on the principle of a unified state led to it becoming one unit within the regional government. However, all the provisions on DPRD were included in the *Susduk* Law (Law 22/2003); this law (Law 32/2004) was only concerned with the implication of direct regional election.

¹⁷³ Interview with Cecep Effendi, 19 July 2011. He was a former consultant to the Minister of Home Affairs on the bill (Law 32/2004). During the deliberation of the law, Megawati - the PDIP Chairperson - was the president.

ence in initiating policies, and when the DPRD was empowered, DPRD members took personal advantages of the situation. This mimicked what had happened in the national DPR. The rent-seeking characteristics of Indonesian political parties, both in the DPR and in the cabinet, were notorious¹⁷⁴. There was a common understanding that the smooth relations between parliament and the government were not due to a similarity in their ideologies but rather to the cabinet positions that secured party finances. If such corrupt practices happened at the national level, in the DPR, it was strange to expect the DPRD to act differently.

As discussed in the debates, the policy of decentralization resulted in chaos, not because of the initial idea of self-regulation and regional autonomy, but because there was no legal guidance as to how to implement the policy. The law needed further ordinances, at least 30 more Government Regulations (*Peraturan Pemerintah-PP*) and around 197 Presidential Decisions (*Keputusan Presiden*), for its proper implementation¹⁷⁵. Without such guidance, the DPRD had to interpret the content themselves, and could do so according to what suited them best. The central government had expected the DPRD to appreciate the good intentions of decentralization, the principle of furthering the regional cause so that the DPRD would appropriately pass decentralization policies locally. However, the example set by the rent-seeking behavior of all members of the political parties, as well as the corruption within the DPR, meant that it was unrealistic to expect virtuous conduct from the DPRD.

Following the direct election of the president, the regions demanded the direct election of the regional head. However, most DPR members of the committee thought that the election of regional head by the DPRD was no longer appropriate. A new proposal concerning direct elections and their mechanism was given very serious consideration during the debate (Meeting RDPU 23 April 2003). As stated above, the Ministry of Home Affairs was the main force behind the revision of the law, backed up by the nationalistic President Megawati Soekarnoputri. Citing the rationale of direct elections and the problems with decentralization, it was proposed that the law should be revised, although the real reason for this law was to re-establish central power over the regions.

Consequently, DPR members also considered ways in which they could gracefully reduce the role of the DPRD. Without their previous power of appointing the regional head, it was likely that the DPRD would no longer have significant influence within the regions. This view again highlighted the fact that status derived from role/function was important in Indonesian politics. Sitting in a government institution was not prestigious enough without a significant role in regional affairs. As one committee member put it:

“dengan adanya Pilkada tidak ada kebanggaan menjadi anggota DPRD”.

¹⁷⁴ Ambardi (2009) has explained the cartelized party system in Indonesia in the period between 1999 and 2004, that the positions of the cabinet government and the DPRD's leadership meant to gain access to finances.

¹⁷⁵ Statement by Ryaas Rasyid, an invited expert to the DPR Committee during the expert hearing (Minutes Law 32/2004, Working Meeting 2 August 2004, p. 35-45).

With the direct regional election [of regional heads] there is no dignity in being a DPRD member (Meeting of Working Committee/*Rapat Panja*, 2 August 2004, p. 80)

Indeed, the DPRD was seen as a body that has status only. To appoint the regional head or an important person in the region was likely to be the most important thing that the DPRD did. The Minister of Home Affairs showed concern about this, as the DPRD had no role in the direct elections. He asked how the immense power of the DPRD (to elect the regional head) had shrunk to no significant role at all¹⁷⁶. This went some way to confirming that the position of regional head was more important than that of DPRD member, and it also suggested that being a representative of the people did not carry much weight when it came to regional affairs. The situation was worsened by the fact that the regional DPRD members were not encouraged at this stage in their career to study parliamentary procedure and get parliamentary experience so that they could advance from the local DPRD to the central DPR. The lack of a party cadre mechanism and the demand that the regions must listen to the center reduced the chance of a real representative member in any of the parliaments. The representative function was simply not yet reflected in the political vocabulary¹⁷⁷.

When discussing the mechanism of direct election and calibrating the role that the DPRD would play, it was agreed that the DPRD should work as an oversight body, to supervise regional affairs and oversee the election of the regional head via a direct election. The role of an oversight body (*lembaga pengawas*) was considered more suitable for the DPRD¹⁷⁸. This view was actually quite fitting. Many legal experts conveyed their concerns about having legislative bodies in the regions, and suggested that the DPRD would be better off only overseeing the regional government (*lembaga pengontrol*), and controlling the regional government's power, instead of acting as legislative bodies (Ashidiqie, 2004: 233). Most DPR committee members realized that Indonesian political culture had limitations:

FPKB: *Kita sama-sama tidak saja tahu tapi juga merasakan bahwa kultur politik kita ini sekarang belum memungkinkan DPRD untuk dilibatkan dengan desain-desain yang tadi di introduksikan. Apabila kita paksakan pasti akan timbul implikasi-implikasi sama seperti implikasi-implikasi yang timbul di era reformasi..yang namanya euphoria demokrasi.*

FPKB : We not only know but also feel that our political culture does not permit the DPRD to be involved in such complicated designs as those just introduced. If we try to push this, the implications will be similar to what happened in the reform era, that is democratic euphoria (Meeting of Working Committee, 26 July 2004, p. 875)

The extract above shows that introducing a complicated mechanism and design for the direct election of the regional head would be bound to lead to failure due to the limited personal capacity of DPRD members. The DPRD members were drawn from members of one political party or another. Once elected to be

¹⁷⁶ See Minutes of law 32/2004, Working Meeting 24 June 2004, p. 382.

¹⁷⁷ The representative function for the DPR was adopted in the *Susduk* Law 2009.

¹⁷⁸ See Minutes of Law 32/2004, Working Meeting from 7 July to 19 August 2004.

a DPRD member, the members' political parties were likely to ask and seek financial advantages from their positions, which gave them access to the regional budget with disastrous results. The DPRD's programs for mobility or capacity-building, for example, are examples of programs designed to get more money to either for personal benefit or to contribute to a political party. So-called money-politics cases, which usually related to the appointment of the regional head, were said to relate to requests from political parties to secure support for their appointee from DPRD members¹⁷⁹.

If the DPRD was suspected of having breached the budget regulations by implementing programs that would simply enrich its own members, one may reasonably ask why another state or regional agency did not bring it into line. The institutions of *Badan Pemeriksa Keuangan-BPK* (Supreme Auditory Board) and *Badan Pengawas Keuangan dan Pembangunan-BPKP* (Auditory Board of Finance and Development) were state agencies that dealt with financial or budgetary affairs at both the national and regional levels. Interestingly, during deliberations of the law, the only mention of the BPK and BPKP¹⁸⁰ made reference to fraud related to the diversion of funds allocated in the budget, for example, if a percentage of the school budget was diverted to other departments or allegedly used for corrupt purposes. When the budget was dedicated to a work program, such as the DPRD travel or capacity-building program, or if it was already included in the APBD, the regional budget, then the practice was not considered corrupt. This suggested that it was "acceptable" to behave immorally so long as it was within the letter of the law¹⁸¹.

Actually, it was also revealed that the BPK's position as a state institution, as an external auditory board, was also weakened by the president. The BPK was supposed to conduct external audit, but its existence was weakened when the BPKP was established as an internal government body, under the Ministry of Finance (Wasistiono and Wiyoso, 2009: 18). There were more BPKP units than BPK units, and this reduced the role of the BPK to such extent that it could not carry out its task effectively (*ibid*).

5.3.4 Policy implications of Law 32/2004

When Law 32/2004 was enacted in October 2004, towards the end of President Megawati's administration, its impact was not immediately seen. As usual, the law would only come into effect for the following legislative term, not the present one. In the 2004 election, the public was excited about the new mechanism for direct presidential election, followed by the introduction of direct elections for the regional heads in 2005. Law 32/2004, as we have seen, removed the

¹⁷⁹ In order to be a candidate of the regional head, one must be supported by at least a political party (or party coalition) which has members sitting in the DPRD. The support usually involved money, and was alleged to money politics, including in the DPRD.

¹⁸⁰ See Minutes of Law 32/2004, Working Meeting, 21 August 2004

¹⁸¹ Interview with the DPRD members, Ardianto (28 June 2011) and Arif Noor (31 May 2013).

DPRDs' character as legislative bodies, and returned them to their original remit as one part of the regional government.

Nevertheless, the new law still retained the same wording about the DPRDs' functions in legislation, budget, and oversight. These functions had also been stated in all previous laws on the DPRDs. Their character as legislative bodies were highly favored by the members. DPRD members noticed that when the institution lost their character as legislative bodies - although still nominally possessing the legislative function - their power diminished tremendously. The DPRDs still had the budgeting function too, but since the function was only to certify the budget allocation from the central government, the DPRDs' access to the regional budget became markedly more limited. DPRD members received regular incomes through the budget, but they were fixed. When the body's legislative character was removed, the true significance for members was that the opportunity to add more income by creative local legislation also disappeared.

As detailed in the next chapter, the DPRDs, realizing that they no longer had any real power, held a rally to highlight their unfair treatment in relation to financial regulation, notably in relation to their control over additional sources of income. As shown in this chapter, the procedure and the legislative process in the DPR for the laws discussed here did not allow thorough and sufficient consideration of the issue, and of the problems of the DPRDs.

5.4 Conclusion

The 1999 election resulted in a more pluralist membership in the DPR. It was Indonesia's first democratic election since 1955. Most of Indonesia's political differences were represented in the political parties, including nationalist, Islam, secular, Christian etc. Amidst the euphoria from the new election and parliament, the old procedure and the constitution prohibited the winning political party, the PDIP, from directly appointing its chairperson, Megawati Soekarnoputri as president. Following political negotiation in the assembly, the MPR, Abdurrahman Wahid became president and he appointed Megawati vice-president. The distribution of seats in the MPR and the political situation at that time did not allow the direct rise of a female president.

This chapter also briefly surveyed the influence of the old political procedure on the new members of parliament. The president was still appointed by the MPR assembly, and so although the PDIP won the election, Megawati did not immediately become president. The MPR members amended the 1945 Constitution, but patchily rather than by drawing up a new constitution. These two examples, plus the involvement of the old players from Suharto's regime, such as *Golkar* and the military, encouraged the maintenance of the status quo in parliament, although political change had occurred. This confirms the view that the old parliamentary procedure continued to be practiced, with some modification.

There was no sudden breakthrough or change in the workings of the DPR; their practice rather followed what was laid down in previous laws, or the amended constitution. The DPR members from new political parties, notably from PDIP, questioned the government, but most of their questions were prompted by their lack of understanding of procedure rather than any wish to demonstrate the exercise of a new parliamentary roles. Law 22/2003 regulated a new state institution, the DPD. In this law, parliaments were seen as institutions that existed for the sake of mere status and position, rather than for influencing state or regional affairs. The DPRDs were not empowered as legislative bodies at all, although Law 22/1999, which stipulated that the DPRDs were regional legislative bodies, was still valid at that time.

In the regions, there was a bigger change. When Law 32/2004 on Local Governance was proposed, the desire for recentralization was strong. Using the lamentable implementation of decentralization as an excuse to revise the law, both the Ministry of Home Affairs and the nationalist president planned to regain the power they had previously held over the regions. The DPRDs were expected to know their own roles. The facts showed that the DPRDs had status only in the regions, where the regional heads were still important actors. The DPRDs were turned into oversight bodies. They lost their legislative power once and for all and returned to their original characters as part of the regional government. Law 32/2004 was enacted in October 2004, towards the end of President Megawati's administration. Law 32/2004 put an end to the DPRDs' character as legislative bodies, and returned to it its original remit as part of regional government. The DPRDs did not realize their loss of political power until later, as we will see in the next chapter.

6 THE PERIOD 2004 - 2009: 'POLITICS AS USUAL'

Indonesia's old oligarchy has shown a tremendous capacity
to adapt to the new rules of the game
- *Time* 20 July 2009¹⁸²

With the constitution amended between 1999 and 2002, the national election on 5 April 2004 was held not only to elect members to the 550 seats in the DPR, but also to choose 128 members for a new institution, the DPD, for the period 2004 - 2009. Despite the lower turnout than in the previous election, only 84% (International Idea, 2014)¹⁸³, the 2004 election was still seen as a 'clean, effective and peaceful implementation', which indicated the progress that had been made in democracy in Indonesia (Mietzner and Aspinall, 2010: 6). Forty-two political parties participated in the election and 17 were successful in gaining seats in the DPR.

It seems appropriate to refer to this period as one of 'politics as usual', in contrast to Crouch's view (2010) that the label should be used only for the 1999 - 2004 period. Crouch (2010: 7) explained that:

in politics-as-usual reform, change is considered desirable but the consequences of not acting are not considered threatening to the decision makers or the regime [thus, it exhibits] concern about bureaucratic and narrow clientelistic relationship.

Crouch suggested that 'politics as usual' was practiced during Megawati's term, comparing it to the 'crisis-ridden' approach of Habibie's presidency (Crouch 2010: 34). However, I have a slightly different view. While I agree that the Habibie's reform was 'crisis-ridden', I do not hold a similar view of Megawati's presidency. I think (Wahid and) Megawati's era served to continue the period of transition, and that the time of 'politics-as-usual' had not yet arrived. Within the period 1999 - 2004, the DPR members, both the old players (like *Golkar* and the military) and the new players coming from the new political parties, togeth-

¹⁸² Quoted in Solenn Honorine 'Two cheers for the thinking general', *Time* July 20, 2009.
¹⁸³ International Idea website 2014, *Voter turnout data for Indonesia*. The 1999 turnout voter was 93 %.

er crafted the new rules of the game in Indonesian politics, as the Constitution and laws on political issues (revising the laws on political parties, elections and *Susduk* and passing a new law on regional governance in the previous period) were enacted to achieve consolidated democracy. Therefore it is still appropriate to refer to this period as a period of transition. Although the pulse of 'crisis-ridden' reform slowed down, the period was a test era for both the old elites, who had maintained their status-quo under the cloak of reform, and for the new elites, who faced the difficult task of implementing the proposed democratic reforms in Indonesia. The latter group was unlikely to be successful, as old procedures continued to be the practice in politics and administration. Only when the transition period was over, and when the constitutional reform had been put into practice, with direct presidential elections and two new state institutions (the DPD and the Constitutional Courts, or MK) up and running, did the 'politics as usual' approach become possible. This happened during the period of 2004 - 2009, under Yudhoyono's presidency.

In this research, what is meant by politics as usual is what is reflected in the procedures of the DPR and the DPRD: namely, that parliamentary procedures ran as they had been running since the old times; politics was conducted by a multitude of parties, but the institutions still could not control their internal working; and accordingly both the DPR and DPRD still continually faced internal problems (Haris and Nurhasim, 2007: 18-19). These problems concerned party mis-management, the lack of skills and capacities of party members to articulate the parties' ideologies, the lack of a code of conduct, individual vested interests and private gain through public position, and the limitations set by the budget for parties and campaigning. The usual style of politics was seen mainly as accumulating money when a member was sitting in the DPR or DPRD dealing with national/regional affairs, and the bureaucratic style of carrying out their institutional tasks.

In this chapter, I will look at the DPRD as regulated by Law 27/2009 and overview the legislative process of this law. Law 27/2009 was classed as a *Susduk* law, and the increase in the number of articles in it, from only 114 in Law 22/2003 to 408 in the new law, showed a breakthrough in that the DPR committee had been able to put five institutions¹⁸⁴ into one document. Moreover, during the deliberation process, there were other breakthroughs: appreciation was shown of the *Susduk* committee's openness to public input and its transparency in conducting committee meetings, as well as its inclusion of accountability in the content of the law, as reported by one civil legal organization, the PSHK (PSHK, 2010: 43). Indeed, the public could attend the parliament and observe the deliberation on the law, even when the deliberation was conducted in smaller meetings.

¹⁸⁴ These were the MPR, the DPR and the DPD, as state institutions, and the DPRD Province and the DPRD District/City as regional institutions. The total could even be considered to extend to six institutions, if the Secretariat (or Supporting System) is counted.

Furthermore, during the plenary session that enacted the bill into law, the *Golkar* party raised an objection to certain articles in the law, which drew the attention of the Minister of Home Affairs, Mardiyanto, who remarked that ‘a differing opinion during the law enactment showed the DPR’s democracy’¹⁸⁵. *Golkar* raised its dissenting opinion in the plenary session, since it disapproved of the number of members in the MPR Leadership. However, since most parties agreed on the contents, the bill was enacted into a law as it stood. This suggested a tacit recognition of the majority principle without an explicit vote.

The chapter highlights the new difference in interpretation of the DPRD, compared with their position in the law enacted during the previous period. The minutes of the law show that during the transition period, the DPRD became powerful legislative bodies; then between 1999 and 2004, the DPRD “returned” to their original character, as “form part of the regional system of government” (*bagian dari pemerintahan daerah*), as stipulated in the Constitution. This chapter shows that the DPRD continue as a unit of regional government, as supervisory councils. This being the case, as a regional entity the DPRD should only have been regulated under *Pemda* law, not *Susduk* law. However, it was finally settled that the DPRD should continue to be included in the *Susduk* law, which meant that the DPRD were being considered on the same terms as the group of elected national, state institutions. This suggests the confusion of both the central government and the DPR, as the DPRD did not belong to the category of state or national institutions.

The DPRD finally realized that the recently enacted *Pemda* law had led to them losing their regional power, although the cut was meant to be directed to financial rather than political ends. Then, knowing that there were plans to revise the *Susduk* law, the DPRD bargained for their position to continue to be regulated under the law, on account of their associations, and even hoped to be considered state institutions, so that DPRD members might enjoy the financial privileges of bodies with the status of part of the state apparatus (*pejabat negara*)¹⁸⁶.

¹⁸⁵ See *Pengesahan RUU Susduk diwarnai Nota keberatan* [The enactment of *Susduk* bill colored by an objection note] at *beritasore.com*, 4 August 2009.

¹⁸⁶ The minutes of Law 27/2009 showed that there was a lot of discussion on the issue of the DPRD and their intention of obtaining the status of state bodies. Indeed the DPRD pushed their intention to the DPR to get their status upgraded (Interview with Awal, ADKASI Chair). According to Law 43/1999 on State Apparatus, Article 11, the regional heads (governor, regent, mayor and their deputies) still enjoyed their status as part of the state administration even though the scope of their work was restricted to the regions. This continued the tradition of patron-client relationship that had developed during Suharto’s era, where all the regional heads were given high status, despite the limitation of their jurisdiction to the regional level. Accordingly, their status is higher than DPRD members. This highlights the head’s legitimacy: they worked under the president’s authority, like ministries. No explanation was given as to why the regional heads continued to have this status. The practice was considered inappropriate in the Reform era, and the DPR committee, during deliberation of the law, requested that the government be consistent, and either revoke the rights of the regional heads as part of the state apparatus, thereby downgrading them to regional administration, or upgrade the DPRD’s status to the state level, as well (Interview with Ganjar Pranowo, the chair of the DPR *Susduk* committee).

The minutes of the law, studied here, show that little emphasis was put on the representative nature of either the DPR or the DPRD. The attention paid in the discussion to the low quality of legislation in the DPR suggested that the DPR must be seen above all as a *legislative body*. This is shown in the elucidation, the explanatory part of the law, which clarified the meaning of articles in the law. As regards the DPRD, because of their disastrous legislative performance, it was made a *supervisory council* to oversee the performance of the regional executive. In exploring how all this came about I will first briefly present the political situation and the distribution of seats in the DPR during this period, followed by a discussion of the DPRD rally in 2007 and the revision of the *Susduk* law. The law established the characteristics of both the DPR and the DPRD: the DPR's status as a legislative body was strengthened, while the DPRD's functions were restricted to those of councils with responsibility simply for oversight. The discussion also reveals that although the political parties became more robust during this time, the old parliamentary procedure was still consistently used.

6.1 Background in 2004 - 2009

The period reflected the new excitement evident in Indonesian politics. The 1945 Constitution was amended, new state institutions were established, the regions had autonomous power but remained in check, and the president was directly elected. Indonesia had become democratized. The new players from outside Suharto's circle, such as the *reformasi* figures and parliamentarians who had come from new political parties during the previous election period, had adapted to parliament's "games". PDIP members in the DPR, despite their critical views during their first term of office, gradually drifted into the corrupt practices of the institution. They learned the culture of the DPR. The strength of the old players, including the old political parties and the military, was also reinforced. The *Golkar* party won the 2004 election, and the PPP survived. *Golkar* gained 22% of the votes, leaving the PDIP, which only gained 18% of the votes, in second place. The third-place party was the PKB, with almost 11% of the votes, followed by the PPP in fourth position with 8%. The new parties, Yudhoyono's Democratic Party (PD) and the PKS¹⁸⁷, did well in the election by getting 7.5% of votes. Even a new party, the PD was successful in promoting its own presidential candidate, Susilo Bambang Yudhoyono, known as SBY, in the first direct presidential election. Yudhoyono became the first Indonesian president to be elected by popular vote. Other parties that survived from the reform era, such as the Islamic parties PAN and PBB, positioned themselves as centrist parties.

¹⁸⁷ *Partai Keadilan Sejahtera* (PKS- Prosperous Justice Party) changed its name from *Partai Keadilan* (PK-Justice Party) and slightly increased its votes over the previous election.

The Islamic parties, such as the PAN, PKB¹⁸⁸, PPP, PKS, and PBB¹⁸⁹, only gained 6-10 % of the votes. This suggests that Indonesian voters - of whom there were around 100 million eligible Muslim voters - did not associate their religion with their choice of political parties, and even preferred secular nationalist parties such as *Golkar*, the PDIP and the PD. The Islamic parties had powerful figures¹⁹⁰ to offer in the presidential election. However, Yudhoyono's charisma was irresistible to voters. Indonesian voters were known to vote for familiar figures rather than for figures based on political party platforms and ideologies, and this 'politics of image building' was successful in installing the military figure of Yudhoyono into power (Sukma, 2010: 60). Moreover, Yudhoyono's PD successfully presented itself as a nationalist party that would accommodate Islamic interests (Sukma, 2010: 66). The voters thus fell for Yudhoyono and turned their back on Megawati. The voters did not mind Yudhoyono's military background, which linked him to one of the strong powers that had supported Suharto's authoritarian regime. This shows that the military had indeed managed to reassert themselves in the new era¹⁹¹.

With the winning back of old powers and the weakening of the PDIP, the usual style of politics was retained. Although directly elected on a party political ticket, President Yudhoyono was still thought to embrace all the political parties in parliament, who would support his administration and political stability. The parliament's weak legislative achievements resulted from its working style of compromises and negotiation, which kept it from acting democratically. The sense of urgency arising from the crisis in the period of transition was not strong enough to produce any breakthrough policies in this term, although problems related to corruption, weak bureaucracy, and law enforcement had not yet been resolved. The 'politics as usual' approach in the DPR continued to bear the mark of the New Order's legacy of a 'patrimonial character' which encouraged 'patron-client relationships' (Bünthe and Ufen, 2009: 9).

¹⁸⁸ PAN and PKB did not declare their parties as Islamic ones, but the parties chairs - Amien Rais and Abdurrahman Wahid or Gus Dur - were former heads of the biggest Islamic-mass organizations in Indonesia - *Muhammadiyah* and *Nahdlatul Ulama* - which suggested that voters would vote these parties based on the strong Islamic backgrounds of these figures.

¹⁸⁹ Due to the number of votes received, these parties were considered middle-range Islamic parties, except for PBB, which obtained only 2.6 % of votes in the 2004 election, making it a small Islamic party.

¹⁹⁰ PAN proposed Amien Rais as a presidential candidate. Rais was a former chair of Indonesia's second-largest mass Islamic organization, *Muhammadiyah*. However, Rais did not ask *Muhammadiyah* members formally to vote for his party PAN, so *Muhammadiyah* members were not associated with PAN members, and their votes could go to other parties. PPP proposed its chairman, Hamzah Haz, while PKB proposed Abdurrahman Wahid as the presidential candidates. PPP needed to strengthen its leadership and faced much internal conflict, and the PKB was left to deal with the erratic behavior of former President Abdurrahman Wahid (see Sukma, 2010: 58).

¹⁹¹ Robison and Hadiz (2004) suggested that the old authoritarian interests, such as the military, were being accommodated within the new regime and had undergone a transformation in shaping the democratic arrangement in the country. Robison and Hadiz's (2004) study focused on the terms of President Wahid and President Megawati Soekarnoputri, but this tendency continued even more strongly during President Yudhoyono's tenure.

Suharto left behind a legacy that combined personal and family interests with those of the state, as he transacted state affairs both in the presidential palace and at his private home at Cendana, in the Menteng area (*New York Time Magazine*, 18 July 1999). As president, Suharto also followed the model of a traditional Javanese king (Parry, 1999: 38), who used his inner circles - the country's military, political and business elites and his relatives - to build networks of 'personal loyalty, patronage and benefits, both political and material' (*ibid*, p. 38). With the same military and Javanese background as Suharto, the new president, Yudhoyono continued to practice these traditions, although without using coercion, because he had no desire to 'break from the past'¹⁹². Yudhoyono also used his private residence, Puri Cikeas, in the same way as Suharto had used Cendana, meeting there with his inner circles, notably the leaders of the PD, and his ministries. Corruption was still rampant, and even the president was alleged to have been involved in the Bank Century scandal¹⁹³, although this case has not yet been proved.

The DPR, on the other hand, with its legacy of parliamentary weakness, was at a disadvantage in the face of the president's legitimacy, especially when the president's credibility was improved by direct popular election. The DPR thus maintained its traditional procedure and conducted its politics as usual.

6.2 Inside the DPR in 2004 - 2009

Despite its political stability, Megawati's government was unable to show enough personal achievement to support her re-election in the new presidential system via the direct elections. As anticipated even by Megawati herself (Crouch, 2010: 34), the PDIP lost its leading position to *Golkar*. With its 33% of the votes in the 1999 election, the PDIP only gained 18% of the votes in the 2004 election. This decline was probably due to vote transfer to the new parties PD and PKS. *Golkar* still retained its 22% of votes, similar to its showing in the 1999 election, which is an indication of its effectiveness as a party machine in Indonesia. The new party, the PD, led by Yudhoyono, was probably the main cause of the changed voting configuration. Although newly established and set up mainly to nominate Yudhoyono as the presidential candidate¹⁹⁴, the PD gained 7% of the DPR seats in its first election, which made it the fourth largest party in

¹⁹² According to Honorine (2009: 26). Honorine also reported that SBY did not bring any new policies, and in this way, he was like the other presidential candidates. Despite being the first directly elected president, 'SBY cut his teeth under the late dictator Suharto and has shown too little willingness to break decisively with certain crippling features of the old regime' (*ibid*).

¹⁹³ Aditjondro's *Membongkar Gurita Cikeas* (2010) [Uncovering Cikeas Octopus] discusses the President and his family business, even in relation to allegations regarding the Bank Century scandal. The scandal involved a certain amount of money from the state budget used to save the Bank Century bailout program, which was suspected of being corrupt because it covered the PD's activities in preparing the 2009 election.

¹⁹⁴ The party was established in September 2001 to propose Yudhoyono as president. See the history of democrat party at its official website, www.demokrat.or.id.

the DPR after the PPP. This was actually a good achievement for a new party, giving it more or less the same percentage of the votes as other parties from the previous election, such as the PAN, PKB, and PKS.

The 550 DPR members grouped themselves into 10 factions. The composition of the DPR was slightly different from before. While the big parties, such as *Golkar*, the PDIP, PPP and PKB still continued as individual *fraksi*, the small party configuration had changed. *FReformasi*, a faction comprising PAN and PK in the previous period, was no longer united, and in this period each party was able to separate and built its own faction, FPAN and FPKS. The military faction was also no longer part of parliament, but its former political figures still enjoyed the highest positions either in ministries or on the boards of one or another of the political parties. The new party, the PD, also had its own faction within the DPR. The table below, Table 6, shows the DPR's *fraksi* composition and numbers of each member.

TABLE 6 The configuration of the DPR, 2004 - 2009, according to the minutes of meetings, and Prayudi (2013).

Factions in DPR 2004-2009 10 factions	Total members	Laws discussed in this chapter and date of signing
1. Partai Golkar (FPG)	129	Law 27/2009 (29 Aug 2009)
2. PDI Perjuangan (FPDIP)	109	
3. Partai Persatuan Pembangunan (FPPP)	58	
4. Partai Demokrat (FPD)	57	
5. Partai Amanat Nasional (FPAN)	53	
6. Kebangkitan Bangsa (FKB)	52	
7. Partai Keadilan Sejahtera (FPKS)	45	
8. Bintang Pelopor Demokrasi (FBPD)	20	
9. Partai Bintang Reformasi (FPBR)	14	
10. Partai Damai Sejahtera (FPDS)	13	

For the presidential election, political parties with at least 5% of the DPR seats could nominate a presidential candidate. Five pairs of presidential and vice-presidential candidates were nominated: by the PDIP, *Golkar*, PAN, PD-PKS, PPP and PKB¹⁹⁵. Yudhoyono paired with Jusuf Kalla, a *Golkar* member, but

¹⁹⁵ The candidates were Megawati-Hasyim Muzadi (PDIP); Wiranto-Salahuddin Wahid (*Golkar*); Amien Rais-Siswono Yudho Husodo (PAN), Susilo Bambang Yudhoyono-Jusuf Kalla (PD); Hamzah Haz-Agum Gumelar (PPP) and Abdurrahman Wahid-Marwah Daud (PKB). Wahid's nomination was rejected due to his failure to pass medical requirement (*Tempo*, 22 May 2004).

Kalla's nomination was not supported by his party as *Golkar* nominated ex-general Wiranto (Liddle and Mujani, 2006: 133). When no pairs won more than 50% of the votes in the first round of the presidential election, a second round election was necessary, with Yudhoyono and Megawati as presidential contestants.

Prior to the second round of presidential election, two parliamentary coalitions - the People's Coalition (*Koalisi Kerakyatan*) and the National Coalition (*Koalisi Kebangsaan*) - were set up, but they were fragile and had been set up only for the presidential election (Ambardi, 2009: 260). The People's Coalition (*Koalisi Kerakyatan*), which included the PD, PKS, PAN and other small Islamic parties in the DPR, supported Yudhoyono, while Megawati was supported by the National Coalition (*Koalisi Kebangsaan*), notably the PDIP, *Golkar*, PPP, and other small parties (Liddle and Mujani, 2006: 134). The National Coalition was led by Akbar Tanjung, the *Golkar* chair at that time, to boost Megawati's votes (*ibid*, p. 133). Even though Yudhoyono was not supported by any of the big parties in the DPR, he still won in the second round, with 60% of the popular votes. Yudhoyono's success shows that Indonesian politics was still steered by personal image, by the military figure and money politics¹⁹⁶. Yudhoyono's military background and figure made him more plausible as president than any of the other candidates at the time, especially Megawati, whose leadership during her presidency was widely regarded as weak. When Yudhoyono won the election, Akbar claimed that he was organizing an opposition against the Yudhoyono government and 'controlled all the parliamentary commissions' (Liddle and Mujani, 2006: 133). Nevertheless, when Jusuf Kalla replaced Akbar Tanjung as *Golkar*'s chairman two months later (*Liputan6.com*, 19 Dec 2004), the coalition broke down. With Kalla as the chair of the biggest party in the DPR at that time, *Golkar* retained its position as the government party, or state party, just as it had done during the 32-year Suharto regime.

Since Yudhoyono's PD had gained substantial supports from *Golkar* in the DPR, the president theoretically could be more confident in selecting his cabinet ministers. With his tendency to support status quo and old political traditions, President Yudhoyono considered that he still needed to embrace the whole range of party affiliations in the DPR, and selected fewer non-party professionals than he had promised (Liddle and Mujani, 2006: 134). Yudhoyono even asked the PDIP to join the administration although the PDIP positioned itself as an "opposition" in the DPR (Ambardi, 2009: 265)¹⁹⁷. Yudhoyono's cabinet was

¹⁹⁶ Jusuf Kalla, a successful businessman from Suharto's *Golkar* circle was said to have injected a lot of money into both the presidential election and the nomination for chair of *Golkar* (Liddle and Mujani, 2006: 135).

¹⁹⁷ Liddle and Mujani (2006: 134) identified the PDIP as an 'opposition' party but the term was misleading as the Constitution did not recognize opposition with reference to Indonesian politics. In fact, the PDIP's claim of being opposition was due to that friction existed between Megawati and Yudhoyono, that most Indonesians knew (see *detiknews*, 16 March 2009 or news on 'conflict between Mega and SBY'). In 2004, when Megawati asked Yudhoyono whether he planned to run for presidency, he dodged the question and committed himself to serving as her minister. Yudhoyono's run as presidential candidate and eventual win was seen as an affront towards Megawati, and they did not speak to each other after this (*inilah.com*, 10 Nov 2012). In offering a

filled with ministers who came mostly from party coalitions. The public had been expecting more professional figures to carry out the new government's policies, but apparently, the "status-quo" president preferred political stability, and he got this by having party-based ministers rather than the professionals who did not have the support of the masses (Ambardi, 2009: 266).

Yudhoyono's tendency to include all parliamentary affiliations only confirmed the conclusion drawn in the post-Suharto era that Indonesia was a type of consolidated democracy, and that it retained the political culture of an old tradition. The same mantra was repeated, that in order to achieve political stability and gain parliamentary support, the government should ensure the representation of the political parties in the cabinet (Sukma, 2010: 67). Yudhoyono should have been more confident that his cabinet - at least in theory - would not be troubled by the past, given his party's significant presence in the DPR, his own greater legitimacy as president from his popular election, and his knowledge that the big party *Golkar* was under the chairmanship of Kalla, his vice president, and thus supported the administration. However, Yudhoyono's intention was to include all the parliamentary parties in his cabinet, even those from the PDIP, so that his government's policy would be fully supported by the DPR. Here Yudhoyono operated under the mistaken assumption that Indonesia had a system of parliamentary government and that all his decisions needed to be supported by the parliament, as if he was a prime minister, not a president (Ambardi, 2009: 264-265).

The rent-seeking behavior of the political parties, as studied by Ambardi (2009: 3), would be satisfied if their party members gained position as ministers. Even for the PDIP, which did not have a cabinet post, to financial benefits access was gained from its parliamentary positions¹⁹⁸. Both cabinet posts and parliamentary chairmen would keep their parties' finances healthy as part of the income such officers got from their positions was directed into personal and part into party purses. The DPR as an institution, and its members, still showed the characteristics of a cartelized party system¹⁹⁹ whose members acquired financial gain when carrying out their roles in legislation, budgeting and oversight. Indeed corruption seems to stick to DPR members and the institution (Case, 2011: 27). There was a tradition that bills would be passed without delay if followed by money and,

ministerial position to the PDIP, Yudhoyono hoped to break the ice in his relationship with Megawati. PDIP's "opposition" strategy was rewarded with its many chairs in the DPR leadership, so the flow of finance to the parties from these elites positions continued (Ambardi, 2009).

¹⁹⁸ In the case of the PDIP, members did not have any ministerial positions, but rather sat in leadership positions in the DPR working body, which secured a financial advantage for the party (Ambardi, 2009: 279).

¹⁹⁹ An Indonesian cartelized party has the following characteristics: '(1) no party's ideology is used for party coalition (2) permissive behavior in coalition building (3) lack of opposition (4) the party's behavior not determined by the election result, and (5) strong tendency to act collectively as one group, against the general principle of a competitive political party' (Ambardi, 2009: 3)

Ministry officials are reportedly not above making special payments to members to have high priority bills passed. A culture is beginning to develop in the DPR where certain members treat the passage of a bill not as a duty performed but as a favour for which they should expect special recompense (Sherlock, 2007: 39).

The excerpt above shows well that a position in the DPR was seen as status, as important for enhancing members' personal wealth and also upgrading their social status to something better than they had had in their previous occupation. This derives from the traditional Javanese concept of power, that power meant status not action, as discussed in Chapter 2 (Jackson, 1978: 41), and is a continuation of the political culture nurtured under the New Order. Passing legislation according to the government's proposal would be done 'in return for personal wealth and special opportunities to become wealthy and influential' (Sherlock, 2003: 29).

The election also followed the practice of using artists or other famous people as vote-getters for the parties in the electoral regions, as the previous period, and the PD was no exception. One of the artists who became a DPR member for the PD was Miss Indonesia 2001, Angelina Sondakh. Sondakh came originally from Manado, the capital of the province of North Sulawesi, where she was active and was well known. However, in the 2004 election, Sondakh stood in the electoral region of Central Java VI, a region that the PDIP had always won. Although Sondakh did win a DPR seat here, constituency relations were weak under this system, since it was difficult for anyone to attract the constituents' interest if they did not know the area they represented.

It is true that selecting celebrities as candidates for members of parliament, or as vote-getters, is common elsewhere too, but it is peculiar to Indonesia that these celebrities do not study the profile of the political party they stand to represent. Even worse, sometimes they do not know how to be politicians, able to articulate political issues and represent the aspirations of their electoral regions. Thus, once elected as members of the DPR, they behave in a similarly clueless manner, irrespective of the differences in their political parties. Being new, Sondakh visited her electoral district only when necessary - especially when allowances from the DPR were available - but she was not really part of her electoral district as she never lived or stayed there long enough.

Nevertheless, Sondakh was not an isolated example. Anyway, DPR members like Sondakh did not have much to say in the DPR, either in the plenary session or in committee meetings. It was the elites, the party chairmen, who made decisions, and artists remained solely as vote-catchers during the election; they did not serve as representatives of the electorate nor important players in the DPR. The DPR elites, who filled the seats of the DPR Leadership and party chairpersons in Jakarta, made whatever decisions they wished. The domination of 'political elites, patronage and money politics' confirmed for Indonesia what previous studies have seen as a general tendency in Southeast Asia (Tomsa, 2008; Aspinall and Mietzner, 2010). Moreover, with the military and old elites, including Yudhoyono, in power, the situation can be seen as 'politics as usual' (Crouch, 2010).

As well as exercising its legislative function poorly, the DPR gave an unsatisfactorily performance in its other functions²⁰⁰ as well. When reviewing a budget proposal, DPR members did not understand the economic issues presented by the government and did not have suitable support from the Secretariat (Ziegenhain, 2009: 43). Both its legislative and budget functions, as regulated by procedure, revolved around the clauses and articles of the law. This required a certain (legal and economic) expertise, which not all DPR members had. Due to the members' distrust of the work of the Secretariat and the lack of support from their political parties, DPR members relied on their own knowledge and political judgments. Sometimes, the opinion of one MP was contradicted by the opinion of other MPs from the same faction (Sherlock, 2010: 167), and when DPR members do not trust their own political moves they tend to focus more on petty, practical issues in legislation, such as the wording of articles, which were ineffectual when faced with the wider resources of the government and its experts.

Meanwhile, the DPR had been given a new task in the amended constitution. In addition to investigating and examining the government's performance, the DPR had now been given the task of overseeing and providing input on the appointment of army and police chiefs, ambassadors, and state officials. This oversight function was still conducted in the committee or commission forums, not in the plenum, and thus lacked public visibility. Oversight of the banking system during the case of Bank Century in 2008 was more the work of Commission XI than of the DPR as an institution²⁰¹. Other DPR members outside of this commission were unable to follow the discussion, and only relied on DPR colleagues from the same faction for information about what was going on (Sherlock, 2003).

Conducting the deliberation process in a small, closed room increased the DPR's opportunity to gain additional income from the investigative process²⁰². When the executive or government included almost all the parliamentary parties, the DPR could not effectively control and oversee the executive's performance, and this was made even more difficult when the oversight role was exercised within smaller forums. Small forums tend to be closed, although this depends on the issue and the wishes of the chairs of the DPR committee in each case, and therefore the risk of corruption increases. Cases of rampant corruption have been known involving members of DPR and most practices were conducted in the "wet" commissions that involved banking and state enterprises²⁰³. The Bank Century scandal was not considered important enough for the DPR to

²⁰⁰ The DPR functions according to the Constitution Article 20A are legislation, the budget and oversight. Note that there is no representative function stated for the DPR, although Law 27/2009 later stipulated that "all functions are exercised under a mechanism of people's representation" (Article 69 point 2).

²⁰¹ See Sherlock's (2009: 171) analysis on the DPR's accountability.

²⁰² See Ambardi (2009), Sherlock (2003, 2009) and Ziegenhain (2008, 2009) on the corrupt behavior of DPR members.

²⁰³ See Sherlock (2007), Ziegenhain (2008) and Case (2011) for the corrupt behavior of DPR members during the deliberation on new legislation in commissions.

present the case in full public view, that is, to upgrade the investigation to the plenum, and another example of a controversial case, the case of educational oversight in 2009 - 2010, which was mentioned in Chapter 2, was treated in the same way. The country was shaken by the case of national exams but the DPR still delegated its oversight function to a commission instead of exercising it in the plenum.

This background - with Yudhoyono's leadership style copied from Suharto in terms of running the country as his own family affair, and letting the inefficient corrupt bureaucracy continue, along with the continuation of corrupt behavior in the DPR - offered somewhat gloomy prospects for the coming period. It was predicted that a dramatic change could happen only if those who had been involved in the New Order did not participate in future elections (Honoring, 2009: 29).

Another important event in this period, at the regional level, was the introduction of the direct election of regional heads. The first such election was held in 2005. Voters directly elected their governors, regents, and mayors, rather than electing them through the DPRD. Although the candidates needed support from the political parties to run in the election, many new faces appeared on the scene. They came from different backgrounds and included businessmen, ex-military, and even bureaucrats. Their campaigns let them to have to approach and contact the public directly if they hoped to be elected. They were interested in managing regional affairs and did not necessarily come from the political party recruitment system. Sometimes political parties would voluntarily support candidates with a good reputation, such as long-time bureaucrats. It was these new figures who were preferred by voters and mostly won the election for regional head, even if their candidacy was only supported by small parties (Liddle and Mujani, 2006: 136). Around 60% of the seats in the DPRD were still held by *Golkar* personnel and yet *Golkar* only gained a 40% share of the regional leadership. It is possible that voters selected clean candidates in preference to those whose roots lay in *Golkar* or the New Order (Liddle and Mujani, 2006: 136).

Golkar indeed still benefited from the election system that had been built in the Suharto era, as can be seen from the number of times they had a majority of seats in the DPRD throughout the country. *Golkar* was still the strongest party in South Sulawesi (Tomsa, 2008: 108) and in North Sumatra (Tans, 2012: 13), and in most of the outer islands, outside Java and Bali. The *Golkar's* dominance in local politics suggests that the political culture of the New Order had not been much disturbed.

6.3 The DPRD's lost power and the 2007 rally

6.3.1 The DPRD loses its power

With the enactment of Law 32/2004, and the mechanism of direct regional election, the DPRD's had lost their power to elect the regional heads, as well as their character as legislative bodies. From 2005 onwards, local citizens throughout Indonesia directly have elected their regional heads, known as *Pilkada* (*pemilihan kepala daerah*). The DPRD's character became similar to what they were before Law 22/1999 was passed: just one branch of the regional government, working together with the regional executive (Article 19)²⁰⁴. While they lost their character as legislative bodies (although they retained their function to legislate regional regulation/*Perda*), the 2004 law emphasized the oversight function of the DPRD's, function that was also confirmed in Law 27/2009, which is discussed below²⁰⁵.

The DPR committee that enacted the law thought that the oversight function was an important aspect of the DPRD's work, and would have an important influence on the governance of the regions. When the oversight function was conducted properly, DPRD members would visit constituents often to hear about the impact of policy implementations conducted by the regional government. Hearings would be held often to make public input possible. Unfortunately, under the old tradition, the DPRD's had used to conduct meetings with executive and regional bureaucrats, rather than with their constituencies and citizens, thus the present DPRD members prefer to continue the tradition. Also the DPRD's oversight function was loaded towards uncovering the misapplication of budget allocations by the regional head, but the DPRD members remained silent when they themselves benefited from any such misapplication of funds²⁰⁶. The DPRD's wanted to become involved again in the (local) legislative process, even better to be a full legislative body, so that they might determine the contents of *Perda*, especially in the allocation of certain projects in the regions or where it concerned an opportunity to access budget allocation. This allocation had enabled members of the DPRD's to access additional income for themselves. The situation was different in budget discussions when the DPRD's were no longer legislative bodies. The DPRD's could no longer determine the

²⁰⁴ Law 32/2004 Article 19 stated that 'the regional administrators were the regional government and the DPRD'. As under the New Order, this meant that the regional head was the main actor within the regions (and, in particular, had more legitimacy from the direct election) and positioned the DPRD as a rubber-stamp institution.

²⁰⁵ During the proceedings, the DPRD was expected to practice a 'checks-and-balances' system (Minutes of Law 27/2009, Working Meeting 29 May 2009, p. 12; Working Meeting 4 June 2009) or to oversee the performance of the regional government (Minutes of Law 27/2009, Working Meeting 4 June 2009, p. 69-70). This view was also shared by one DPRD (see website of DPRD Kabupaten Tanah Bumbu), which stated that, according to Law 27/2009, the DPRD must exercise its oversight function to a greater extent.

²⁰⁶ See Karim (2003) on the problems of decentralization, especially the DPRD's tendency towards corrupt behavior.

budget allocation and the budget was rigidly allocated to certain areas and regulated by the central government. The Regions, or the DPRD, needed only to certify the allocation.

The implication of the DPRD's restricted legislative power, as described in the previous chapter, was that they could *not* produce regulations that would have direct implications for public prosperity. The loss of legislative power was not seen as political losses for the DPRD. The direct election of the regional heads in 2005 resulted in reform-minded regional leaders, many of whom saw themselves as challenging DPRD members. The DPRD were filled with members with party allegiances, and the position and status of members of the DPRD were important in generating money for the political parties²⁰⁷. The relatively clean regional heads, usually new figures, would not increase the budget allocation for the DPRD and this created tension between the executive, that is, the regional head, and DPRD members. When the DPRD lost their status as legislative bodies (although the legislative function - to make regional regulation - was retained), they lost one way of making money, and in consequence they had to find other sources of funding. This was made possible via national government regulations and the DPRD associations²⁰⁸, especially ADKASI, with the enactment of Government Regulation (*Peraturan Pemerintah/PP*) number 37/2006²⁰⁹, which affected the DPRD throughout Indonesia.

The regulation made additional allowances for DPRD members. While DPRD members already received a regular monthly income²¹⁰, the regulation gave the councilors other allowances (*tunjangan*), namely a Communication Allowance (*tunjangan komunikasi*) for all DPRD members and Operational Funds (*dana operasional*) for the Leadership of the DPRD. To complicate matters, whereas the regulation was signed by the president on 14 November 2006, Article 14D of the regulation stated that the new allowances should be paid retroactively from 1 January 2006. This was where many problems started.

The budget for the 2006 year was meant to cover payment of a small group of people at the DPRD, without acknowledging the regulations on the

²⁰⁷ A political party in Indonesia did not generate money from its members, instead elected members (either in the DPR and the DPRD, or in government) were expected to donate money toward the running of the party's activities (Ambardi, 2009). It was common for the DPRD members to regularly allocate money from their own allowances or even divert their salaries to the political party.

²⁰⁸ All DPRD throughout Indonesia were grouped into associations. The association for the DPRD City is named ADEKSI and for the DPRD District ADKASI. Similarly for the regional government (the heads), the associations are APEKSI (for city) and APKASI (for district).

²⁰⁹ The title of the regulation is *Kedudukan Protokoler dan Keuangan Pimpinan dan Anggota DPRD*, or Protocol and Financial Status of Leadership and Members of the DPRD. Although the title refers to a protocol, which refers to the seating arrangement during the celebration of national ceremonies, the importance of the regulation and also the aspect that the DPRD was interested in was in its provisions on financial matters and additional income.

²¹⁰ Income for DPRD members, according to PP 37/2006, includes the Representative's Income (*Uang Representasi*), a Family Allowance (*tunjangan keluarga*), Rice Allowance (*tunjangan beras*), General Allowance (*uang paket*), and Office Allowance (*tunjangan kantor*), depending on the position within the DPRD committee.

regional annual budget (*Anggaran Pendapatan Belanja Daerah-APBD*). The annual regional budget was already intended to cover regional expenditures on specific programs during the year, and any revision should have been submitted before the middle of the year. Consequently, when the new regulation required the regional budget to cover extra, unexpected allowances, at the end of the fiscal year, it was unlikely that there would be enough funds to cover them. The following section discusses this issue in more detail, starting from the DPRDs' decision to hold a rally in the DPR compound in 2007.

6.3.2 The 2007 DPRD rally

After the enactment of PP number 37/2006, regions paid lump-sum allowances to DPRD members. As the payments were processed during Christmas time, some councilors gave the money to political parties, to voters, or to charities, as if the money were Christmas presents. Some members, though, refused to accept the money because of moral awareness and because of complaints from their region that the DPRD members should not accept the money. Local governments, especially in poor areas, protested about the schedule of payment, that is, retroactively paying out that amount of money. Many civil associations also opposed the content of the regulation, mainly in relation to the additional allowances. Due to the many protests, the president cancelled the regulation on 30 January 2007, and requested that DPRD members who had received the lump-sum payments should return the money before the end of 2007. As a result, tensions arose amongst the DPRD members as well. They thought they were being treated unfairly. The regulation had been enacted, but now it could be withdrawn as a result of protests. DPRD members therefore decided to hold a rally in the DPR compound on 12 February 2007²¹¹ in the hope of persuading the national government to consider its decision once again.

DPRD members went to the national parliament to ask for support from their "seniors" at the DPR. Although there was a common understanding that there were no hierarchal relations between the DPR and the DPRD²¹² as the DPRD^s were part of the regional administration, the DPRD^s still felt that going to the DPR would help strengthen their position. Moreover, members of both the DPR and the DPRD^s came from political parties and knew what allowances meant for their party.

The DPR, as "the senior" parliament, could say little in response to the rally. Even though it shared with the DPRD^s the fact that their members were party based, its response was that the status and scope of their work was so different that the DPRD had to obey the national government's regulation. It seemed that the DPR did not want to mediate the conflict, and left the public to put the blame on the DPRD^s' greed alone. When the DPR failed to show any solidarity

²¹¹ Most newspaper covered this event, including *Kompas*, *Media Indonesia*, *Republika*, *Indo Pos* etc., from at least 17 Dec 2006 - 21 February 2007, under headlines related to the cases of "DPRD" or "PP37/2006".

²¹² This view was reflected by the national government during the discussion of Law 27/2009 outlined here (Minutes of Law 27/2009, Working Meeting 4 June 2009, p. 54).

with another parliamentary-type assembly in Indonesia, it illustrated its relative weakness. Arguably, the DPR legislative procedure, which focused on wording and clauses, prevented DPR members from visualizing the likely course of events, or how to deal with events like this that called for solidarity or to mediate conflicts.

The patron-client paradigm traditionally exercised during the New Order era emphasized the high cost of politics, as Sulasno, the ADKASI chair in 2007 explained (*MediAdkasi*, 2007: 2). The election of DPRD members was likely to depend on the money they disbursed to voters. DPRD members and voters thought of the DPRD as a “bank”, due to the DPRD’s access to the regional budget. This being the case, after being elected, members were expected to support their voters by giving them money to support them in their daily lives. The district and city areas, as the closest or smallest political areas, were where the public most frequently visited DPRD members. People often came to ask not for political support regarding public services but for money. At the same time DPRD members tried to find ways to obtain more money to cover their own political costs, and also to contribute to their political parties. It was common to hear that some low percentage of DPRD members’ income had been diverted to the political parties. Unbeknownst to the public, in every PP regulation on the financial affairs of the DPRD²¹³, there was a constant increase in their allowances. Although the allowances were channeled through the DPRD, it was known that the political parties had been successful in lobbying the government to disburse more money (*Kompas*, 4 January 2007). As PP 37/2006 not only raised the allowance but also made payment retroactive from January 2006, the case received enormous attention and gave rise to much criticism. For this reason, the government had no choice but to cancel the regulation, although the rationale for issuing the regulation was originally to please everybody, notably the political parties through the DPRD (*Kompas* 5 March 2007). It was obvious that the regulation and the money derived from the public budget only benefited DPRD members and their political parties, but not the regional people in general.

In discussing the bill that later became Law 27/2009 (the new *Susduk* law), the DPR special committee discussed this matter in depth (Minutes of Law 27/2009, Working Meeting 5 June 2009), and suggested that the government was at fault for accommodating the DPRD or the political parties’ requests for more money. It was also emerged that in the regions, financial arrangements were structured on the basis of the “expenditure assignment” or, according to term used by the Minister of Finance, the principle that “money follows function”²¹⁴. The budget would be allocated on the basis of programs, or assign-

²¹³ PP 110/2000 was issued based on Law 22/1999, which generated the concept of group corruption (*korupsi berjamaah*) within the DPRD. For instance, all DPRD members in the West Sumatra province were jailed due to this regulation. Based on Law 32/2004, three regulations were issued: PP 24/2004, PP 37/2005 and the controversial PP 37/2006, which regulated that allowances could continue and increased them for the DPRD and their leadership.

²¹⁴ See Minutes of Law 27/2009, Working Meeting 5 June 2009, p. 69-71.

ments, set out in the regional program and budget. While there was decentralization, the regions had been autonomous and could decide for themselves how to implement their budget. Thus at that time it was up to the regional heads and the DPRD members to decide the budget allocations, even if these allocations gave certain advantages to the elites only instead of the public: the central government only provided lump-sum grants, and allowed the regional governments to administer their own expenditure. However, as 70% of the regional budget (APBD) was usually allocated to pay for civil servants including the regional head and DPRD members, it was expected that there would be certain allowances regulated by the national government, such as the PP. With PP 37/2006, the case was considered 'legalized corruption' (*korupsi yang dilegalkan*) and was declared to be unethical²¹⁵. The content of regulation PP 37/2006 was used by the elites for their own benefit, without reference to legal principles. This PP even was used as 'a tool of corruption' (Saldi Isra on *Kompas*, 5 February 2007).

The event showed the DPRD members as 'victims by regulation' of Indonesian politics (*Mediadhkasi*, 2007: 4-5). The DPRD members' problems arose because of their inequality in terms of finance and status. The DPRD members also saw themselves as similar to the DPR at national level. However, as regional entities, the DPRD members were bound by regulation from the center, and only implemented what had been fixed by the government, in this case, the Ministry of Home Affairs. They needed to understand the logic of financial budgeting and bureaucratic accountability mechanisms, especially as they were supervised by the national executive, the Ministry of Home Affairs. This again showed that the DPRD members were treated as part of the bureaucracy. In treating DPRD members as bureaucrats, the DPRD members' characteristic as representatives or elected bodies were ignored.

The "power of the purse" that could be enjoyed by a representative body as a means to control the government could not be implemented in the case of the DPRD, even though it had a budgetary function. As seen above, the DPRD used its budgetary function only to approve the budget proposed by the regional executive (Governor or Regent/Mayor), which had already been approved by the central government. The DPRD members were guided by the political parties but the political parties did not really train DPRD members on how to be good parliamentarians. Finally, the political culture revealed that both the public and the DPRD members themselves thought that the DPRD's position as a government body meant that its members would gain a certain position and be able to access the regional budget, which both the public and the DPRD members could share.

The rally revealed the constant struggles around the DPRD members. Because of their working structures as parliamentary bodies, the DPRD members wanted to be regarded as a "miniature DPR", doing similar work at the regional level. However, as regional entities, the DPRD members were expected to work under the guidance of Ministry of Home Affairs. Therefore, the DPRD members were also expected to follow the working practices of the executive bodies, knowing all the necessary details of the bureaucracy and administration, guided by the Ministry. Meanwhile, the

²¹⁵ As conveyed by Arie Sujito (*Mediadhkasi*, 2007: 14-15).

DPRDs' members themselves thought of the DPRD as a matter of social status. With all these contradictive elements, little attention was paid to the representative function of the DPRDs.

6.3.3 Attempts to revise the Regional Governance Law in 2007

There were three attempts to revise the Regional Governance Law (Law 32/2004). The first involved the enactment of the Government Regulation that replaced Law (*Perpu*)²¹⁶ 3/2005, the first revision²¹⁷ to Law 32/2004. This *Perpu* regulated when and for how long direct elections could be postponed if there was a disaster or danger in the region on the day of the election. The second concerned issues of regional autonomy in 2007²¹⁸, and referred to the establishment of new regions²¹⁹. Finally, the third involved the enactment of Law 12/2008 as a second revision to Law 32/2004. This law stipulated how the vacant position of deputy head of a region should be filled if the deputy head became the head. In this case, the deputy head was to be elected by the DPRD²²⁰.

As seen here, these laws did not address the DPRDs' existence or make any reference to the DPRD rally. The DPRDs were needed to validate what had been decided by the regional head or national institutions, and even to reinforce moral or ethical accountability, as stated by a member of the PKS party, Nasir Jamil (F-PKS):

our aspirations as members of the DPR and the DPRD must concern political and moral accountability (Minutes Consultation Meeting 25 June 2007, p.265).

He went on to propose that there should be a law to regulate properly the issue of how to establish a new region, especially if the government thought that forming a new region was expensive. He also argued that in the case of establishing a new region, it needed the agreement of the DPRD as an institution. He referred to one case where forming a new region had been proposed only by a letter of recommendation from the DPRD Leadership, and not by a decision taken in the DPRD Plenary Session or by all DPRD members. This remark again

²¹⁶ *Perpu* or *Peraturan Pemerintah Pengganti Undang-Undang* or a government regulation that functioned like a law. It is regulated by the president if there was no foundation to regulate an important phenomenon. Such *Perpu* later has to be enacted by the DPR to become a law.

²¹⁷ Revision here means that there would be additional articles/provisions to complete the contents of the previous law, as important issues had not been regulated. Following revisions, the law is still in force and remains valid.

²¹⁸ Minutes book on Working Team meetings on Regional Autonomy Bill, (*Risalah Rapat Konsultasi Tim Kerja Rancangan Undang-Undang tentang Otonomi Daerah*), 22 Feb-9 July 2007 (13 meetings).

²¹⁹ Six new regions were discussed: Padang Lawas, North Sumatra; Angkola Sipirok, North Sumatra; Kubu Raya, West Kalimantan; Pesawaran, Lampung; Manggarai Timur, East Nusa Tenggara; and Serang, Banten (Minutes Consultation Meeting 22 February 2007, p. 3). The first five were districts, the last a city.

²²⁰ At the national level, the occasions when the vice president could replace the president was regulated within the 1945 Constitution (amended version) Article 8. Although the regions followed the mechanism of direct election at the national level, the law failed to include a similar provision for the deputy heads of regions.

highlights the oligarchic thinking that also applied at the DPRD level. Apparently, the regional head could also make the decision to establish a new region without asking the DPRD for its opinion. In this case, what concerned this DPR Consultation Meeting was that the proposal to establish a new district was approved only on the basis of a letter of recommendation from the regional head; it did not consider it important to include the DPRD in the process.

The revision of Law 32/2004 did not include anything about the DPRD, except for the case of a new district, above, and therefore the *Susduk* law below is the only regulation that discussed the DPRD following the rally. Arguably, the concept of DPRD is still unclear, as Law 32/2004 is still in force today.

6.4 The Law on Representative Institutions, Law MD3 (Law 27/2009)

6.4.1 Overview of the law

After the DPRD rally, the government began to revise the *Susduk* law (Law 22/2003). It submitted the bill in May 2007. As a governmental proposal, the draft was similar to the law then in force, Law 22/2003. The bill first of all gave some general information about each institution, then went on to lay out more specific stipulations on the working bodies inside each institution. In the final version passed by the DPR, the law was slightly different. It regulated each of the five institutions (the MPR, DPR, DPD, DPRD Province and DPRD District/City), including their organs, under one 239-pages law. The law actually covered most aspects of these institutions' tasks and authorities (*tugas dan wewenang*); rights and obligations (*hak dan kewajiban*); factions or group (*fraksi atau kelompok*); working bodies (*alat kelengkapan*)²²¹; mechanisms of meetings/sessions and decision-making processes; prohibitions and sanctions; the termination of membership and replacement of members; and their supporting systems or secretariats.

In the final part of the law, its elucidation or explanation (*Penjelasan*), there is an explanation of what was new in it. The new aspects are the removal of the term '*susunan dan kedudukan*' or 'structure and status' and the inclusion of more comprehensive rules for each of the institutions. The comprehensiveness, they argued, actually meant a more detailed description of the institutions' working bodies or small committees rather than any discussion of the powers of the plenum, which was the highest authority in these institutions (Elucidation Law 27/2009, p. 2). This shows that Indonesian parliaments (especially the DPR and DPRD), despite its rationale 'to empower and to perform parliament efficiently'²²², actually mostly revolved around the arrangement or structuring of the

²²¹ See the explanation of the DPR working bodies in Chapter 3.

²²² As stated in the elucidation of the law (p. 2): *untuk penguatan dan pengefektifan kelembagaan MPR, DPR, DPD dan DPRD terdapat penambahan, pengubahan penamaan dan*

working bodies. The emphasis on the tasks of smaller forums in this new bill again reflects the fact that the plenary session was regarded as less important. The number of working bodies was mostly seen from the point of view of the number of leadership seats that could be created in each institution, a reminder of how important it was to acquire these positions.

The special committee of the DPR that discussed the proposal for the *Susduk* law, during its general overview of the law, raised three main issues. First, the question arose once again of the inclusion of the DPRD in the *Susduk* law²²³. The PKS faction and the government preferred to regulate the DPRD only under the Law of Regional Governance or the *Pemda* law, and not in the *Susduk* law, on the grounds that the scope of the DPRD was limited to the regions. The big parties, such as the PDIP and *Golkar* objected to this, arguing that as elected bodies the position of the DPRD was similar to that of the DPR, and thus the DPRD still needed to be regulated within this law. This question, which kept on coming up, had clearly not yet been settled, or perhaps was not clearly understood, even by the MPs themselves.

Second, during the deliberation process, despite the existence of two different levels (province and district/city), the DPRD were always treated as one unit. When deliberating upon articles that related to the DPRD Province, the legal drafters were expected to apply the same clauses as in the articles on the DPRD District/City²²⁴. For example, an article on the status of the DPRD province runs as follows: "Membership of the DPRD Province consists of the members of political parties elected in the general election"²²⁵. This wording then had to be used for the DPRD District/City without further deliberation. However, the level of provincial responsibility was actually higher than that of the district/city, which had a smaller range of accountability; yet both levels were treated as one. This confirmed that neither the division of the local government into provinces and sub-provinces (district/city) nor the fact that the DPRD was a representative institution were taken very seriously by the DPR committee members. In fact, the provincial government coordinated and supervised the work between two or more districts. Because of this, the DPRD Province was supposed to follow provincial affairs and play a role over a larger area than districts/cities. Conceptualizing the tasks of the different layer DPRD as the same suggested that the DPR committee members did not have any concept or political vision of the role of the DPRD as an effective local parliament in the regions.

Third, the complaint that the DPRD were not treated in the same way as the regional heads actually stemmed from the central government treatment of the regions. The regional heads were considered as state functionaries, while

penghapusan alat kelengkapan (to empower the institutions of MPR, DPR, DPD, and DPRD effectively, working bodies have been added, and names changed or deleted).

²²³ The first question about why the DPRD was included in the *Susduk* law was asked at a meeting on 13 May 2009 and repeated again on 27 May 2009 meetings (Minutes Law 27/2009)

²²⁴ See Minutes of Law 27/2009, Working Meeting 29 May 2009, p. 4.

²²⁵ *Pasal 290 DPRD provinsi terdiri atas anggota partai politik peserta pemilihan umum yang dipilih melalui pemilihan umum.*

DPRD members were regional entities²²⁶. Thus, regional heads were considered to be in a higher position than the DPRDs. Some DPR factions, including the PKB, PDIP and PPP, supported the DPRDs' empowerment by highlighting their role as state institutions²²⁷. Most factions that supported this view still saw the DPRDs as being 'sub ordinate to the government'²²⁸.

As a bureaucratic state, Indonesia sees the central government and the central administrative system as more important than regional bodies. The region is seen as contributing to national policy, and 'power is still predominantly Jakarta-based' (Ellis, 2007: 39), revolving around the president, the bureaucracy, and the DPR. The regional cadres of the national political parties did not enjoy political autonomy but were expected to follow the party chairs at the national level, for example in choosing their candidates for the post of regional head²²⁹. The only local parties free from national interference were those in Aceh province, but Aceh enjoyed the privilege due to its special regional status, regulated by a special Aceh law. All other parties in Indonesia still needed to be in constant correspondence with the party headquarters in Jakarta. For example, the youngest Regent (*bupati*) in Indonesia, Mardani Maming, 29 years old (2014), is the head of the district Tanah Bumbu, West Kalimantan (2010 – 2015), a relatively remote area in the island of Kalimantan. His nomination as a candidate in the election, as Maming confessed, had to be approved by the PDIP chair in Jakarta, Megawati (Mata Najwa, 15 October 2014).

When tracing the history of the DPRDs²³⁰, it is evident that their problems arose because of inequalities in finance and status, as discussed in Chapter 2. The privileged status of the regional head²³¹ during the Suharto era made the DPRDs envious and desirous to change the situation. In the post-Suharto era and with the enactment of the decentralization law, the DPRDs' positions were upgraded, but this was done for status and financial gain rather than to extend their roles as representatives of the people. These views were discussed during the committee deliberations on the new *Susduk* law in 2009, and most DPR members, including the government, seemed to recognize the problems, but were unable to find an effective way of solving them, as the DPRDs' practices were already entrenched. This once again confirms that *status* and *position* are important in Indonesian politics. When the regime changed, efforts to change

²²⁶ Interview with Ganjar Pranowo (PDIP), former chair of *Susduk* special DPRD committee, 17 July 2011.

²²⁷ Saifullah Maksum (FPKB) (Minutes of Law 27/2009, Working Meeting 27 Oct 2008, p. 9); Willa Chandrawila Supriadi (FPDIP) in Minutes of Law 27/2009, Working Meeting 29 May 2009, p. 6.

²²⁸ Sayuti Asyathri (FPAN) in Minutes of Law 27/2009, Working Meeting 29 May 2009 p. 7.

²²⁹ The case of the election of the governor in Lampung (a province in Sumatra) served as an example when the candidate put forward by the *Golkar* regional branch needed the approval of the *Golkar* party chair in Jakarta before he could form coalition with the PDIP (*Merdeka* online, 26 June 2007).

²³⁰ Also discussed in the Minutes of Law 27/2009, Working Meeting 4 June 2009, p. 74-77.

²³¹ The regional head also enjoyed the status of a state official, like the president and ministers at the national level, even though the regional head operated at regional level.

the structure of the institution were shackled by the old tradition of maintaining the status quo, with its emphasis on the status and position of members, instead of on representing and serving the public. This applied, in fact, to both the DPR and the DPRD.

In addition to the three general issues stated above, the law saw the introduction of the term ‘good governance’²³². Good governance was discussed because of the deep involvement in Indonesia since 1999 of international organizations. In parliament, the term ‘representative function’ was also adopted²³³, in Article 69 (2) for the DPR, Article 292 (2) for the DPRD Province and Article 343 (2) for the DPRD District/City, with the exact same words in each article. The DPR committee members realized that in a democratic parliament, the term ‘representative function’ was important, all the more so since the names of the DPR and the DPRD include the meaning of ‘representative’ in the Indonesian language. Nevertheless, the representation was not yet fully practiced, as DPR and DPRD members still enjoyed their status as representatives of political parties rather than of their constituencies. As most political parties displayed similar financial interests and did not differ significantly in their party ideologies, it is quite hard to assess the relations between voters and the members of parliament. As in the example cited in Chapter 5, a political party member could easily change from one party to another if the new party seemed more likely to meet the member’s interests and the party did not recruit members based on a cadre system, but on individual profile, including the contribution the individual might make to the party’s finances and fame. The insertion of the representative function into the text increased the expectation that the DPR/DPRDs would address their electorate more in future²³⁴. The subsequent sections will discuss the contents of Law 27/2009, after a description of its legislative process.

6.4.2 The legislative process

Under the “politics as usual” style of proceeding, the legislative process of Law 27/2009 was not very different from what we have seen before. Discussion of

²³² Good governance as discussed by the government ministry, the National Planning Agency (*Bappenas*) includes 14 qualities: visionary [*sic*]; openness and transparency; participation; accountability; rule of law; democracy; professionalism and competency; responsiveness; efficiency and effectiveness; decentralization; private and civil society partnership; commitment to reducing inequalities; commitment to environmental protection; and commitment to fair trade (2005: 6). See Government Publication, *Penerapan Tata Kepemerintahan yang baik* (Good Public Governance in Brief). 2005. Kementrian Perencanaan Pembangunan (*Bappenas*).

²³³ The term ‘representative function’ is included in the functions of both the DPR and the DPRD. Their functions include legislating, budgeting and oversight; and to address the issue of good governance, some elucidation was included in paragraph (2): ‘To execute the three functions referred to in paragraph (1), [the DPR/DPRDs] run(s) within the framework of people’s representation’. Article 69 (2) Law 27/2009.

²³⁴ In the future, a representative member was expected to respond to constituents’ interests, following the enactment of the Law on Political Party in 2008, which included open-list candidates, which meant that voters could elect candidates for the DPR and the DPRD according to candidates names or parties, instead of only from certain political parties. The possibility of electing a particular individual raised the hope that the representatives who were elected would know their electorates better.

the law took more than two years. The government proposed the bill on 25 May 2007. There were four bills proposed by the government at that time: on Political Parties (*Parpol*); on General Election (*Pemilihan Umum* or *pemilu*); on the Election of the President (*Pemilihan Presiden* or *pilpres*), and on Representative Institution (*Susduk*). The DPR Plenary Session on 26 June 2007 decided to set up a special committee to discuss the *Parpol* and *Susduk* bills, and this marked the start of Discussion Stage I for these bills.

Legislative Process of Law 27/2009 (2 steps of discussion)

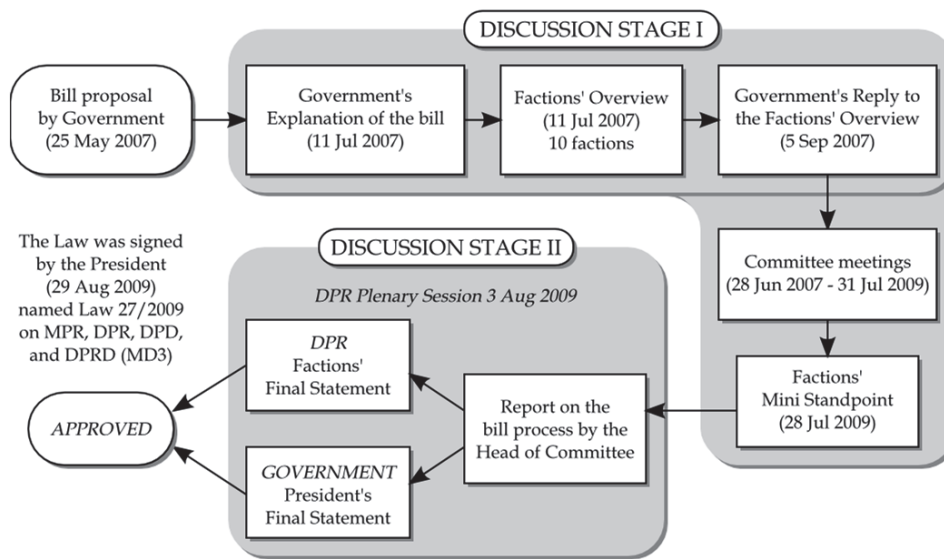


FIGURE 9 The legislation process of Law 27/2009, compiled from the parliamentary debates.

As Figure 9 shows, the first stage of discussion (*Pembicaraan Tingkat I*) started when the government officially explained the bills via the Government Explanation (*Penjelasan Pemerintah*), on 11 July 2007. This was followed by the Faction's Overviews (*Pandangan Umum Fraksi*) on the same day, delivered by 10 DPR factions: the FPG, FPDIP, FPD, FPPP, FPAN, FKB, FPKS, FBPD, FBR, and FPDS. The government replied to the factions' overview on 5 September 2007 and the committee meetings were held between 28 June 2007 and 31 July 2009. The discussion ran for more than two years on account of the fact that the issues were broad and covered five institutions (MPR, DPR, DPD, and both DPRDs) plus their secretariats. The whole process was completed on 29 August 2009.

It is likely that the committee members did not see any urgency in discussing the bill. The law was proposed only because it was a routine law, and each DPR period had to enact one *Susduk* law. After the bill was introduced in 2007, the meetings were held only occasionally in late 2008, then ran routinely from 4 February 2009 onwards. Most DPR members were also getting ready for the upcoming legislative election, which was held on 9 April 2009, so from late Feb-

ruary until late April it was impossible to hold any meetings in the DPR as most members were not in the DPR compound in Jakarta but were away campaigning in their electoral district. Deliberation on the *Susduk* bill was to continue again after the election in late April and it continued steadily after that, without a break, in order to meet the deadline, that is, before the DPR's term expired. With its character of a routine law, the *Susduk* law would be valid for the next period of the DPR. Interestingly, some agreement was reached before the election, but after the election, changes were made in order to accommodate the newly elected members²³⁵.

After a tight schedule of meetings, the Factions' Mini Standpoint (*Pandangan Mini Fraksi*) was finally delivered on 28 July 2009, so that the bill was ready to proceed to Discussion Stage II (*Pembicaraan Tingkat II*). Although this bill had followed the now familiar process, a different legislative system had in fact been proposed. The Head of Committee, Ganjar Pranowo (PDIP) - a reform member - proposed holding discussions based on the institutional clusters, that was discussing what important issues needed to be settled for each institution rather than on the wording of the article. The head thought that the factions could concentrate on debating the outstanding issues, such as number of leaders, working bodies etc., and the task of scrutinizing the language could be delegated to the support staffs. If this had been accepted, the deliberative process would have been completed more quickly. However this proposed reform was challenged by his colleague from the same (PDIP) party, a senior member, Zainal Arifin. Arifin thought that the usual, traditional, way of reading the DIM should be followed, and wondered how the MPs would be able to control the contents of the law if Pranowo's proposal was accepted (Minutes of Law 27/2009, Working Meeting 18 September 2008). His doubt probably influenced the other members, as the committee continued in the same old way of legislation: reading the DIM document and reacting to the wording, and so the law took a long time to complete.

Discussion Stage II was held in the DPR Plenary Session on 3 August 2009, with the agenda of hearing the report on the bill presented by the Head of the Committee, followed by the DPR Factions' Final Statement (*Pendapat Akhir Fraksi*) and the Government's Final Statement (*Pendapat Akhir Pemerintah*). The bill was approved and sent to the government, and then signed by the president on 29 August 2009. It was called Law 27/2009 on MPR, DPR, DPD and DPRD, with a new abbreviation (no longer *Susduk* law, but Law MD3). The law was enacted during the last days of that DPR, which ended on 1 October 2009, when the new members were sworn in.

²³⁵ When some DPR members knew they would have seats again in the next period (2009 - 2014), they tried to change the composition of the DPR Leadership which was agreed previously. The PPP proposed that there should be only three seats for the DPR Leadership, and after the 2009 election, after it was known its ranking and how many members had been elected from each party, they called for five seats in the leadership in order to make it possible for their party to have one party representative in the DPR Leadership (see Minutes of Law 27/2009, Working Meeting 13 May 2009).

With *Golkar* forming the majority in the DPR, politics ran as usual, especially when the rules of procedure did not change. The *Fraksi* of the PDIP had enjoyed the privileges of being the elite group in the previous period, and so its members did not make any critical comments after President Megawati's presidency. The new rising party was the Democratic Party or the PD²³⁶ (*Partai Demokrat*) of Yudhoyono. Like the PDIP during the previous period, now the PD members raised questions, which sometimes reflected criticism of the government's policy. This again indicated that party members did not understand their role in the parliament politically. The political parties still did not train their members in parliamentary practices prior to their entering the DPR, and there was not a government party or an opposition in the DPR. Most DPR members reacted to all government policies on an individual basis, whether the members' parties supported the government or not. This individual criticism was likely to show that the DPR member had parliamentary power over the government, as the mechanism for the oversight function was not effectively exercised in the DPR.

6.4.3 On representative institutions

The members of the DPR special committee discussing the bill realized the importance of defining a clear character for each institution. The MPs discussed the characteristics of an effective parliament by comparing their own with other parliaments and considering how to shape the DPR to make it a better parliament. The committee later agreed that the DPR should act more as a legislative body and the DPRD as oversight bodies²³⁷. Although, as stated above, the law was essentially concerned with the working bodies, the DPR was committed to increasing its legislative role, with the support of the DPD. Such a good intention was not, however, stated clearly in its procedure. How could the legislative function be run more effectively and the number of laws enacted annually, which was always behind the DPR's own target, be raised? The DPR was strongly criticized for not maximizing its legislative function (Law Elucidation, p. 2).

The DPR was generally understood to have three functions (legislation, budgeting and oversight, Article 69), and these should have been conducted by *all* members of the DPR, not just the committees. Two of the DPR functions have been accommodated in the Legislation Committee (*Badan Legislasi*) and Budgeting Committee (*Badan Anggaran*). This highlighted the DPR's preference for the committee or commission instead of the larger forum of the plenary session. The official elucidation of the law showed that the legislative empower-

²³⁶ The critical comments came occasionally from the PPP and PKS, but their inquiries in the minutes usually related to moral and ethical standards (Islamic values) and were not political.

²³⁷ There was also a request from the DPD for its status to be upgraded to that of a second chamber. Most of the DPD members referred to themselves 'senators' although the DPD was not a senate. DPR members did not think it was appropriate to call the DPD a senate as the constitution only gives legislative powers to the DPR and the government (Minutes of Law 27/2009, Working Meeting 27 May 2009, p. 23).

ment was considered important for the DPR, as it more strongly emphasized the DPR's role in legislative issues. However, there was no article proposing reform in this area, and the procedure was not revised to address the need for a boost to the amount of legislation it handled. In 2010, a year after the law was enacted and the new DPR members were inaugurated, public perception of the DPR's main function had not changed (*The Jakarta Post*, 3 October 2010). The DPR still had - and has - a poor image. MPs were beset with issues of corruption, sex scandals, and the low level of attendance at the plenary session. Serious attention to the DPR procedure was - and still is - certainly needed.

Meanwhile, the DPRD's were expected to oversee the performance of the regional governments without dominating them²³⁸. Law 27/2009 identified the DPRD's as "the institutions as stated in the 1945 Constitution" (Article 1), while Article 18 in the 1945 Constitution (amended version) states that "each region at province, district and city level has a DPRD whose members are elected through general elections" (paragraph 3). The same article continues, "the governor, district head/regent and mayor are the heads of regions" (paragraph 4). This meant that each region has a regional head and a DPRD, which means that the DPRD is part of the regional government. This interpretation is clearly stated in the Law of Regional Governance, Law 32/2004, "the DPRD is a regional representative body incorporated as an element of regional government" (Article 1). This interpretation did not elaborate on whether the DPRD became a legislative body, a consultative council or an oversight body; we know that the DPRD's "representative" task is carried out only during election time.

Minutes of the committee show that when reference was made to the DPRD's, it mostly revolved around the roles of the DPRD's in relation to oversight of the regional governments, the idea of forcing a check-and-balances system on the regions²³⁹, but in the end, this task was (again) not stated clearly. The articles did not change. They only repeated that the DPRD's have functions of legislation, budgeting and oversight, without elaborating how these functions would be effectively exercised.

The DPRD's were regulated under this law, because access to the body was similar to access to the DPR and the DPD, namely, through a general election (Minutes of Law 27/2009, Working Meeting 27 October 2008, p. 14). In relation to upgrading the DPRD's' status to that of state institutions, the DPRD's liked the idea. The DPRD's expected that they would continue to be regulated under the *Susduk* law, a position that was supported by some factions inside the DPR, notably the PDIP. These factions thought that although there were no hierarchal relations between the DPR and the DPRD's²⁴⁰, and that the DPRD's were indeed regional bodies, the same spirit of the members hailing from political parties meant that the DPR should support the DPRD's.

In response, the government stated that meeting the DPRD's' demand to become state institutions would have huge implications for the state budget.

²³⁸ See the Law Elucidation, p. 2-3.

²³⁹ See Minutes of Law 27/2009, Working Meeting 29 May 2009, p. 12.

²⁴⁰ See Minutes of Law 27/2009, Working Meeting 4 June 2009, p. 54.

The government thus rejected the proposal, but agreed to remunerate DPRD members better in more than 500 regions: the state budget would allocate an additional amount to cover the DPRD's expenses. This was somewhat inappropriate since the DPRD's were considered elements of regional, not the central government, so they should not have had anything to do with the state budget. At the time of the discussion, the regional budget already allocated 70% to paying officials' salaries²⁴¹ and the rest, only 30% was used for infrastructure and public services. The series of regulations touching the DPRD's that triggered the DPRD rally were also discussed in a meeting held on 5 June 2009, which revealed that the DPRD's were concerned about their financial guarantees. In the previous meeting, it had been stated that:

F. BPD (Jamaluddin Karim): ...*Jadi menurut saya, ujung-ujungnya sebenarnya kalau teman-teman daerah ini yang berkaitan dengan posisi protokoler dan keuangan, ujung-ujungnya seperti itu...Karena menurut saya UU 32 sudah merinci, mengurai tentang hak-hak dan fungsi-fungsi DPRD sudah ada.* Minutes of Law 27/2009, Working Meeting 27 Oct 2008, p. 11

F. BPD (Jamaluddin Karim) : For me, the point [of the rally] of our regional colleagues was to relate to their financial position, only that point [money]...This is due to the fact that the rights and function of the DPRD have clearly been enacted in Law 32 [Law 32/2004].

As shown in the excerpt above, the DPRD's demand for status actually only referred to their allowances. The DPR committee members asked the Ministry of Home Affairs to follow the rules regarding what constituted a state institution. If the DPRD's were not to be considered state institutions, the regional heads should not be categorized as such either²⁴². It was obvious that DPRD's request about the status is not same with the institutional empowerment. During the deliberation, it was agreed that empowerment of the DPRD's did not change their definition, but only affected their financial demands in relation to lesser regulations, and not the law²⁴³; if the *Pemda* Law has clearly regulated DPRD's, there was no need to regulate it again under the *Susduk* Law.

This agreement illustrates that the DPRD's were victims of regulation. Once the bill had been proposed, no DPRD members were involved in the hearings, and any information on the DPRD was collected from experts at the national level or based on media or general information. Although it was true that the DPRD members were demanding more financial advantages from their position, in this case the DPRD was no more than a passive object of regulation by

²⁴¹ See Minutes of Law 27/2009, Working Meeting 5 June 2009, p. 69-76.

²⁴² The regional head's status as an apparatus of state was decided during President Suharto's era. Having such a status was important for securing financial guarantees at the same level as those of members of a state institution, and the DPRD's also wanted this privilege. In Suharto's era, all governors and regents/mayors had such benefits as they were appointed by the president, but this was not extended to DPRD members. This was still the case in 2009 (Interview with Ganjar Pranowo (PDIP), former chair of *Susduk* special DPR committee, 17 July 2011).

²⁴³ A popular joke among members about this was the term 'DPRD financial empowerment'. See Minutes of Law 27/2009, Working Meeting 11 June 2009, p. 11-14.

national institutions, even though its members expected DPR members to recognize a moral obligation to them and to meet their (financial) aspirations.

As victims of regulation, the DPRD's were not only silenced, but were also forced into being just one body in the regional government, copying the work of the executive, under the Ministry of Home Affairs²⁴⁴. The DPRD's had to follow programs initiated by the Ministry, for example, while exercising its budgeting function, the DPRD's had to understand a complicated budget accounting system, which was difficult for members to grasp. Ideally, DPRD members thought they only needed to understand the logic of the regional budget, and how much budget would be allocated to certain programs, as well as control the implementation of the budget. They should not be involved in rigidly and meticulously arranging budget numbers; this should have been the task of the executive rather than of the DPRD's. As in the DPR, it was rare that a DPRD member was an expert in budget accounting, especially since the DPRD members were not elected on the strength of their educational background. However, the Ministry of Home Affairs expected DPRD members to have at least the same capacity as bureaucrats working in the regions²⁴⁵. This was made clear when the committee working on the law showed their frustration at having to draw the specific parameters of the DPRD's:

FPDIP (Soewarno): *...puncak-puncak kesulitan ini yaitu DPRD sebagai bagian dari pemerintahan daerah kita wujudkan bentuk yang bagaimana, kita wujudkan bagaimana dan kemudian fungsinya apa ini kalau itu sudah selesai saya rasa akan lebih gampang.* Minutes of Law 27/2009, Working Meeting 13 May 2009, p. 6-7

FPDIP (Soewarno) : problems have arisen for the DPRD as part of the regional government, what it is, how it is shaped, and what its functions are, if we agree on that, the DPRD's character can be determined.

In the above extract, the member was frustrated by the confusion about the character of the DPRD's. Adding to this confusion, the government suggested adopting what had been agreed for the DPR in the case of the DPRD's, as long as the substances of this did not contradict the Constitution²⁴⁶. Although copying articles from the DPR in this case was slightly unusual, the committee showed a commitment to following the rules, or the Constitution, and did not want to act against it. This reflects strongly the Indonesian elites' respect for rules (Liddle, 2002).

When the committee discussed the oversight function of the DPRD's²⁴⁷, they did not stipulate how the DPRD's should exercise this function. The articles in the *Susduk* law to regulate the DPRD's were similar to those of Law 32/2004²⁴⁸. The law listed the working bodies inside the DPRD's, including their

²⁴⁴ See Minutes of Law 27/2009, Working Meeting 27 October 2008.

²⁴⁵ Interviewed with Ganjar Pranowo (22 July 2011) and Ministry of Home Affairs personnel, Made Suwandi, (20 July 2011) and Dodi Riyadhmaji (19 July 2011), both of whom were in the committee as the government's representative from the ministry.

²⁴⁶ See Minutes of Law 27/2009, Working Meeting 13 May 2009, p. 7.

²⁴⁷ See Minutes of Law 27/2009, Working Meeting 29 May 2009, p. 7 (Sayuti AsythrIPAN).

²⁴⁸ See Minutes of Law 27/2009, Working Meeting 11 June 2009, p. 11-14.

structure, functions, roles and tasks, membership and rights, factions and working bodies. These contents were similar to what was proposed for other institutions, and even to the previous *Pemda* and *Susduk* laws.

This section shows that neither the DPR nor the DPRD was pushed into becoming a representative body. The elected parliamentarians were not interested in recognizing or practicing any representative obligations, such as getting inputs into public policy from voters. The relations between MPs and voters remained weak. Voters knew that the candidacy of MPs was decided by the national party chairs, not genuinely by local residents. Moreover, the oversight function was used to extend patronage, 'rather than to promote good governance and horizontal accountability' (Case, 2011: 29). This gloomy view covered both the DPR and DPRD.

6.4.4 Recent development of Law 27/2009

The law was enacted almost at the end of the DPR period, on 29 August 2009. Despite taking a long time to deliberate upon, and despite being considered one of the most comprehensive laws ever passed,²⁴⁹ covering all aspects of the elected institution, the law was sent to the Constitutional Court, MK, for judicial review²⁵⁰. The DPD requested a judicial review to elaborate upon its participation in the MPR leadership. The DPD questioned the provision in Article 14 that only two DPD members would have a position as deputy leaders in the MPR. It is likely that the DPD wanted a bigger share in the leadership, and even that one of its members could be elected as an MPR speaker. The MK decided that the DPD proposal should be rejected, and during the selection of the MPR house leadership, the DPD gained only one seat in the five MPR leadership position (*The Jakarta Post*, 7 October 2009).

This case shows that an elite position and high status within the state institutions was still an important source of power, political influence and financial gain. It was unsurprising that agreement regarding the leadership positions was crucial for access to them. Proposing a judicial review of how to get an institutional position, but not of how to make the legislative process more effective (for the DPD), for example, only indicates that the public interest was of no significance in parliamentary works.

6.5 Conclusion

The 2004 election resulted in a more politically diverse DPR membership and a more legitimate government, as the president was directly elected instead of being handpicked by the MPR. However, when the *Golkar* party regained its

²⁴⁹ DPR Chair speech on 14 August 2009, 'DPR RI 2004-2009 Hasilkan 167 UU', www.dpr.go.id.

²⁵⁰ *The Jakarta Post*, 3 October 2009; Government Publication, MK 2009. The judicial review was refused.

leading position in the number of parliamentary seats gained and the first president elected by popular vote was Yudhoyono, who came from a military background, it is clear that the old style of politics survived. Indonesia was carrying on with "politics as usual" also with the DPR retains its same legislative procedure and the DPRD's were treated only as bureaucratic entities in regions.

The direct presidential election at national level also brought democratic progress to the regions. The direct regional election of regional heads, or *Pilkada*, started in 2005. After losing their status as regional legislative bodies due to the implementation of Law 32/2004, as well as their power to elect the regional head due to *Pilkada*, the DPRD's realized that their sources of additional allowances had diminished. They made an attempt to overcome this with an article inserted in a national Government Regulation (PP), but as the public protested, DPRD members decided to hold a protest rally at the national parliament. The DPRD's' attempt to at least maintain its level of income by means of legislation was seen by the public as too obvious and disgraceful.

However, the blame cannot all be put on the DPRD's. The DPR and the government also supported such practices through the regulations and laws that were enacted. The way that legislation evolved was usually closed to public view. The rally confirmed that the DPRD's were victims of the regulation. The attempts to revise the laws for the regions also showed that the DPRD's pursued oligarchic practices when recommending policies: in the case of the regional authority's rights to propose a new region, the views of the DPRD's were presented only by the DPRD Chairs, and not through the DPRD plenary session.

Law 27/2009, discussed here, arose in response to the need to enact the routine *Susduk* law and was not a way of restructuring the legislative process, despite the DPR's plan for parliamentary empowerment. It regulated mostly the internal structure of the institutions, just like previous laws. The legislative process ran by trial and error, and if (or when) problems arose, revisions were made. Consequently, the previous law was always considered flawed and in need of revision. This suggests that enacting a substantial bill would not be successful without a change in procedure. New parliamentary procedure was needed to address the new role of the DPR as an independent legislative body.

The DPRD rally led to the *Susduk* law being revised slightly. Although the contents were similar to the previous version, more emphasis was placed on the functions of the working bodies, which were recognized as being ineffective within their respective institutions. The working bodies in the MPR, DPR, DPD, and DPRD's were revised to emphasize the different functions of each body; but at the same time, this showed that such working bodies or smaller forums had greater powers than the plenary session, which involved all members of parliament. These small committees conducted all the work and left the plenary session nothing but a ceremonial role. The political culture in the DPR continued to be based on an authoritarian tradition and decision making by the elite, and it will probably remain like that for a long time if the DPR's procedure is not revised.

7 PARLIAMENTARY CULTURE, THE REGIONAL PARLIAMENT, AND THE PROSPECTS FOR DEMOCRACY

'All attempts to analyze the Indonesian political system *from within*, by accepting the social structure which forms its underpinning as given, must share in the irrationality of that system' - David Levine (1982: 30)²⁵¹

Studying the concept of regional parliament in Indonesia through the laws and debates in the national parliament inevitably means that one must consider the apparent political culture inside the institution, the DPR. The political culture or institutional traditions (the procedure and legislative process) inside the DPR, in combination with the internal and external demands for democratization²⁵² in early 1999, shaped the political activity and the orientations of MPs and government elites when enacting the laws. The way the law is enacted arguably affects policy-making. In this case our concern is the concept of the DPRDs, the way the DPR set out to legislate for the institution of the DPRDs throughout Indonesia. The concept of the DPRDs was not clear except in 1999, when the law declared that the DPRDs were legislative bodies. Then this clear concept of the DPRDs was lost, and the previous unclear definition was re-introduced: DPRDs form part of the regional system of government (*DPRD adalah bagian dari pemerintahan daerah*). This definition suggests many interpretations of the DPRD: a legislative body, a supervisory institution, or a rubber-stamp council.

Previous studies on the Indonesian DPR have noted the strong tradition in it of an authoritarian political culture, a legacy from the New Order regime and old political configurations. In consequence, studying Indonesian political culture necessitates examining the DPR, and examining its parliamentary role in the democratization process in the country after the Suharto regime fell in 1998. Analysis of the DPR's minutes and standing orders throws light on the political

²⁵¹ Original italic.

²⁵² The internal demand was the public protest at the inability of Suharto's government to manage the economic crisis, which led to questions and reduced support for his regime; the external demand was the IMF's demands for a restructuring of the political, social, and economic systems in exchange for the financial bailout.

culture inside the DPR and helps us to understand its policy-making better. In studying the political culture in the DPR, this study has outlined the DPR's trajectories from its inception and the historical backgrounds to its present condition. The study has also made clear the legislative processes in the DPR. A decade of its development after Suharto's departure is arguably sufficient time to show the political culture inside the institution.

This chapter will evaluate the way political culture is practiced in the DPR in the light of the background chapter and the case studies presented in the previous chapters. It will link them to the present role of the DPR with its representative, democratic function, and recapitulate the grounds for the weakness of the regional parliaments, the DPRD's. For the sake of comparison, this chapter also looks at parliamentary culture in other countries, namely Malaysia and South Korea. Malaysia was chosen as it has as strong an Asian political culture as Indonesia, and is similar in having a Muslim majority (Blondel and Inoguchi, 2006: 145). The Westminster style of parliament has arguably affected Malaysia's political culture, not least because of its history as a British colony. South Korea offers an example of a strong authoritarian regime successful in economic achievement and in developing a consolidated democracy (Diamond, 2010: 28). Comparing parliamentary cultures in different countries facilitates the making of generalizations from the thesis. The cases of these two countries make it clear that political culture matters. An analysis of the institutional structure is not sufficient when explaining an institution role in a country's democratic process; one also needs to address the political culture, including the rules of the game, in that particular institution.

Finally, Chapter 7 will serve as a conclusive interpretation of the role of the DPR, with its embedded political culture, in the process of Indonesia's democratization. The political culture deriving from the authoritarian regime still continues to be practiced. One way of working with the inherited culture would be to revise the parliamentary procedure, or even to upgrade it and give it a legal status. The present Indonesian parliamentary procedure as stated in the *Tatib*, notably the legislative process, is regarded only as an internal DPR regulation. Meanwhile, the legislative procedure also involves players from outside the DPR - the government and the DPR (even the DPD, in some issues) - but the *Tatib*, as an internal regulation for the DPR, does not concern these other actors. One way to overcome this tradition would be to upgrade the legislative procedure and make it into a law; then the legislative process would bind all the related players. The law would ideally even serve as a source information for the public. The Indonesian DPR displays one positive characteristics of democratic culture, that is, the culture of "playing by the rules". Giving the legislative process the status of a law could disseminate the rule of the game to all participants, including the players, the electorate, and the wider public. This could develop the DPR into a truly Indonesian parliament. When acting as a well-functioning parliamentary institution, the DPR would contribute more to meaningful democracy in Indonesia.

7.1 Political culture as a legacy of the past

The Indonesia political cultural scene has been influenced by Dutch colonialism, Javanese traditions, Islamic values, and the military. The combination of these elements might suggest an undemocratic and even authoritarian character if implemented in politics directly.

The legacy from the Dutch was an established, authoritarian, colonial regime, which was not fair to the natives. The Dutch centralized bureaucracy, reflecting colonial rule, was copied by the authoritarian governments that followed it. Interestingly, the style of Dutch administration was easily compatible with the Javanese system. The colonial rulers formed the upper social layers, associated with the Javanese hierarchical system, in accordance with the social and language layers in its society, which was not democratic. In the Javanese tradition, power is 'a matter of status rather than action' and is concentrated in one person, therefore power has been 'personal rather than public' (Jackson, 1978: 41-42). This traditional Javanese concept of power was seen in the administrations of governments of both presidents, Sukarno and Suharto. They were at the apex of the political power structure and in the Suharto era, his 'personal rule' was also known as a "sultanistic" regime (Liddle, 1996: 18).

Due to their "common suffering" in being colonized, the multicultural tribes were committed to unification, which made the Indonesia of today, and its elites mistakenly drew upon Indonesian indigenous values that originated in the undemocratic but glorious kingdoms from the time of the Javanese empires. The *Volksraad*, the People's Council, was set up as a pioneering model of parliamentary practice, including the practice that the *Volksraad's* recommendations could be ignored by the executive government. Moreover, the appointment of the members of the *Volksraad* by the Dutch administration, including the appointment of Indonesian bureaucrats to represent the native Indonesians, clearly lacked legitimacy. These systems were preserved in the post-colonial authoritarian regimes, and especially in the working style of the DPR during the New Order.

During the early Sukarno era, the provisional DPR was a parliamentary type of state organ. The executive was led by the prime minister, and in fact, during 1950 - 1957, Indonesia was a 'competitive parliamentary democracy' (Liddle, 1996: 111). With only a ceremonial role, President Sukarno, who had since 1920s been a great orator and sympathetic national leader, felt sidelined with, as the prime minister executed most of the political tasks. Thus, Sukarno introduced the policy of "national personality" (*kepribadian bangsa*), which was presented as 'a uniquely "Indonesian" approach to authority and decision making' (Bourchier, 1997: 157). The Indonesian way of democracy undermined the strength of Western liberalism in the country, especially when accompanied by the argument that political parties and the parliamentary system were not suitable for Indonesia. This was unfortunate, as the provisional parliament had been acting as a real parliament, with real debates and effective control over the

executive, even though it still reflected the centralized government and the dominant role of the executive (Budiardjo, 1956). By introducing the rhetoric of specifically Indonesian democratic concepts, in the words of “national personality”, “family principles”, “*gotong royong*”, “*Pancasila*”, “Guided Democracy” and “*musyawarah mufakat*”, Sukarno justified his actions on the grounds that they followed the wishes of the people, and this gave him the backing of all the power of the state to run his authoritarian regime.

While Sukarno balanced the influences from the military and the PKI, Suharto was close to the military and the Chinese economic networks; they both exercised authoritarian politics, supported by the military. Suharto used Sukarno’s vocabulary with its “national personality,” *Pancasila*, and family principles²⁵³ and added to them the support of “economic development”, “stability” and “order”. Their policies were persuasively implemented; it was a process of indoctrination that affected all aspects of society, including the educational system. When necessary, a policy was executed using coercion, involving the military. In fact, the military’s role was expanded and officers (both active and retired ones) were introduced into the political and social structures under the policy of the military “dual functions” (*dwi fungsi ABRI*). This gave the military seats inside the parliament and administration and enabled them to control all social and political activities through the army territorial command, which covered the whole country (Rinakit, 2005: 76). The political parties were carefully tamed by the regime and the military held a strong grip on politics. However, the practice of electing most members of parliament from political parties continued. A New Order style of Indonesian “democracy” was practiced, even if only to give legitimacy to the hegemony of the New Order.

The introduction of this kind of political culture was problematic because it was said to have its roots in indigenous Indonesian tradition, but the tradition and vocabulary were actually based on Javanese culture, which emphasized the ‘obligations of the individual towards the community’ instead of the obligations of leaders and members of the elite to the people (Bowen, 1986: 545). The Javanese culture of power, which was not democratic, was “forced” on the country by the government as the Indonesian national culture, and this led to what we could call the tyranny of the majority, as the Javanese were the biggest tribe in the country. Both Sukarno and Suharto were from Java.

Meanwhile, obligation to the community – displayed mostly when emphasizing *gotong royong* – meant state intervention in all aspects of life during the New Order regime. This was seen in several ways: firstly, in the leader’s dominance over the common people; secondly, in the state’s control of net-

²⁵³ The terms “national personality” (*kepribadian bangsa*), which was based on the tradition of *gotong royong*, or mutual cooperation, customary laws (*adat*), *Pancasila* ideology and the family principle (*asas kekeluargaan*) as Indonesia’s political culture were more accentuated in the New Order era. In the DPR, the political culture was practiced in its mechanism of *musyawarah mufakat*, which emphasized compromises in the decision-making process by all parties and encouraged oligarchy, as the decisions were actually made by the leaders or elites inside the DPR, rather than by *all* DPR members.

works of cooperation at both the national and local levels; thirdly, in the appointment rather than election of leaders of the village and regional bureaucracies; and fourthly, the co-optation of religious leaders and the leaders of powerful tribe into the government state party, *Golkar* (Bowen, 1986: 552). The New Order systemized Indonesian society under its program of national development (*pembangunan nasional*), which accentuated the hegemony of the state, emphasizing 'administration rather than politics', according to 'the ideal of the *Beamtenstaat*, the state as efficient bureaucratic machine' (McVey, 1982: 84). This means that:

Real politics takes place not in parliament or whatever organs may exist outside the bureaucracy, but in the government apparatus itself. Lines of power and patronage in the administration do not follow the formal chain of command but a very different pattern: the powerful patron will have clients in several ministers or armed units; his true strength as an official will depend on his personal connections and the access his position provides to wealth. A businessman wishing to obtain favorable consideration will not necessarily seek the formally appropriate official, but the most powerful bureaucrats he thinks he can retain as his champion. Because the bureaucracy is the arena for politics, it cannot function effectively as an executive arm; it cannot be battlefield, commander, and soldier all at once. Because position and criteria for advancement are not what they formally seem, an official's real status depends not on his formal title but on securing wealth, clients, and favor;...The bureaucracy thus becomes alienated functionally from the population at large, in addition to the distance created by differenced in wealth, power and cultural westernization (McVey, 1982: 88).

The quotation above clearly shows that the parliament was not intended to be a political arena during the New Order era, but instead it served as part of the bureaucratic machine. As seen in Chapters 3 and 4 of this study, in early 1999 legislation was clearly a routine bureaucratic process for giving a government proposal the legitimacy of law. The DPR enacted government proposals by discussing the wording of the bill's articles with the constant use of the DIM document. Scrutinizing the words in the articles, apparently, legitimized the government's proposal, even if the DPR members did not necessarily understand the actual issues of particular bills or policies. DPR participation in the deliberation of the bill was not meant to link the activity with the electorate or the broader public, as having a seat in the DPR merely indicated status and the securing of 'wealth, clients, and favor', as stated in the excerpt above. Most DPR members would appreciate working for the government, such as being one of the president's ministers, if possible²⁵⁴. This suggests that position, preferably in the ranks of the government, was more desired than being an MP. The waves of democracy after the 1999 election brought changes in terms of membership in the DPR, as seen in Chapter 5 and 6. However, since there was no revision of parliamentary procedure, the authoritarian political culture remains.

Ironically, even with an authoritarian regime, Suharto still needed to have a ritual election every five years. The political parties in the country were arranged accordingly. The Islamic parties were encouraged to unite into one party, the PPP, and the nationalist, secularist and non-Islamic party (such as Catho-

²⁵⁴ Interview with Made Suwandi, 20 July 2011.

lic and Christian parties) were also organized into one unit, the PDI. The elections were held with unfair rules and there was manipulation so that Suharto's government party, *Golkar*, would always win. All government officials throughout Indonesia were recommended to vote for *Golkar*. In this way, the political parties, elections, and parliaments - the institutions of democracy - continued to exist, even when they did not function properly. The empirical Chapters 4 to 6 show how the vocabulary of the modern state and democracy was used, such as representation, legislation, election, constitution (Ramage, 2005: 445), but these terms did not contain much actual meaning during the New Order.

Stefan Eklöf's study on Indonesian political culture concludes that understanding the 'political culture, reproduction and contestation will provide key insights for understanding Indonesian politics in the post-New Order period' (Eklöf, 2003: 3). This statement remains true for the DPR. The DPR is still dominated by the culture of the authoritarian regime, and it cannot act as any kind of checks-and-balances mechanism toward the executive government. In fact, lacking the parliamentary function of the checks and balances, the DPR follows neither the British parliamentary type of government nor the United States' presidential model. In the British style, the parliamentary government stands to avoid 'a deadlock or stagnation', while in the US, Congress tries to avoid 'a concentration of powers' (Palonen, 2014a: 77). The DPR as an institution seems to have legitimacy from the fact that its members are elected through an election, but power still rests largely with the president. This means that the DPR only shows status and cannot yet be counted as a full-fledged parliamentary body.

Despite the autocratic nature of Indonesian politics and parliament, one significant characteristic of civic culture remains, which is, the importance attached to upholding rules. Rules are important for Indonesians, and the public accepts rules even if the elites' decisions are not based on consultation with the public. The elites also knew the importance of the rules for ensuring legitimacy, and their acceptance of rules was clearly seen in the process of amending the constitution, which had a significant impact on Indonesia's democratization (Liddle, 2002: 374; Ellis, 2007: 25). Even when the respect for rules is derived from the political culture of respect for leaders, elites, or authorities, this element is important for Indonesia, as it suggests that a civic culture exists. The element of civic culture, the 'willingness of leaders and citizens to both play by the rule of the game and to believe that democracy is the best system' (Freedman, 2006: 138) exists in the DPR.

One unforeseen consequence of the financial crisis in 1998 was to push Suharto out of his long-time position as president, yet his authoritarian legacy remained. His civilian deputy, Habibie, rose to be president. He tried hard to reinvigorate democratic policies even though he was the direct representative of Suharto's legacy. In this crisis situation, new policies for fair elections and pluralist political parties were introduced, along with decentralized regions and lifting the censorship of the press. Consequently, although the parliament showed many deficiencies in practicing its parliamentary roles, the DPR was

democratized. Shortcomings in the policy making were clearly due to the inherited political culture and parliamentary procedure.

In brief, the DPR still bears its institutional character as a machine that supported the authoritarian regime, showing reluctance to act as a real parliamentary body. Now, however, its members are elected and many of them are committed to reform. That, and the existence of a civic culture in Indonesia, shows the potential for the DPR to be democratic and to proceed towards becoming a true parliament, under certain conditions.

7.2 The applicability of case studies: the failed attempt at parliamentary powers

The specific goal of this study has been to discuss Indonesian parliamentary politics and its political culture in general through the legislation in the DPR on the DPRD's in the post-Suharto era, from 1999 to 2009. The devolution of legislative powers to the DPRD's was initially regarded by the Habibie government and the interim parliament, whose members had all been chosen during the Suharto era, as an important part of the *reformasi* program.

As discussed in Chapter 4, the legislation on the DPRD's was carried out in relatively radical forms. It was part of the government's strategy to put an end to separatist intentions in Aceh, Papua and resources-rich regions after the fall of the previous regime. The regions might have seen that as an opportunity to break with Indonesia which, as is well known, the East Timorese succeeded in doing and Aceh only rejected after long negotiations, in both cases with international negotiators contributing to the process. Still, decentralization was carefully distinguished from any concessions that might turn Indonesia into a federal state. In this respect the decentralization program resembles, for example, Spanish attempts to create autonomous regions without accepting a federal character for the monarchy.

The main moves towards decentralization were granting the DPRD's the status of legislative assemblies as well as the election of the regional heads by the DPRD's. In the course of the following decade, the DPRD's' legislative status were reduced and the regional heads became directly elected. It was, however, emphasized that the DPRD's could retain their powers of oversight and control over the regional budget, as Chapters 4 to 6 showed. As in the case of, for example, the US Congress, parliaments with such powers are by no means weak, provided that members are competent in their application of the procedural, rhetorical, personal and other resources available to them to carry out such oversight.

The discussion of the legislation in the preceding chapters as well as the references to the practices of the DPRD's and their members have shown us several reasons why the DPRD's did not succeed in becoming truly local or regional

parliaments²⁵⁵. One important reason is that, instead of creating new institutions, both the DPR and the DPRD kept their names and to a large extent also their procedures and working practices from the institutions of the authoritarian era. There were also remarkable personal continuities in the membership, as illustrated by the strong share of *Golkar* members in the DPRD. With such continuities, it could hardly be expected that the DPRD members would drastically change their behavior and tradition. The US style control and oversight of the regional head, for example, would have been a more likely possibility but for the fact that the DPRD lacked the procedure, interest, and competence to carry it out.

As discussed in Chapter 3, the DPR's procedures and practices are partially responsible for the fact that the transition parliament never debated the political powers of the DPRD or gave any specific guidelines for the application of the decentralization legislation. The deliberations focused mainly on legal technicalities. As seen in discussing the *Susduk* law, the same three issues always came up during the deliberation process: whether or not to insert the term '*susduk*' in the title of the law; whether or not to include the DPRD in the *Susduk* law; and whether or not the MPR was understood as a joint-session of the DPR and the DPD. For the *Pemda* law, the discussion revolved around how to empower the DPRD, but whether this would make a significant contribution to regional development or not was passed over.

As emphasized above, the DPR exercised its main parliamentary roles - legislation, budgeting, and oversight - in smaller forums rather than in the plenary session, which mainly served as the DPR's public window. DPR members were allocated to sit in one commission and one other working body (other than a commission), with each commission or committee consisting of only around 50 members. The sectional or 'balkanised' system - using Sherlock's (2010) term - in the DPR left the plenary session as a formal, ceremonial occasion; the decisions had already been made inside these smaller 50-member commissions/committees. This suggests that oligarchic practice continued to be exercised, even encouraged, in Indonesia. This is very clearly seen whenever there was deadlock in the deliberation process: there was back-room negotiation between elite members, under the name of a *rapat lobi*, in accordance with the regulations in the *Tatib*. The importance given to positions of leadership compared with the position of ordinary members also indicates the continuation of oligarchic practices within the DPR.

During the process of legislation that we have looked at here in three periods of the DPR, there was no substantial use of the Western parliamentary fea-

²⁵⁵ The failure to establish an effective and efficient regional parliament was also due to the failure to articulate the purpose of the decentralization project and what kind of devolved power (and the financial implications of that) would be exercised by the regions. Despite the weaknesses in policy and implementation of the decentralization program, Indonesians are committed to continuing the program; they do not favor a change to any other policy, for example a federal project. Federalism has a bad reputation for Indonesians and decentralization is still the best option for the archipelago. On Indonesian decentralization, see the essay collection of the International Center for Public Policy, 2002 Working Papers (website reference).

ture of legislative Reading (in which in every reading stage there is a decision or an agreement made between factions). In the DPR, the constant use of Problem List (DIM) documents in legislation has shackled the deliberation process. Discussion based on this document not only led members to react only to (editorial) problems in the bill, losing sight of larger political, social, moral, and economic issues, but also led members question the same issues in every period. The DIM document chained members, forcing them to convey their political statements from a narrow perspective and leading them to question the same issue in every period. Too often, any inquiries members did make about the government's proposal were not answered satisfactorily by the government's spokespeople, and any substantial disagreement was always delegated to a smaller forum, out of sight of even MPs, not to mention the wider public. The military's entirely reasonable inquiry, analyzed in Chapter 4, into how the government planned to supervise the decentralization policy in the autonomous regions, was not answered. The military were pessimistic about the implementation of the policy, and later it was seen that their doubt were well founded, as the DPRDs did not act as they were supposed to do.

During the transition period (1998 - 1999), the DPR practiced the heaviest style of bureaucratic administration. In a legislative process, the government was still the main actor, the regulation for meetings was read out, the speaking time was limited so that each faction was allowed to speak only twice, and not all members even inside the committee were allowed to convey their opinion. This practice was continued in the DPR periods afterwards. The procedure obviously still favored the authoritarian style in the DPR. The opinions of the government and of each faction were read out during the plenary session, from written speeches. There was no discussion, and the rare questions were not answered. When DPR members asked the government how to oversee the implementation of the decentralization when there were more than 300 regions to be supervised, the government could not answer. Instead, it criticized the DPR for not supporting the government's good intention of decentralizing power to the regions. The government's denunciation of the MPs' enquiries was sufficient to stop MPs from asking more, although DPR members clearly were not content with the concept of decentralization and the legislative power of the DPRDs that was given in the government's explanation. The risk of being labelled as non-reformists prevented DPR members from making additional inquiries to the government, which clearly presented itself as the only actor capable of dealing with the concept of decentralization and its implementation. Here, neither the DPR nor the central government was able to imagine the impact of the policy in the future.

The DPR members apparently counted on the good intentions of the central government in enacting the law, and relied upon the probity of the regional authorities to implement the law on Regional Governance (Law 22/1999) in an appropriate manner. It was the regions that demanded regional autonomy in the first place, which suggested that the regional politicians already had their own agenda for the operation. Ideally, the policy-makers would have shared

the same understanding of how decentralization should be implemented effectively, namely that the basic law would be followed by full administrative guidelines and more focused laws compatible with Law 22/1999. Without this, the result would be 'confusing laws' (Bell, 2001), and this is what it proved to be. The lack of clear procedures and guidance was only realized later. This led to the law being revised, but the point here is that it is not sufficient to enact a law based on good intentions alone. Large-scale legal innovations should be conducted with a clear understanding of the concept, procedure, mechanism, and the role of each actor.

The previous chapters have discussed the DPRD, which were conceptualized in the law as legislative bodies in 1999 and from 2004 onwards in vague terms as an arm of regional government, but not as parliamentary bodies. The lack of guidelines for implementing the policy of decentralization and for how the DPRD are supposed to act as regional legislative bodies can be considered as powerful reasons for the political weakness of the DPRD. The justification of decentralization, that it was a preventive measure against separatist tendencies, turned out to be insufficient. When no regulations on the principles of the DPRD's formation as legislative bodies, the extents and limits of their legislative powers, or on their relationships to each other or to the executive regional government were specified in later measures that supported the legislation, the implementation of both decentralization and the political empowerment of the DPRD were considered chaotic.

The conduct of the DPRD after decentralization evidenced, as discussed above, a number of unwanted consequences. The misuse of their powers for private gains by DPRD members, the enacting of many unconstitutional *perdas*, and the increase in discrimination and conflicts due to the native son (*putra daerah*) emphasis of their membership, were additional grounds used in the following parliament to justify recentralizing their powers.

The decentralization policy resulted directly in the rising number of new regions in 2001, accentuating regional uniqueness and favoring locally born figures. New elites appeared in the new regions, filling positions in the government administration and the DPRD. The emphasis on "native sons" without regard to their merit led to emphasis on the status of members of the DPRD at the expense of competence in legislation and debate, and regulations gave members access to additional income from the regional budget. The DPRD mainly used their legislative role to pass regional regulations (*Perda*) on taxation and religious affairs.

During Suharto's regime, the DPRD were on the sidelines in regional affairs. Law 5/ 1974 initiated the institution of the DPRD and emphasized the regions as uniform in structure. Then, the new legislation suddenly gave the DPRD equal position to that of the regional heads, if not even higher. The system of recruitment, based on the competition of national parties in almost every DPRD, put emphasis on the DPRD members' own image and financial resources, instead of on rank-and-file members' fees. Accordingly, seats in the DPRD were seen as a matter of *status*, an opportunity for the members to gen-

erate more money for themselves and to strengthen the party machine. Having a seat in the DPRD opened access to the funds provided by the regional budget for improving public services. During this period, numerous DPRD members were accused of corruption – an old anti-parliamentary theme elsewhere, too – and several of them were also imprisoned. The consequences of the Decentralization Law, the increase in the number of regions and the corruption in the DPRD, were noted, and led to the law being revised again before the end of the next DPR period, in 2004.

In Chapter 5, we saw that the impetus for the project of recentralization lay with the Ministry of Home Affairs. The new revised Law 32/2004 was thought to be essentially drawn up to bring about recentralization, as the revision signified the power of the central government, especially of the Ministry of Home Affairs, over the regions. Using the justification of a unitary state, the Ministry suggested revoking the legislative character of the DPRD, as this character – according to the Ministry – only resembled the legislative type in a federal state, not a unitary one. A federal type of government was not suitable for Indonesia.

The role of the Ministry's officials can be seen in the changes introduced between the presentation of the government proposal and the passing of the final legislation. It was easy for them to draw attention to the failures of the DPRD and to the corruption of their members and use these to demand a return to a centralized order, in which officials in the central administration would be able to maintain the powers they had quietly held on to from the Suharto era. In a committee-based parliament, it is much easier for officials to exert their power and persuade party leaders in the hearings of the committees and commissions than in parliaments in which public plenary sessions play an important role.

Because of their legislative power, the DPRD members thought they had a higher position than the regional executives. In some regions, they took advantage of their power to impeach the regional head for political reasons, instead of separating clearly the parliamentary control of the elected local 'prime minister' from the administrative power of the regional head, whom they could get rid of only through the legal procedure of impeachment. The executives in the regional governments could not identify themselves as having been elected by the DPRD but continued to regard themselves as government officials. They could easily join forces with those who accused the DPRD of failure and corruption, and support the demand for recentralization.

Being regulated as "one of the organs of regional government" left the DPRD in unclear position. In fact, it was a return of the DPRD to being the same kind of advisory institution as they had been in Suharto's era (Law 5/1974). The implication of this was that the regional heads' position was higher than that of the DPRD. This view was advanced especially after the direct election of the regional head (*pilkada*) was introduced in 2005. The transfer of the plebiscitarian model of directly elected president to the regions shows the maturity of Indonesian democracy. Voters in the regions were allowed to elect

their own regional head for the next five years. The model has the reputation of being “democratic” and occasionally it can be legitimized as a measure against the state’s (and even the parties’) bureaucratization, or, in line with Weber’s argument that electoral suffrage would limit the power of officialdom²⁵⁶ (Weber, 1994: 81).

Simultaneously the plebiscitarian model emphasized the powers of the executives in comparison with those of the legislatures; in other words, in this case it weakened the DPRD as parliamentary-type assemblies. Moreover, the regions were expected to work under the unitary system and the guidance of the Ministry of Home Affairs. Accordingly, as part of regional government, the DPRD was expected to work like bureaucrats as the regional executive governments, added with competence in legislation and budget policy, which basically meant the competence to approve the block-grants given by the central government²⁵⁷. Obviously, there is nothing comparable in the presidential government model to bodies with the characteristics of the present Indonesian DPR and DPRD. Both the DPR and DPRD have no significant place of their own and are still under the shadow of the hegemony of the executive government, derived from the (strong) presidential system.

The directly elected regional heads to some extent resemble the State governors in the United States with their ‘presidential cabinet’. As we know from the US, power over the purse and the oversight of the executive’s powers have given to the Congress as well as to the State legislatures relatively important powers, as an inherent part of the checks-and-balances system²⁵⁸. For this to work, however, the legislatures must have competent and vigilant members who use the available powers efficiently. Indonesia’s DPRD members seem not to have had such ambitions and qualifications as either as a legislature or a controlling institution: the idea of checks and balances seems to be missing from regional politics.

As mentioned in Chapter 6, around 60% of DPRD members, especially in 1999 - 2004, were from the *Golkar* party in many regions in Indonesia. Even if the military faction and *Golkar* were seen as reformists in the transition era, it seems that positions in the DPRD were still sought for traditional reasons, for status and money. This being the case, it is no wonder that we do not see any evidence of imagination in adopting the parliamentary style or of parliamentary-cum-democratic control of the regional bureaucracy in the DPRD. As at the national level, so a position in the regional executive was more prestigious than that of a member of the legislative body. Even if it displayed some of the features of a parliamentary style, the DPRD was expected to work as a supervisory body with somewhat diffuse powers over the regional executive.

²⁵⁶ Weber (1994: 81) proposed accustoming people to responsible participation in the work of parliament and in the popular election, as an election may serve as a legitimized measure against the bureaucratization (or ‘the officialdom’) of the state and party.

²⁵⁷ This especially applied when 70% of the regional budget was allocated to paying the salaries of regional civil servants.

²⁵⁸ See for example Kronlund (2013).

The usual style of *Golkar* dominance in the regions is a good reason why the DPRD's acted in the style of the old regime, and may explain why the DPRD's could not imagine themselves effectively overseeing the executive, as stated previously. Furthermore, both Presidents Megawati and Yudhoyono are likely to have had their own reasons for supporting recentralization. Not only could their support have been prompted by their nationalistic views (Megawati) and military background (Yudhoyono), but also they might have seen recentralization as a move against *Golkar's* strongholds in the outer islands, outside Java and Bali²⁵⁹, which potentially could have turned into a counterforce to their own powers.

With the portrayal of Indonesian political culture as 'neo-patrimonial, bureaucratic, *Beamtenschaft*, or Asian-style democracy' (Antlöv, 2000: 210) even after the Suharto era, Indonesia still maintains tendencies toward centralized government in which power rests with only a small group of elites, in Jakarta. The relevant group in this case consists of the president, the minister (the Ministry of Home Affairs), the DPR elites, and those who hold positions within the state institutions in Jakarta. Following this logic, the Ministry of Home Affairs treats the DPRD's as part of the governmental machine.

To summarize the points stated above, the DPRD's concept is unclear and weak, and its weaknesses stem from:

1. The uniform structure of the regions throughout Indonesia, and the fact that Suharto's regime invented the DPRD's from the central perspective
2. Lack of a clear idea on how the DPRD's were supposed to act as regional legislative bodies
3. Lack of guidelines for implementing the decentralization project
4. The misuse of power by DPRD members, which ultimately led to the pursuit of private gain, unconstitutional *perda*, increasing discrimination, and conflict due to the emphasis on the native son (*putra daerah*)
5. The vested interest of ministers in recentralization
6. The transfer of the directly elected president model to the regions
7. The continuation and survival of *Golkar's* party machine from the previous regime in both the DPR and the DPRD's. The continuation in power from the time of the old regime has arguably led to the passivity of the DPRD's as institutions, so that they only act on guidance from the national government; also the continuation of seeing positions in the DPRD's merely as a matter of social status.

The existing scholarly literature on the subject as well as public perception of the DPRD's declining powers after the initial reform era of 1998 - 99 have em-

²⁵⁹ *Golkar* is still the strongest party in South Sulawesi (Tomsa, 2008: 108) and in North Sumatra (Tans, 2012: 13), for example.

phasized two main grounds for this decline: one, the improvised way in which the decentralization of powers was carried out, without guidelines from the DPR and the government, and two, the evidence of the misconduct of the DPRD's themselves. I accept these grounds, but detailed analysis of the legislation and of the parliamentary process in the DPR as well as insights into the DPRD's political practices have directed my attention to several additional grounds. Important among them are the interests of officials in the Ministry of Home Affairs in maintaining a centralized state; the direct election of the regional heads; the high proportion of *Golkar* party members in the DPRD's; and finally the DPRD's unwillingness or inability to act as a US-style parliament efficiently exercising its budgetary powers and parliamentary oversight over the regional administration. All these factors make the decline of the DPRD's intelligible in more nuanced terms and indicate how the re-empowerment of the DPRD's would be possible.

During the DPR's period of 1999 - 2004, many new members came from new political parties and consequently the number of factions in the DPR doubled. The new DPR members had more confidence than their predecessors in continuing the reform agenda to amend the constitution. Proceeding only by patching things up - scrutinizing the undemocratic articles in the constitution and revising them - members produced an amended constitution during the period of 1999 - 2002. In the amended constitution, although it still had the same name as the 1945 Constitution, there were double the number of articles - from 37 to 73 - and new democratic aspects. However, while DPR members were experiencing a new sense of empowerment, the parliamentary procedure was still as before, and the DPR constantly displayed the political culture of the authoritarian regime. In this political culture the DPR behaved in many ways like a rubber-stamp institution, the committee forums was more important than the plenum, and oligarchic tendencies were encouraged at the expense of participation of all DPR members. Corruption in the DPR was rampant, and the new DPR members were easily co-opted into the old system. They readily adapted to the rules of the game inside the DPR, securing their own financial interests.

In the period covered by this study, the DPRD's realized that their power was diminishing and in 2007 they held a rally in Jakarta, thus acting openly against the central government, but not too strongly, faithful to their positions in the hierarchical structure. Indonesia's established political culture appeared to be very resilient, although there were clear changes in vocabulary: "decentralization" and "local politics" in 1999; "representation" in 2004; and the adaptation of the Western concepts of "good governance", "accountability", and "transparency" in 2009²⁶⁰. Such words were frequently used during the legislative process and repeated in the media. The changes in terminology suggest the symbolic embrace of democracy in Indonesia, but in actual fact the changes

²⁶⁰ The terms, notably "good governance", were also introduced by the international projects and consulting organizations running in Indonesia during the post-Suharto era (Hadiz, 2005: 36).

were far smaller than that. In their study on regionalism, Sulistiyanto and Erb (2005)²⁶¹ argued that decentralization or regional self-governing could be translated as decentralizing corruption from central government to the regions, that representation meant representing party's interests, and that good governance, accountability and transparency were merely an arrangement of nice words to please the donor agencies (2005: 8). The powerful international donor agencies that worked on the decentralization project in Indonesia were the World Bank, the International Monetary Fund (IMF), the Asian Development Bank (ADB), and the United Nations Development Program (UNDP) (Sulistiyanto and Erb, 2005: 7).

What the DPR practiced as a parliament in post-Suharto's era, especially during the time frame of this research, 1999 - 2009, reflected clearly what Liddle described as adopting "incremental or 'strategic' changes to a *well-established* framework of rules"²⁶² (Liddle, 2002: 398). The adoption of democratic values, - with separation of power between the executive and legislative, the check and balances among state institutions, the regulation of elections and political parties, including direct presidential elections, and managing local governance with decentralization - indicated an embracing of the democratization process without a clear understanding of what kind of problems needed to be tackled first. Adopting some aspects of democracy and translating them into laws and the constitution itself led to confusing policies and unintended results. Two examples of this are the use of the same old parliamentary procedure in enacting democratic policies in the DPR and the unending saga of to-ing and fro-ing in the process of decentralization of the DPRD.

Chapters 4, 5 and 6, on the empirical studies, show that despite its good intention of welcoming proposals for democratic *reformasi*, the DPR failed to successfully use 'old procedures for new purposes' (Liddle, 2002: 395). Using outdated parliamentary procedure to enact new democratic policies clearly prevented DPR members and the government from effectively deliberating and legislating. The case studies show that Indonesia was indeed embracing democracy at the conceptual or policy level, but on the practical level this led to a policy that was good on paper but chaotic in its implementation. Applying democratic policies using the old ingrained political traditions led to conflict of interests between the actors inside the DPR and political reality. This relates to what Lev mentioned about the Indonesian deficit of rule of the law that for the Indonesian parliament, it was 'always easier to promulgate than to enforce' (quoted

²⁶¹ Sulistiyanto and Erb listed the problems that arose from regional autonomy: 'rampant corruption; the increasing oppression of women in various regencies; the emergence of violence between various groups based on affiliations associated with culture or religion; the sometimes violent struggles over land rights; as well as the increasing level of culture centric/ethnocentric decisions that have potential for further struggles and violence' (2005: 8).

²⁶² Emphasis added. Liddle based what he said on the views of Braybrooke and Lindblom (1963) and explained that 'strategic policy-making is incremental, trial and error, based on incomplete analysis, makes use of rules of thumb and habitual responses, and is concerned more with making an advance than solving a problem'.

from Davidson, 2009: 299). I agree with Liddle (2002: 398), that this derived from:

lack of experience with alternative democratic institution and procedures, the leaders' own diverse political interest and lack of cause-and-effect knowledge, and deficiencies in democratization theory.

Democratic institutions, such as elections, political parties, parliament, rule of law, were known by name, and by the forms they had acquired during the historical development of the Indonesian political system. As stated previously, Suharto had already introduced these terms, but not the content. When the democratic wave arrived in Indonesia, with the fall of authoritarian leader, democratic values were introduced but their introduction was based on the country's autocratic political culture. The result was a tortuous period of confusion, even if it was undoubtedly also a period of learning and gaining experience.

Having been politically repressed for more than three decades, during the time of political change, especially between 1999 - 2004, the old elites in the DPR found it difficult to combine their own interests (in status and finance) with the demands for reform. Meanwhile, the new elites that entered the DPR after the 1999 election developed rent-seeking attitude similar to that of the old elites, but something they had not enjoyed before due to their alienation from Suharto's circle. The outdated parliamentary procedure and the political culture in the DPR successfully allowed both old and new elites to satisfy their own interests in keeping and gaining financial advantages within the DPR. In some respects, this also happened within the DPRDs.

In now assessing the contribution of the empirical studies presented here to our understanding of parliamentary procedure, one crucial aspect may also be administrative failure. Note that in designing the country's democratic values, the actors were the political elites, who had their own interests. The old elites from Suharto's era participated in the reform process but held on to their shares of public resources, and the new elites from the new political parties found themselves able to seek new privileges that once only Suharto's circle could enjoy. These interests, combined with the inability to understand technically what proper parliamentary procedure was and lack of expertise on the part of the parliamentary secretariat, gave the process a slightly democratic look, but this was only on the surface.

This study of the Indonesian parliament mostly confirms the findings of previous studies on democratization in Indonesia, that the reform touched the institutional surface, but not the 'core structures of power' (Mietzner and Aspinnall, 2010: 1), which I think derived from its (New Order) political culture and procedure. The political culture in the DPR, as it was structured to support the authoritarian regime, was a barrier to the DPR to acting democratically. Within this structure and these autocratic traditions, the DPR's parliamentary procedure, for sure, accommodated undemocratic features.

Indeed, Indonesia is still marred by the legacy of the past, which as we have seen was a burden on its democratic process (see Davidson, 2009; Aspinall and Mietzner, 2010; Liddle, 2013). The old procedural framework has been unable to accommodate the increasing number and variety of political parties inside the DPR. It has allowed the old style elites to continue seeking gains, and even encouraged the new elites of parliamentary members to carry out similar maneuvers from their position and status in the DPR (Robison and Hadiz, 2004).

To promote democratic change in the DPR, it would be necessary to reform the core political culture of the DPR elite. The first necessary step would be revising the parliamentary procedure, the *Tatib*. The truth of this will become even more obvious after we look into the parliamentary culture of two other, comparable states, Malaysia and South Korea, both of which have also experimented with moves toward a more democratic form.

7.3 Comparison of parliamentary culture in other states

The comparison provided in this section will serve to show us to what extent we can generalize the findings found for the Indonesian parliament, with its strong traditional political culture. To support democratization in Indonesia it clearly was not sufficient only to engage in institution building. The process demanded a change in the political culture, which should have been preceded by revising the rules of the game. In parliament, these rules are what constitute parliamentary procedure. The two countries that serve as examples here, Malaysia and South Korea, have arguably proceeded with a transition to democracy and stable economic development, particularly after the 1997 economic crises. The three countries - Indonesia, Malaysia, and South Korea - have earlier been compared as case studies for the transition to democracy in Asia (Freedman, 2006). The role of their parliaments is likely to have been to support such developments and therefore it is interesting to investigate the political cultures and see whether they display traits of civic culture or traditional culture that supported democratic values within the country. Interestingly, these countries are like Indonesia in showing some suspicion of Western-style democracy; they have claimed that they would like to develop their own democracy based on 'self-cultural and historical conditions' (Antlöv and Ngo, 2000: 4). Yet they have not been immune to the demands for democracy of both their citizens and foreign factors. Even while believing that they were preserving their own political culture, external pressure, which has included Western democratic values, has influenced their political structures. As in Indonesia with the legacy of Dutch colonialism, in Malaysia and South Korea political parties and parliament have been allowed for decades, but during most of their post-World War II history these remained meaningless, as their existence was tightly controlled. This has been the case in the British-style of parliament in Malaysia, and in South Korea, with its influence coming from the United States.

7.3.1 Malaysia

Malaysia and Indonesia have a lot in common. Both countries are positioned in the Southeast Asia region, have a similar Malay-based language, and for one hundred years experienced the rule of colonial power, the British in Malaysia and the Dutch in Indonesia. Like every single Asian country, Malaysia and Indonesia also show a strong consistency in preserving the notion of Asian culture. The consistency of Malaysia and Indonesia in responding more to 'pro-Asian values', probably results from their both having a majority of Muslim citizens (Blondel and Inoguchi, 2006: 155). All this suggests that Indonesia can be meaningfully compared with Malaysia.

While Indonesia has culturally always been divided by its hundreds of different indigenous tribes, yet has created a united country, Malaysia faces the constant "confrontation" of two incompatible cultures, Muslim Malays as the majority and Confucian Chinese as the minority, which has produced a 'fragile polity' in the country (Pye and Pye, 1985: 248)²⁶³. Given its cultural composition, Malaysia has displayed the different power attitudes prevalent in the Confucian and Southeast Asian cultures. Malaysia is a divided society including Malays (60%), Chinese (30%), and Indians (10%) (Freedman, 2006: 116). Immigration from China and India, was encouraged by the British, but the Chinese and Indian immigrants in Malaysia kept their own traditions, religions, and language (Moten, 2011: 41). The Malays, Chinese and Indians strengthened their own traditions and not too much attention was paid to the importance of having a shared sense of being in one state, Malaysia.

The cultural difference between the Confucian Chinese and the Southeast Asian Malays was striking.

The Chinese value harmony and correct etiquette, but they find it exceedingly difficult to suffer perceived injustice without anguish to somebody...By contrast, the Southeast Asian style in dealing with unpleasant and even dangerous situations is one of avoidance and silence, of repressing emotions in the hope that the problem will go away if matters are smoothed over (Pye and Pye, 1985: 249)....

The Chinese are urban people, interested in money and market activities, and they are committed to self-improvement and have strong family ties. The Malay are rural, are contemptuous of merchants, prefer service careers in the army and police, are more easygoing in social relations, and are tolerant of divorce (Pye and Pye, 1985: 250).

These differences sowed seeds of conflict and created problems for nation building. What emerged was a racist *Bumiputra* (sons of the soil) policy which benefited the Malay majority. The policy, called the New Economic Policy (NEP) gave 'quotas in education, employment, and ownership, as well as a variety of subsidies, licenses, and credit schemes', although the policy avoided the term 'racial differences' (Pye and Pye, 1985: 262). Based on this policy, the Malays received, for example '30% of corporate equity ownership', and admission to

²⁶³ Due to the small percentage of Indian immigrants, Pye (1985) and Moten (2011) disregarded Indian culture in the discussion of political culture in Malaysia, and focused instead on the Malay and Chinese cultures (Confucian and the Southeast Asia).

education and civil servants careers by 'a 4 to 1 ratio' compared to non-Malays' (Pye and Pye, 1985: 262). This suggested the tyranny of the Malay majority over the other races.

In politics, the Chinese grouped themselves in the Malaysian Chinese Association (MCA), and the Indians organized in the Malaysian Indian Congress (MIC), and formed a coalition with the Malays' party, the United Malays National Organization (UMNO) in 1969. The coalition was named as *Barisan Nasional* (BN) or National Alliance, which became the major power in Malaysian politics in 1973 after opposition parties also joined the coalition. In a way, BN is similar to Indonesian *Golkar*; it embraced all societal elements in Malaysia and became a ruling power in the state. In the 1969 election, UMNO was confronted by the Islamic Party of Malaysia (*Partai Islam se Malaysia/PAS*), the Democratic Action Party (DAP) and *Parti Rakyat Malaysia* (PRM), which became a minor opposition party in the parliament. After the election, UMNO succeeded in absorbing these opposition parties into its coalition, together with MCA and MIC, except for DAP. Historically, this election period was important as it marked the beginning of the hegemony of UMNO in Malaysia.

The British left Malaysia a system of parliamentary government and a highly centralized bureaucracy. The parliament consists of the House of Representatives (*Dewan Rakyat*) with 222 members and a ceremonial Senate (*Dewan Negara*) with 70 members. The Senate is a Council of Rulers or hereditary sultans (Case, 2011: 14). The parliamentary government directly posted the hegemonic UMNO president into the post of prime minister. The first prime minister was Tunku Abdul Rahman, who drove Singapore out of Malaysia so that the racial balance clearly started to favor the Malays. Following the normal style of behavior in Southeast Asian culture, the Malaysian prime minister did not explain the cause of the separation and hope that the problem would be forgotten with the passage of time, but the separation was due to the sharp contradiction between Chinese and Malay political culture (Pye and Pye, 1985: 254). Since then, Malaysia has been governed by the authoritative rulers, a state of affairs that has been tolerated on account of mental passivity and corruption. Prime Minister Rahman was known as the father of Malaysia, called *Bapak Malaysia*, resembling Suharto in Indonesia. His style was to 'listen to protests but act slowly because time would heal the grievance' (Pye and Pye, 1985: 261). The race riots of May 13, 1969 forced Rahman to step down and his deputy Tun Abdul Razak replaced him as prime minister.

Malaysia's bipolar social structure and the Malay hegemony increased the chance of single party dominance, here UMNO benefited from the government 'single-member district system' that favored Malay voters (Case, 2011: 15). In parliament, 'UMNO sought to weaken the body's capacity to oversight' and prohibited questions on the special rights of Malay over other races (*ibid*). The parliament was discouraged from debating openly; members did not have parliamentary immunity, which made MPs vulnerable to the possibility of being arrested. Committees were closed and heavily monitored by the government,

which suggested that the parliament in Malaysia was 'no more than a rubber stamp in the hands of the Cabinet' (*ibid*, p. 16).

This rubber-stamp character of the Malaysian parliament makes it similar to the DPR. In the 1980s, when many MPs were recruited from the business world,

Legislators (in Malaysia) grew even more strongly motivated to advance their business interest, responding to a distinctive set of public policy incentives (Case, 2011: 19).

The legislators in Malaysia sought to extend their personal interests in state projects and public funds. The similarity with the DPR nowadays is striking. In Malaysia, 'ambitious Malays quickly saw the benefits of climbing the UMNO party apparatus and entering parliament in seeking access to public resources', while in Indonesia, many people for the same reasons competed for places in the political parties (not necessarily only *Golkar*) and entered the DPR and DPRD's (Case, 2011: 20). This worked better in Malaysia with the parliamentary system of government, as a successful candidate in UMNO would have a greater chance for getting a cabinet post, suggesting more opportunity for access to public financial assets.

With the background of a strong political culture, the Malaysian parliament is shaped by historical factors that have made it weak. There is a lack of parliamentary oversight and public review as power is concentrated in the hands of the prime minister, the political parties are ethnic-based, and the committee - notably Public Accounts Committee - do not function effectively. MPs now have immunity except in questions concerning rulers and Malay rights, and the parliament has limited opportunity to enquire into government affairs (Liew, 2008: 1). Despite its shortcomings, the Malaysian parliament still presents a 'committed opposition', motivated by ideas 'to change the political regime and policy outputs' (*ibid*). Opposition members have not been strongly tempted by prospects of patronage, probably because they are content with the 'reasonable salaries [in the parliament], professional status, some organizational autonomy, and mobilizing opportunities' (Case, 2011: 21). The existence of opposition in the Malaysian parliament, no matter how small it is, has been a routine check on the executive.

Malaysia is considered as semi-democratic country, or to display "electoral authoritarianism", especially under the leadership of Prime Minister Mahathir Mohamad (1981 - 2003). When the economic crisis hit Malaysia in 1997, unlike Indonesia, which requested a bailout package from the IMF, Mahathir tried to solve this crisis by currency control domestically, and he sought neither money nor advice from the IMF. This decision sparked tensions with his deputy prime minister and Minister of Finance, Anwar Ibrahim, when Ibrahim did not agree with Mahathir's policy on currency trading (Freedman, 2006: 108). The economic crisis was severe and when the government handled it poorly, it only raised the popularity of Ibrahim as offering an alternative economic solution, especially when the prime minister made offensive remarks about foreigners

and blamed 'George Soros, "Jewish bankers", and other global economic forces as the source of Malaysia's problems' (Freedman, 2006: 108). In late 1998, Anwar Ibrahim was fired from his ministerial positions and later expelled from UMNO party membership; he was arrested, and tried on allegations of corruption and sodomy (*ibid*, p. 109). Arresting Anwar, who had been a symbol of hope in the crisis, triggered a rally, and the public started to question the government's ability to overcome the crisis and demanded full democratic reforms.

Anwar's wife, Wan Azizah, formed ADIL, a public movement which later became a political party *Parti Keadilan Nasional*. Together with PAS, DAP, and PRM, ADIL agreed to form *Barisan Alternatif* or Alternative Alliance (BA) confronting the National Alliance, BN. In the election of 1999, the opposition campaigned on democratic issues: that 'the parliament should be more independent of the prime minister' and that more 'independent judiciary, civil service and media' were needed (Freedman, 2006: 112). The prime minister and BN candidates responded to these demands for democracy by pointing to the improved economy and argued that the opposition demand was equivalent to 'instability and chaos', and that its mass rallies would risk repeating in Malaysia the communal conflict that happened in Indonesia in 1998.

The ruling coalition was too strong to be overthrown, especially when the state controlled the economy, electoral system, and media. Although the opposition gained more seats in the parliament (45 from 193 seats) in the 1999 election, the BN still held a two-thirds majority, with 148 seats. The continuation in power of Prime Minister Mahathir depended on his confidence in solving the crisis without the IMF's help, and getting support from the party and Malaysian business communities, which all resulted from removing Anwar as 'an obstacle to implementing capital controls' (Freedman, 2006: 113). Mahathir succeeded in keeping his position until he chose to resign in 2003, after the Malaysian economy had become stronger. His deputy prime minister, Abdullah Badawi, basically Mahathir's protégé, took over from Mahathir as prime minister and head of UMNO. In the 2004 election, the BN won 90.8% of the parliamentary seats, evidence that the opposition suffered a severe defeat.

However, after the reform movement in 1999, and their poor result in the 2004 election, the opposition still persisted in 'tirelessly criticizing the government's everyday policymaking' (Case, 2011: 41). The appearance of the prime minister in front of the parliament to propose the budget and the attendance of cabinet ministers in parliament during question time still show the importance of parliament for the government's public image. Besides the 'toothless' or ceremonial debates, the opposition more effectively took advantage of question time to generate debates or exchange views among parliamentarians and ministers, and sometimes even 'extracting policy concession' and 'embarrassing the government' (*ibid*, p. 44-45). This shows that:

Despite its limited parliamentary powers, the opposition in Malaysian parliament has been able to impose accountability and to confront the executive (Case, 2011: 48).

The purpose of Case's paper was to show the possibility of imposing executive accountability to parliament even under an authoritarian political system, and Malaysia has succeeded in showing that its opposition still holds enough power to demand the accountability of the executive, albeit with limitations. Malaysia has an advantage in being under the system of parliamentary government; its parliament offers the government and all parliamentary members, including the opposition, the chance to speak before the public in the plenary session.

Regarding its internal regulations, the Malaysian Standing Order is a clear guide to the rules of the game inside parliament. It covers such matters as the procedure for electing the speaker (*Timbalan Yang di-Pertua*), the two deputy speakers, the leader of the house, the leader of the opposition, and the committee chairs; the distribution of reports (speech, proceedings); sessions and meetings (including order of business); the quorum; motions; the rules of debate; committees; and bills (first and second readings, from the Senate etc). Specific regulations in the Malaysian Standing Order set out the 'manner of asking and answering the questions' (Article 24), the 'manner of debating' (Article 32), and the behavior of members²⁶⁴ (Article 41), which describes how members should behave when seated with the ministers. According to the rules of debate, although the debate takes place in the plenary session, members are forbidden to ask irrelevant questions in respect to the bill. This is of course difficult to determine exactly. This suggests that the UMNO hegemony will survive longer as the procedure encourages its hegemonic existence, but it is clearly stated in the procedure.

The Speaker's position is strong, as s/he must be consulted in all matters that concern the parliament. The Speaker, for example, decides on whether to permit the use of English in the House, although Malaysian is the only official language (Article 8). The Speaker also interprets the correctness of any practice, and even can decide upon rules outside of what has been written in the Standing Order (Article 99). However, since the procedure is clear and known by all the parliamentary members, as well as by the public, and since most of parliamentary functions are exercised in the plenary session, the Malaysian parliament is arguably more open to the citizens than the Indonesian one.

Malaysia has a parliamentary political culture different from that of Indonesia because it has a system of parliamentary government instead of the presidential system in Indonesia. Accordingly, the Malaysian parliament is more effective in asking for government accountability, as the government is made up of members of parliament. This means that in Malaysia the existence of its parliament is widely recognized. The 61.9% public confidence in the parliament (Moten, 2011: 50), a figure strikingly different from any corresponding figure in Indonesia, is actually not solely for the parliament, but also for the government under the system of parliamentary government. Thus, the parliament also holds some power, although it shares power with the cabinet. The political culture of

²⁶⁴ The Standing Order regulates that members of parliament who are not speaking during the parliamentary session are sitting appropriately (not smoking, not reading, and not speaking to each other) and wearing proper clothes.

an elitist executive also exists in Malaysia, but the constant appearance of ministers in parliament shows the importance of parliament as a public performance, and the value of democracy.

7.3.2 South Korea

South Korean political culture has similar values to Indonesian political culture. Political authority rests in the central figure, as 'the ideal father of the family', who should overcome all problems (Pye and Pye, 1985: 216). This is familiar in Indonesia from the 'family principle', according to which the president - as the father of the national family - handles state affairs and takes care of citizens. This is seen in the strong Confucian elite culture and autocratic tendencies in South Korea, evident during the administration of President Syngman Rhee in 1950s and afterwards (*ibid*, p. 219). President Rhee used Confucian culture when, planning to extend his presidential tenure, he declared that the president, as a superior man of being elected by the people, would guide the state without the rule of law (*ibid*). Rhee's presidency came to an end in the military coup which made Park Chung Hee the president in May 16, 1961.

History repeated itself when in October 1979, amidst stunning economic growth, a whole series of strikes and demonstrations, from the labor unions, students, clergymen, and members of parliamentary oppositions, put pressure on President Park's dictatorship. The same thing happened again against the regime of President Chun Doo Hwan in June 1987. The events marked two opportunities for democratic transition in Korea, but with different results. External foreign support was a significant factor in each case, particularly from the United States' government. Due to the abundant American aid that funded most of Korea's imports and its capital investment since the 1950s, Koreans valued the opinion of the US highly (Stoner et al, 2013: 12). In 1979, when the Carter administration did not have any strong objections to President Park's dictatorship (and only requested him to address the human rights violations), and even after Park was murdered and replaced by General Chun Doo Hwan, 'a protégé of Park', the dictatorship continued in Korea under President Chun for another seven years (Adesnik and Kim, 2013: 266).

In 1987, the Reagan administration took a different approach to President Chun's government. When President Chun proposed that Major General Roh Tae Woo be nominated as the next president, violent protests erupted across South Korea for three weeks, after which the government finally granted the protesters' demand for direct presidential elections. With American pressure added to the domestic pressure, the president had no other choice than to set up free and fair presidential election in 1987. The opposition leaders, Kim Young Sam and Kim Dae Jung, were seen as democratic civil candidates for the presidency. Because there were two of them, however, they divided the protest vote between them, and Roh Tae Woo became the president. In 1992, Kim Young Sam won the presidential election, although he still needed to ally with Roh's party. In 1997, Kim Dae Jung won the presidency, which meant that power did not return to the military.

Korea is also known for its 'effective state bureaucracy', which was originally created by the Japanese colonial power, with additions from US post-war influence, and for being a 'risk-taking culture' (Pye and Pye, 1985: 218, 216).

In decision-making, Koreans will routinely plunge ahead in adventurous fashion with little apparent anxieties over the possible consequences (*ibid*, p. 217)

The change of government in 1987 was preceded by a violent, sometimes even bloody, demonstration which lasted for days, confirming that if the public demanded change, they were not going to give in and their demands had to be met. This is educated Koreans' culture of hoping for 'democratic ideals'; they put pressure on the authorities to oblige them to concede to popular views (*ibid*, p. 216). As seen in the 1987 reform, public demands together with an appeal from the US administration due to upcoming Summer Olympic in 1988, forced President Chun to give in, and he promised direct presidential elections.

The direct election by the people of Kim Young Sam enabled Korea to implement wide-ranging democratic reforms (Adesnik and Kim, 2013: 271), which went as far as its parliament, the Korean National Assembly. A pamphlet put out by the Korean National Assembly's (KNA) includes an interesting quotation, namely that the parliament (KNA) is: 'building an advanced democracy in full bloom where sophisticated political culture flourishes'²⁶⁵. This quotation reflects the 'sophisticated' Korean political culture, and with such a political culture, the parliament was able to progress towards democracy. The approach was to *work with* its political culture and not to *fight* it.

The democratic ideal that was evident in Korean society and the public demand for an advanced democracy was worked out through 'the principle of dialogue and compromise' (The National Assembly, 2012). The parliament in 1996 constructed an "e-parliament" and built a digital system for the Plenary Chamber and Standing Committees, complete with an electronic voting system, e-book publishing and multimedia discussion. This e-parliament mechanism, with its advanced technology, supports transparency, openness, and public participation in parliament, above all in the plenary session. Parliamentary procedure and the legislation process can be accessed in the official parliamentary website. The website includes information on all aspects of parliament (its role, duty, the functions of parliamentary members) and its activities in the plenary session and committees. It is clear that the high level of technological development that resulted from South Korea's economic boom gave parliament a lot of resources. The South Korean parliamentary website is always up-to-date, enabling anyone access to current parliamentary materials. Parliament's television channel, the NATV (National Assembly Broadcasting Station), provides impartial and real-time news of parliamentary activities 24 hours a day; and the parliamentary library offers information on politics and legislative affairs.

The 300 South Korean parliamentarians serve for a term of four years. They have parliamentary immunity. The National Assembly has one Speaker

²⁶⁵ According to the National Assembly of the Republic of Korea (Government Publication 2012)

and two Deputy Speakers, who are elected by the plenary through secret ballots. This suggests that the Speakers will not have oligarchic practices. To ensure impartiality, the Speaker is not allowed to be affiliated with any of the political parties during his or her term of office. Prior to deliberation in the plenary session, parliamentary responsibilities are exercised in committees; there are 16 Standing Committees and 2 Permanent Committees. All of the members of parliament are members of a standing committee, with members choosing their committee according to their field of expertise and interest, but they are limited to a two-year term in any committee, probably to avoid an attachment in one particular committee. The chairpersons of each standing committee are elected by the plenary, and not by the political parties, or the winning/majority parties. All these parliamentary features suggest that the members of the South Korean parliament have built a democratic culture, thanks to the application of modern technology which ensures the transparency of parliamentary practices.

The National Assembly is also supported by various organizations: the National Assembly Secretariat, National Assembly Library, National Assembly Budget Office (NABO), and the National Assembly Research Service (NARS). Assembly members are also entitled to have seven advisors, supporting the members in legislative activities and in the political fields.

Historically, before the current unicameral presidential system existed, the South Korean parliament was called the Constituent Assembly, and it had a bicameral system. The Constitution has been amended nine times²⁶⁶, and each time parliament was affected in some way. Now, although the parliament has become democratic, the political system still acknowledges South Korean political culture, which is ventured on one-man rule, or at the moment on one-woman rule, that is, the president. The Koreans idealize rulers who 'behave correctly' (Pye and Pye, 1985: 223). Thus, the democratic reforms initiated under the popularly elected president, Kim, suggest that when he behaved appropriately as a leader, the democratic institution - parliament - and a democratic culture could flourish. For sure, technology has tremendously supported the transparent parliamentary culture in South Korea. The development of South Korea's National Assembly shows that even in a strong presidential political culture, a new parliamentary culture can be shaped if it is helped by popular democratic action.

Besides its clear parliamentary procedure as stated in the official website, the parliament of South Korea is regulated by the National Assembly Act. This makes the institution's status legally binding and democratic. The law also covers parliamentary activities, like its own rules of procedure. This is what the Indonesian DPR might like to follow.

Although further research is needed on the political culture behind the parliaments of Malaysia and South Korea, this brief exposition presented here, shows that political culture and the role of parliament during a process of de-

²⁶⁶ The constitutional amendments have always been proposed by the president, which emphasizes the superiority of the president (or the leader) in proposing changes, a strong feature of South Korea culture.

mocratization matter. The democratic parliament is also seen from its rules of procedures. More work needs to be done to compare thoroughly the parliamentary culture shaped by the overall political culture in the parliamentary institutions of both Malaysia and South Korea. In order to understand the regions better, we need wide-ranging assessments of the local, historical, and political factors inside the parliaments. Nonetheless, glancing at the experiences of these two countries, the case in Indonesia can be seen in a brighter light. These countries show that in achieving democracy and political changes, elements of history, culture, and economic growth have played strong roles in the national political framework. This confirms the validity of comparative studies on Asian political culture.

7.4 The effect of political culture on democracy

Larry Diamond pointed out that 'political culture does matter to democracy'. However, the 'development of a democratic culture cannot be taken for granted as a natural by-product of democratic practice or institutional design' (1994: 7). Will Case's study (2011) also showed that empowering an institution will not automatically guarantee the successful exercises of democracy, as the institution must overcome its undemocratic political culture, which it may have retained for a long time. The truth of all this was confirmed in the case of the DPR. When the political system was designed to be democratic, by the constitution amendment, a democratic culture did not come about automatically. The DPR was nominally empowered, but the empowerment was not followed by any change in the institution's old political culture, notably its parliamentary procedure, which continued and will continue to be an obstacle to the process of democratization in Indonesia. This view is also supported by previous studies on the DPR (Sherlock, 2010; Ziegenhain, 2008), which also noticed the embedded political culture of the New Order regime.

Analyzing the DPR as a parliamentary or representative institution, then, is not fruitful, as the political culture of the DPR was not designed to make it a real parliament. The recent *Susduk* Law, Law 27/2009, even emphasizes the *legislative* role of the DPR and people have expected the DPR to produce more laws annually. Realizing that the political culture in the DPR during the period of this study was a continuation from the previous authoritarian regime leads us to recognize that the DPR was a place associated with *status* and composed of members who felt themselves to be *elite*. A seat in the DPR (and the DPRD) led to the opportunity to create political cartels, the collective interest of the political parties to secure sources of rent-seeking (Ambardi, 2009: 347). They were useful for the political parties financially, and allowed members to improve their status so that it was far higher than that of ordinary Indonesians. The increased status was important and therefore a position of leadership in the DPR (as either one of the house leaders, a *fraksi* boss, or the chairperson of the com-

mission) was desirable because it made one even more important than ordinary DPR members.

Seeing the DPR as a place to gain and display status, and not as a place to exercise representative political power, reflects the traditional Javanese concept of power, as status not action (Jackson, 1978: 41). In general, Indonesian public consider the president to be the most important state authority (as the presidential system suggests), and Suharto's 'personal rule' obviously fitted such a tendency perfectly (Liddle, 1996: 17). In the same way, the members of the DPR's elite want to be appreciated and admired for their status, even if their positions are in groups and not individual. Status has distracted DPR members from their actual representative role.

As regards the DPR's political culture, it must be remembered that Suharto left the legacy that democracy is related to economic development. Liddle found that Suharto used economic development to justify his authoritarian regime (Liddle, 1996: 120). Liddle explained that during his era, Suharto used the jargon of 'liberal economic policies' for economic development, which somehow contradicted his authoritarian approach (that accepted Sukarno's idea which had been 'strongly anti-Western, anti-capitalist, and pro-state intervention') thus at first, Suharto's new emphasis of his economic policy was difficult to follow (Liddle, 1996: 114). However, with his strong personal rule and with the support of the military, Suharto was able to foster economic development as the first political priority, especially during the early years of the New Order regime. As a consequence, political repression and the authoritarian government were accepted for the sake of economic development. As Antlöv and Ngo (2000: 5-6) stated:

A government can be 'authoritarian' from a procedural definition of power, and yet still considered to be 'just' from a native point of view because it ensures the well-being of its people...Legitimation is based on growth and economic improvement for the nation as a whole, not on the protection of civil rights that can guarantee individual freedom. Bread-and-butter (or perhaps rice-and-tofu) issues are more important than choice and plurality.

Thus, authoritarianism was considered good for the country, as economic policy was the priority, and this can explain why Suharto's authoritarian regime in Indonesia lasted so long. The study of democracy in Indonesia must be related to the logic of economic development. Former Prime Minister of Singapore, Lee Kwan Yew, claimed that if the country prospered economically, citizens would not ask whether the country was democratic or not. Suharto's authoritarian legitimacy evaporated in 1998 because of his inability to control the economic crisis, which led him to resign as a president in that year.

Today, with the wave of democratization in Indonesia, globalization, and the rise of an educated middle class, democracy cannot be avoided. The long-lasting authoritarian regime, which had previously ignored democratic principles, had no choice but embrace a transition to democracy and regime change, especially when the democratic terminology had already been introduced and were not unfamiliar to Indonesian citizens. Amidst political changes, the politi-

cal culture should not be treated as a problem²⁶⁷, and the Indonesian DPR may follow this path. As the South Korea case shows above, by *working with* its political culture, the DPR has a chance to promote a democratic system, making use of the political culture it has and not just ignoring the existing political culture completely.

Rustow's remark quoted here describes the possibility for adapting to democracy.

Many of the current theories about democracy seem to imply that to promote democracy you must first foster democrats --...Instead, we should allow for the possibility that circumstances may force, trick, lure, or cajole non-democrats into democratic behavior and that their belief may adjust in due course by some process of rationalization or adaptation (1970: 344-5).

Looking at the situation from this perspective, the performance of the DPR nowadays can be explained as a battle between the attitudes, beliefs, and values of the old and new traditions. For example, the election regulation in 2004 accepted open-list candidates, although previously all of the candidates were chosen by the political parties. The open list of candidates on the ballot paper enabled people to vote for a particular name as well as the name of a political party. However, once elected, DPR members have continued to follow the instruction of the political parties and have neglected the voters and their electoral base. Legally, there is no representative function in the DPR and the political party has the right to recall a member for not following the party's agenda. This is still the case. It certainly needs time for the DPR to *adjust* its habits to foster democratic members, and this could be encouraged too by revising the parliamentary procedure. Such a proposal would probably be accepted if it was proposed by the elite.

Perhaps the work should be done in line with, and not against, Indonesian political culture. When Indonesia still has such an elite culture, it is the leaders who must be active in proposing changes and reforming the parliament. Cultural change in Indonesian society has taken place when the leaders led the way (Wertheim, 1956: 279). This may be paradoxical, but if it was led by the elites, revision of the DPR procedure within the institution would have good prospects of success. The institutional reform that has been started in the DPR certainly requires the DPR elites to be agents of change if the DPR is to start to act as a true parliament (Carnegie, 2008: 518). Only by a modification of the procedure will the elite, all DPR members, and the secretariat, together with other elements associated with the DPR, adjust to a new way of going about their business. If the DPR leadership committed to reform in the DPR, the intention would be followed by all of the members, and thus significant change would occur.

Promising elements of democratic culture are emphasized on 'flexibility, trust, efficacy, openness to new ideas and experiences, tolerance of differences

²⁶⁷ Almond (1994: xi) stated that 'political culture was not problematic, it was given', thus working with the existing political culture would foster the adaptation to democracy.

and ambiguities, acceptance of authority and attitude towards responsible authority' (Diamond, 1994: 12) and the Indonesian DPR has displayed these aspects. Moreover, the DPR members have also displayed both a respectful attitude towards the rules of the game and trust in their leaders. These last two elements might not be seen as democratic, but they are typical of the political culture in Asia, and could serve as democratic tools under certain conditions. Respecting the rule of law and the leaders can be democratic if these elements are democratic. If this happened in the DPR, the public would certainly support it, as the public still also shares the basic values of Asian political culture. The culture shares the adherence to the 'collectivity over individual freedom, paternalistic authority relations, and respect to leaders' (Pye 1985; Diamond, 1994: 12; Antlöv and Ngo 2000). Democratic progress in Indonesia depends on the elite's determination to commit to the democratization and to make the rules of game more democratic.

7.5 Promoting democratic change in the Indonesian DPR

The positive elements in Indonesia's parliamentary culture, that is, the respect for rules and leaders, could serve as a stimulus for parliamentary reform in the DPR. Formally, empowerment of the DPR would come about by amending the constitution. However, due to the complex mechanism of constitutional amendment, the easier and perhaps more ground-breaking first step would be to amend the parliamentary procedure, preferably under the leadership of the elites in the DPR. The DPR procedure, if revised into democratic regulations binding to all parties, could serve as a foundation for parliamentary reform. The internal parliamentary procedure (*Tatib*) should be rewritten. The constitutional role of the DPR should be stated clearly in the rules of procedure and the legislation should be passed to revitalize the plenary session. Both Malaysia and South Korea publish clear information about their parliamentary procedures (standing orders) and post it on their official parliamentary website. Their procedures are also easy to study as each one refers to a clear legislative process based on the Reading stages. South Korea even has the National Assembly Act, suggesting that Korean parliamentarians are bound by the law, like in the parliaments in Eastern Europe mentioned earlier. Either upgrading the parliamentary procedure to the status of a law or passing a new law on the legislative process would be the options for how the DPR could address its problems of internal regulation and confusing legislative processes.

Upgrading the legislative procedure to the status of a law would make the relevant parties - the president, the DPR and in some cases, the DPD - bound by the law, and the legislative process would be acknowledged publicly. The mechanism of *musyawarah mufakat*, which is suspected of being the main obstacle to a democratic parliament in Indonesia, could still be adopted if the role of the leadership in the decision-making process was eventually reduced in discussions, and all DPR members were involved in the process. Ideally, such de-

cision-making would best be conducted in the plenary session, in full public view. This procedure would make best use of the time spent on speaking; and as the public would be watching the process, members would certainly learn to make their remarks eloquently and even work with a limited timeframe. With the introduction of such a mechanism, the DPR would encourage the emergence of effective, but perhaps very loyal, opposition in the future DPR.

The ideal-type of parliament should follow its own terms of parliamentary functioning and arguably formulate these terms in accordance with the political culture inside the country. Indonesian political culture has thus far shown the inability of the DPR to amend its parliamentary procedure in such a way that its rules would be compatible with democratization, because the common political culture has been authoritarian in nature. To be regarded as a true and democratic parliament, the DPR needs to 'eradicate many of the basic features that had defined politics in the Suharto era' (Robison and Hadiz, 2004: 254). As Indonesia is generally known to play by the rules, an approach could be made to an ideal-type of parliament in Indonesia by changing the procedure, especially nowadays when Indonesia is willing to embrace democratic reform. Of course, procedure change is in the hands of the elites, but ideally the reformed and democratic elites could propose the changes. Acknowledging the responsibility of the DPR elites, who might serve as the agents of change, is a recognition of their key role here. When the elites commit to reform of the DPR, the rest of the DPR members would follow. For the time being, with the general tendency of the elites to prefer to remain influential and of members to fancy only status and position, the ideal-type DPR may still be a long way off. However, for the good of Indonesia, and of its international reputation, steps towards reform should be taken. Only after the parliamentary procedure in the DPR has been revised according to a democratic standard can the parliamentary culture of debate, decision-making based on voting, and respect for adversaries in *pro et contra* arguments be developed in the DPR.

7.6 Conclusion

This study analyzing the political culture inside the Indonesian parliament set out to examine the treatment of the concept of the regional parliament in the Indonesian legislative process. This final section will now summarize the major findings of this study, and answer the main questions of this thesis.

The parliamentary debates served well as research material for studying the DPR from within. Although there was an absence of any real debate, the indirect style in which DPR members presented their arguments, the habit of compromise, and the event-based process, clearly portrayed the DPR political culture. Thus, the legislative process could easily be described and analyzed. The strongest aspects of rhetorical action, that is, persuasive argumentation and deliberation for the future, were not really seen. Nevertheless, keeping the aspect of rhetoric in mind has guided the analysis of the parliamentary procedure

and the minutes well. The language used in the DPR is part of the persuasive or cooperative interaction between *fraksi* to reach a decision which is acceptable to every party in parliament, including the government. Keeping this in mind enabled me to interpret the meaning and possible motives of each player in the deliberation process clearly. A combination of the rhetorical approach with analysis of the language in the minutes was essential for explicating the political culture within the DPR. Political culture is embedded in the language. The struggles inside the DPR reflect the intention of many members to cling to the old tradition but they have also had to address the demand for political change and democratization. In this light, the rhetorical reading opened a new way of looking at the old issues of the DPR and DPRD, as it was found that the main problem rested in the political culture and the outdated procedure.

The DPR procedure and five laws on the DPRD clearly display the problems in parliamentary procedure. The DPR continues to retain its traditions - of deliberating in smaller forums (commission or committee meetings); of sidelining the importance of the plenary session; of favoring positions of leadership (the chair positions of the DPR, factions and commissions); of not considering all DPR members to be equal; of reacting to the DIM document in the legislative process; and of retaining the mechanism of *musyawarah mufakat*, deliberation to reach a compromise, avoiding voting when possible. When the DPR exercises its functions and roles within smaller forums and with the participation of around 10% of DPR member, there is a risk that the legitimacy of the DPR is reduced. Meanwhile, as the media have reported, hidden from the public view, the risk of corruption is increased: working in the closed small forums, DPR members can pressure the government and its agencies to deliver a certain amount of money during the deliberation or oversight processes²⁶⁸. With such parliamentary features as these, the DPR functions are criticized for being too much controlled by the government, and the procedure emphasizes this. Moreover, the DPR's performance is mainly measured according to the number of laws it enacts annually. This suggests that the DPR is seen above all as a *legislative* body, not as a parliament.

With these parliamentary features and the dominant role of the government, not the DPR, when laws were enacted that concerned the DPRD, the concept of the body in question remained unclear. Even when the DPRD were made legislative councils in 1999, the lack of guidelines and regulations did not result in the intended better local parliaments. The declaration in 2004 that the DPRD was to be a council and part of the regional government reflected the unclear character of the DPRD, while according to the 2009 *Susduk* law the DPRD was supposed to work as an oversight body. The DPRD were never described as representative bodies. This suggests that the role of regional heads is still greater than the role of the DPRD. The DPRD also expect to receive certain guidance from the national government before acting. This is in contrast to the spirit of regional autonomy and thus some time is needed before the DPRD

²⁶⁸ See Sherlock (2003) for the corrupt behavior of the DPR commissions in exercising its roles and functions.

can adapt their traditions and take on a new role of effective oversight body over the regional executive.

The political culture of both the DPR and DPRD shows that gaining seats in these councils is only for status concerns, and leads to certain privileges enjoyed by the upper layer of society. The legacy of the former authoritarian regime has led to typical problems in democratizing the institutions, as seen in the DPR. The 1999 election and 2004 first-ever direct presidential election were seen as free and fair domestically and by international standards, but these changes did not have any significant impact, as democracy in Indonesia is always associated with the idea of economic prosperity enjoyed by most citizens.

Democratization in Indonesia has been marked by the struggle between the pro-reformists and those in favor of the status quo. Probably Indonesia has not yet shown democratization, but only “the liberalization of an authoritarian regime”, as O’Donnell and Schmitter (1986) put it. Thanks to the reform of the election system and the new political parties, new political players have appeared in the DPR. Yet, both the old actors (*Golkar* and the military) have remained²⁶⁹ in the DPR, thus the old traditions associated with ‘representatives, behavioral and attitudinal consolidation’ have also remained (Tomsa, 2008: 190). In the DPR, the routine way of enacting laws continued, although new members were irritated by the system of scrutinizing the way articles were worded²⁷⁰. Members’ irritation was ignored, however, as the elites were comfortable with the system and it served their interests well. These new members also did not know how to express their irritation. The continuation of the old procedure, the lack of effective support from the DPR secretariats and the legislative process itself prevented members from seeing the procedure as the cause of the problem. As a product of ‘40 years of rubber-stamping the policies of an authoritarian president’ (Schneider, 2009: 309), the procedure needs to be revised if there is going to be any improvement in the DPR. In order to adopt to any changes, parliament needs good parliamentary procedure to be available because only with ‘consistent and correct application’ of procedures can the parliament fulfill its function and protect the people from ‘improper policies’ (Blackburn and Kennon, 2003: 247).

While DPR political culture still strongly reflects the culture of the authoritarian regimes, a legacy of Dutch colonialism and a product of the long Suharto presidency, another specific concern of this study is that parliamentary procedure has never been treated seriously by either the public or the DPR, although it actually steers the daily activities and practices inside the DPR. The view was probably taken that the rules of procedure affect only the low number of laws enacted annually - although some of the laws enacted have also been proven to

²⁶⁹ The military faction remained in the DPR only until 2004, but the military members still sit in many political positions throughout the country. *Golkar* still exists until today.

²⁷⁰ Showed mainly from the members’ remarks to change the internal (legislative) system, notably within the Minutes of Law 27/2009.

lack quality²⁷¹ - as the media and critics have reported, while actually it affects the whole performance of the DPR as an institution. While parliamentary procedure receives less attention in the institution, the quality of democracy is affected, and this will show up when an assessment is made of a country's parliament.

To overcome this, a revised parliamentary procedure might offer a promising means of opening the way to a democratic DPR. Any proposal to this end, however, must make use of the role of elites within the DPR. As we have seen in this thesis, the elite's role is still very strong in the DPR. An innovative and clear framework would enable the DPR to overcome the problems in the democratization process (Ellis, 2005: 9) and it is clear that the parliamentary procedure is the framework and it needs to be revised. If this were done, parliament could respond to and even lead the democratic movement in the country, and not solely depend on its character built by and inherited from the authoritarian regime. To achieve such political change, the DPR elites would have to play the leading role, as DPR political culture favors the elites, preventing any opposition from emerging, and favors too respect for the rules of the game. Utilizing the political culture that is operative inside the institution is more likely to be successful. Therefore, we can conclude that the DPR elites have a significant role in any change in democratic behavior in the institution.

The study of parliamentary culture in other countries shows, similarly, that parliament is a product of the political culture within the country. The examples from the parliaments of Malaysia and South Korea show that political culture matters, but nevertheless the rules of the game inside the parliament can be democratized. Malaysia has the clear content of its Standing Order and South Korea provides the public with information about its procedure through websites, and has regulated the parliament in a law, the National Assembly Act. These are two possible ways for the DPR to revise its rules of procedure and move further away from its authoritarian tradition.

Working with the internal political culture, either the political structure or the traditions of the institution, arguably would make clear the obstacles to carrying out the process of democratization, and later contribute to reform. It is a matter of political culture that the DPR is not democratic and does not pose as an effective parliamentary institution, but with its political culture of following the rules and respecting the elite, there is a chance for the DPR to become democratic. Democracy is a work in progress, as previous assessments of political culture and democracy have observed (Anderson, 2000: 437; Ellis, 2005: 8). It needs time to be rationalized and adapted. The thesis has shown that although changes have occurred in the DPR, more changes are needed before it can be categorized as a true parliamentary body. This is because the procedure has not been revised. Only after the revision of the procedure, which should be promoted by the DPR's elites, will a civic political culture - which takes even more time to change - be fostered and the way will be opened to democratic behavior.

²⁷¹ The lack of quality in a law is seen when the law is brought to the Constitutional Court for a judicial review because its contents conflict with other laws.

TIIVISTELMÄ

Indonesian parlamenttia käsittelevissä tutkimuksissaan Sherlock (2003) ja Ziegenhain (2008) päätyivät siihen, että autoritaarisen hallinnon poliittinen kulttuuri esti Indonesian parlamenttia kehittymästä demokraattiseksi. Kun presidentti Suharton johtama autoritaarinen hallinto romahti vuonna 1998, Indonesiassa alkoi demokratisoitumisen vaihe, joka sisälsi myös maan parlamentin *Dewan Perwakilan Rakyat* (DPR) demokratisoitumisen. Parlamentaarisen toimintojen, kansanedustuslaitos, lainsäädäntö, budjetointi, ja valvonta, ei ole vielä nähty toimivan hyvin. Tässä väitöskirjatyössä tutkitaan Indonesian parlamentin poliittista kulttuuria DPR:ssä, analysoimalla parlamentaarista menettelyä ja keskusteluja alueellisiin parlamentteihin *Dewan Perwakilan Rakyat Daerah* (DPRD) liittyvistä lakiesityksistä, vuosina 1999 - 2009.

DPR:n poliittisen kulttuurin ohella tutkimukseni käsittelee myös Indonesian politiikan siirtymävaihetta, demokratisoitumista. DPR:ssä tapahtui yhteiskunnallisten uudistuspainneiden myötä muutoksia useilla sosiaalisen ja poliittisen elämän alueilla. Niihin kuului muun muassa alueellisen itsehallinnon toteuttaminen ja perustuslain uudistus. Tässä väitöskirjassa käsitellään parlamentaarista näkökulmasta alueellisten parlamenttien (DPRD) kautta valtakunnallisen ja alueellisen politiikan välistä mielenkiintoista suhdetta.

Väitöskirja tutkii myös poliittista kulttuuria DPR:n sisällä. Työssä tarkastellen parlamentin pöytäkirjoja ja lainsäädäntömenettelyjä sekä analysoiden parlamentin keskusteluissa käytettyä kieltä. Tutkimuksen kohteena on alueparlamenttien viisi lakia, jotka edustavat kahta lakityyppiä: *Susduk* ja *Pemda*, vuosien 1999 - 2009 välisenä aikana.

Parlamentin pöytäkirjojen käyttö aineistona on tehnyt mahdolliseksi määrittää tutkimuksessa käytettyä poliittisen kulttuurin käsitettä. Tutkimusmateriaali rajaa poliittisen kulttuurin käsitteen osaksi perinteitä ja työmenetelmiä DPR:n ja sen parlamentaarisen prosessin sisällä. DPR on ollut aina tunnettu roolistaan kumileimasimena, koska se perustettiin heikoksi instituutioksi tukemaan toimeenpanevan hallituksen hegemoniaa autoritaarisen hallinnon aikana. Se oli autoritaarisen hallinnon laillinen toimielin, jonka jäsenet eivät edustajan tehtävissä koskaan käyttäneet poliittista valtaa. Tästä vastasivat presidentin tarkoin valitsemat, usein sotilaallisen taustan omaavat henkilöt.

Tutkimus analysoi indonesialaista käsitettä parlamentista sekä valtakunnallisella että alueellisella tasolla. Työssä väitetään, että Indonesian poliittinen kulttuuri, ja sen lainsäädäntöprosessi ovat muokanneet parlamenttien erityispiirteitä. Tulokset osoittavat, että Indonesian poliittinen kulttuuri on pyörinyt Hollannin siirtomaavallan, jaavalaisen heimolaisuuden, islamin ja sotilaallisen perinteen ympärillä. Näiden ominaisuuksien autoritaarisella yhdistelmällä näyttää olevan suuri vaikutusvalta maan politiikassa.

Tutkimus tuo esille Indonesian parlamentaarisen kulttuurin erityispiirteitä: foorumi-tyylisen parlamentin, hyväksyttävän kompromissin etsimisen prosessin, yhteisymmärrykseen perustuvan lainsäädännön, ja parlamentin eri ominaisuuksia ja perinteitä, jotka muokkaavat alueellisten parlamenttien epämääräistä

käsitettä. Tämä vahvistaa sen, että edellisten autoritaaristen hallintojen perintö vaikuttaa edelleen DPR:n toimintaan, erityisesti lainsäädäntöprosessiin.

Tutkimuksen aluksi käydään läpi kirjallisuutta Indonesian poliittisesta kulttuurista ja Indonesian DPR:ää koskevaa tutkimusta. Tutkimuksen mukaan autoritaarisen hallinnon poliittinen kulttuuri on edelleen syvälle juurtunut DPR:ssä. Sen ei ole koskaan odotettu olevan kansaa edustava toimielin ja tämä näkyy sen historiallisesta kehityksestä. *Volksraad* (*People Council*) toimi Hollannin siirtomaaperinnön symbolina Suharton valtakaudelle saaka, joka oli Indonesian pisimpään kestänyt hallitonjärjestelmä (1966 - 1998).

Historiallinen osa käsittelee indonesialaista perinnettä (*adat*), joka esitellään Indonesian poliittisena kulttuurina. "Kansallinen persoonallisuus" (*kepribadian bangsa*) muodostuu keskinäisen avunannon perinteestä '*gotong royong*' tai yksimielisyyteen päätyvästä päätöksenteosta '*musyawarah mufakat*' tai perheen periaatteesta '*asas kekeluargaan*' ja *Pancasila*:sta (Indonesian ideologia).

Tämä ihanteellinen kuva Indonesian poliittisesta kulttuurista otettiin käyttöön Presidentti Sukarnon aikana, ja myöhemmin sitä korosti entisestään Presidentti Suharto. Sekä Sukarno että Suharto olivat kotoisin Jaavalta, minkä seurauksena jaavalaisten perinteiden vaikutus näkyy modernin Indonesian poliittisissä instituutioissa ja hallinnossa. Jaavalaiset tavat hyväksyttiin yhteisymmärryksessä kaikkialla Indonesiassa. Suharton hallinnon kaatuminen toi muutoksia johtajuuteen, mutta ei itse järjestelmään. Poliittinen uudistus käynnistyi vuonna 1999, kun poliittisia puolueita ja vaaleja koskevia lakeja säädettiin. Väitöskirja käsittelee hajauttamispolitiikan ja perustuslain muutosta osana uudistusvaatimuksia. Näin voidaan havainnollistaa DPR:n sisällä tapahtunutta dynaamista muutosta.

Väitöskirjassa verrataan Indonesian parlamentin menettelytapoja ja lainsäädäntöprosessia muihin vastaaviin. DPR:ssa statusta pidetään on tärkeänä, se koskee kaikkia DPR:n jäseniä mukaan lukien sihteeristö, he kokevat olevansa korkeammassa asemassa kuin tavalliset kansalaiset. Lisäksi johtajilla (*pimpinan*) on eliitin asema. DPR jäsenet painottavat valtaa ja statusta minkä vuoksi ei ole ihme, että eivät tunnusta sihteeristön asiantuntemusta ja ammatillista osaamista. Sihteeristö pysyy avustavassa hallinnollisessa roolissa, tehden muistiinpanoja ja mitättömiä askareita kokoustiloissa, sen sijaan että he toimisivat kumppaneina, joiden kanssa poliitikot voivat vaihtaa näkemyksiä. DPR:n jäsenet ja hallituksen edustajat olettavat olevansa ainoita kykeneviä pohtimaan lakinesityksiä.

Eliitin johtajuuden rooli korostuu parlamentin sisällä, jossa johtavat henkilöt sopivat keskenään yksityisen kokouksen (*rapat lobi*), kun DPR:n parlamentaariset kokoukset ajautuvat umpikujaan. Menettely kannustaa oligarkkista järjestelmää päätöksenteossa. DPR:n perinne myös jakaa sen perustuslaillisen työn eri elimiin. Tämän seurauksena DPR:n lainsäädännön, budjetoinnin, ja valvonnan tehtäviä hoidetaan täysistuntojen sijaan valiokunnissa. Lainsäädännön lähempi tarkastelu paljastaa monimutkaisen prosessin, koska keskustelu lakialoitteista kohdistuu jäykkien sanamuotojen analysointiin ja aloitteen yksityiskohtaiseen rakenteen tarkasteluun. Tämä prosessi "vaatii", että DPR:n jäsenet ovat "asiantuntijoita" lainvalmistelussa, ja heidän pitäisi tietää kaikki yksi-

tyiskohdat lakiesityksistä ja niiden muodostamisesta. Heidän odotetaan toimivan moniosaajan roolissa, joka sisältää samanaikaisesti poliitikon, asianajajan, hallintoviranomaisen, lainkirjoittajan, konsultin, ja jopa kielen asiantuntijan roolit.

Tutkimukseni empiirisessä osassa tarkastellaan yksityiskohtaisesti keskustelua kustakin viidestä laista eri ajanjaksoina. Ne ovat "interim", eli Suharton jälkeinen aika (1999), siirtymäaika (1999 - 2004) ja demokraattinen aika (2004 - 2009). Kussakin luvussa käsitellään poliittista taustaa yhdessä lain katsausten, lainsäädännöllisten prosessien, ja poliittisten vaikutusten kanssa DPR:ää ja DPRD:itä kohtaan. Tässä tutkimuksessa esitetyt lainsäädäntöprosessit auttavat ymmärtämään Indonesian DPR:n lainsäädäntöprosessia ja innostavat lisätutkimuksiin tulevaisuudessa.

Väitöskirja käsittelee Indonesian parlamentaarista kulttuuria, alueellisia parlamentteja, ja demokratian näkymiä. Parlamentin pöytäkirjat saavat näkyviin sen epäonnistuneen oikean konseptin välittämisessä alueellisille parlamenteille. Niillä oli vahvasti lainsäädännöllisiä ominaisuuksia, mutta ne palautettiin epäselvään institutionaaliseen asemaan "osaksi aluehallintoa". Tästä seurasi monia tulkintoja DPRD:n roolista. Tulkinnasta riippuen niitä voitiin pitää lainsäädäntöelimen valvovana elimenä tai pelkkänä kumileimasimena.

DPRD-instituution ongelmat ovat enimmäkseen peräisin kyvyttömyydestä ymmärtää, miten ne toimivat alueellisena lainsäädäntöelimenä, suuntaviivojen puutteesta, vallan väärinkäytöstä; ministerin omia etuja ajavasta pyrkimyksestä lisätä hallinnon keskittymistä (*recentralization*); presidentin vaalin suoran vaalitavan siirrosta aluevaaleihin ja Suharton hallinnon aikaisen puoleen *Golkarin* pitkäaikaisesta vahvasta roolista. Suurelta osin myös DPR:n lainsäädäntöprosessi luonne vaikutti alueellisten parlamenttien käytäntöihin.

Tutkimuksessa otetaan vertailukohteiksi Malesia ja Etelä-Korea, jotta voidaan nähdä, missä määrin voidaan yleistää Indonesian parlamenttia koskevat havainnot. DPR:n rooli Indonesian demokratisoitumisessa on merkittävä, minä vuoksi DPR:n sisäisen poliittisen kulttuurin arvioiminen on hyödyllistä ja auttaa ymmärtämään kokonaisvaltaisesti, miten alueellisten parlamenttien lait hyödynsivät DPR:n sisäisiä prosesseja, ja jopa DPR:n omia materiaaleja, pöytäkirjoja. Niiden sisältöjä tutkimalla voidaan ymmärtää alueellisten parlamenttien toimintaa.

Pöytäkirjojen kautta avautuva poliittinen kulttuuri osoittaa edustajien välisen poliittisen toiminnan, päätöksentekoon liittyvät kompromissit ja auttaa ymmärtämään perinteisten parlamentaaristen käytänteiden ja uudistusvaatimusten välistä jännitettä, jonka edustajat joutuvat kohtaamaan. Väitöskirja edistää siten tutkimusta, joka kohdistuu instituution sisällä tapahtuvaan poliittisen siirtymävaiheen prosessiin.

Toisin kuin Sherlock (2003) ja Ziegenhain (2008) esittävät, tämä tutkimus pääättelee, että DPR:ään on ollut juurtuneena eliitin poliittista kulttuuria, joka kuitenkin voi muuttua demokratian kannalta positiiviseksi, jos siitä seuraa eliitin aloitteesta tapahtuva parlamentaaristen menettelytapojen tarkistaminen ja muutos. Parlamentaaristen menettelytapojen muutos, Etelä-Korean tai Itä-

Euroopan maiden parlamenttien esimerkkiä seuraten, voidaan toteuttaa päivittämällä menettelyä koskevat kirjat sisäistä säännöistä laeiksi. Tätä voidaan edistää demokratiaan sitoutuneiden eliittien avulla sekä Indonesiassa että DPR:ssä.

Väitöskirja edistää Indonesian politiikan ymmärtämistä tutkimalla lainsäädäntöprosessia DPR:n keskustelujen avulla. Väitöskirja korostaa, että parlamentin poliittinen kulttuuri oli merkittävässä roolissa demokratiakehityksessä. Ollakseen aidosti demokraattinen parlamentaarisia käytäntöjä on uudelleen organisoitava demokraattisten normien mukaisesti.

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Interviews

2011

Ardianto - a member of DPRD city Yogyakarta (PKS faction)

Awal - ADKASI chair 2011

Cecep Effendi - consultant of Ministry of Home Affairs on Decentralization and experts on DPRD

Dadang Solihin - Director at the National Planning Agency/Bappenas

Dodi Riyatmadji - Head of Section at Ministry of Home Affairs

Ganjar Pranowo - a DPR member (PDIP faction)
 Gunawan Tangkilisan - Head of Section at DPRD Secretariat Tangerang District
 Made Suwandi - Director at Ministry of Home Affairs
 Poltak Partogi Nainggolan - Head of Research Unit - DPR Secretariat

2013

Arif Noor - a member of DPRD Province Yogyakarta (PAN faction)
 A Farhan Hamid - a DPR member (PAN faction)
 Hajriyanto Thohari - a DPR member (*Golkar* faction)

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APPENDICES

APPENDIX 1- DPR PARLIAMENTARY DEBATES ON DPRD ISSUES (5 BILLS ON DPRD 1999-2009)

1. Law no. 4/1999, Law on Structural Organization of MPR, DPR and DPRD (Undang-Undang tentang Susunan dan Kedudukan Majelis Permusyawaratan Rakyat, Dewan Perwakilan Rakyat, dan Dewan Perwakilan Rakyat Daerah).
This bill portrayed the style of legislative discussion during the Suharto's New Order era, with 4 stages of Discussions, 4 parliamentary factions, and 'straight-to-business'.

No	Date of Meeting	Type of Meeting	Topic
1	1998 Oct 2	Plenary Session	Government Explanation (Ministry of Home Affairs)
2	1998 Oct 14	Plenary Session	Factions Overview. NO FILE
3	1998 Oct 21	Plenary Session	Government's reply, NO FILE
4	1998 Oct 21	Internal Meeting	Committee establishment, NO FILE
5	1998 Dec 4	Working Meeting	Working regulation
6	1998 Dec 7	Committee Meeting 1	On MPR topic: members, criteria
7	1998 Dec 8	Committee Meeting 2	On MPR leadership, organization of each institutions
8	1998 Dec 9	Committee Meeting 3	Members' right, empowerment of DPR and DPRD
9	1998 Dec 10	Committee Meeting 4	District proportion for DPR, MPR members criteria (regional and group representatives), on recall
10	1998 Dec 11	Committee Meeting 5	Number of DPR members, Military in parliament
11	1998 Dec 14	Committee Meeting 6	Role of DPRD in international agreement
12	1998 Dec 15	Committee Meeting 7	Factions at DPR and MPR
13	1999 Jan 28	Plenary Session	Reports of the committee and factions, approval

2. Law no. 22/1999, Law on Regional Governance (Undang-Undang tentang Pemerintahan Daerah).

The law was discussed right after the Suharto's fall, under interim presidency of Habibie, Suharto's former vice president. As part of reform agenda, this law was expected to show the central good intention to the realization of decentralization/regional autonomy. Although the parliamentary members and the legislative style were similar as practiced at the previous law, most

legislators were obviously under the charm of the Reform's euphoria. The breakthrough law regulated that the DPRD was a regional legislative body, which positioned a stronger DPRD than previously.

No	Date of Meeting	Type of Meeting	Topic
1	1999 Feb 10	Plenary Session	Government's explanation
2	1999 Feb 11	Agenda Meeting	Agenda of discussion for this bill
3	1999 Feb 19	Plenary Session	General Overview, by factions
4	1999 Feb 26	Plenary Session	Government's Reply to Factions Overviews
5	1999 Mar 1	Plenary Session	Organizing Special Committee
6	1999 Mar 15	Working Meeting 1	Agenda agreement, mechanism, DIM discussion, title and articles
7	1999 Mar 16	Working Meeting 2	Regional autonomy and its administration
8	1999 Mar 17	Working Meeting 3	Number of vice governor
9	1999 Mar 19	Working Meeting 4	Appointment of regional heads by the DPRD
10	1999 Mar 22	Working Meeting 5	End of term of office for Regional Heads, regional administration (<i>kecamatan, kelurahan</i>)
11	1999 Mar 23	Working Meeting 6	Regional finances: tax and levy, conflict resolution, villages
12	1999 Mar 24	Working Meeting 7	Law validity
13	1999 Mar 30	Working Meeting 10	Elected the member for Committee Meetings
14	1999 Mar 31	Committee Meeting 1	Regional authority, decentralization
15	1999 Apr 1	Committee Meeting 2	Candidate of regional heads
16	1999 Apr 5	Committee Meeting 3	Termination of regional heads, villages
17	1999 Apr 6	Committee Meeting 4	Elected the Formulation Team, characters of Head Villages
18	1999 Apr 20	Working Meeting 11	Compiling all bills discussion, mini-factions overview
19	1999 Apr 21	Plenary Session	Enacted the bill

3. Law no. 22/2003, Law on Structural Organization of MPR, DPR, DPD and DPRD (Undang-Undang tentang Susunan dan Kedudukan Majelis Permusyawaratan Rakyat, Dewan Perwakilan Rakyat, Dewan Perwakilan Daerah, dan Dewan Perwakilan Rakyat Daerah).

The law portrayed an adoption of the constitutional amendment and the adoption of limited time to speak. The number of factions was double from the previous ones, yet the legislative process was not revised, thus needed double time to let all factions deliver their opinions.

No	Date of Meeting	Type of Meeting	Topic
1	2003 Feb 25	Intern Meeting 1	Elected the heads of committee

2	2003 Mar 5	Intern Meeting 2	Agenda agreement and mechanism
3	2003 Apr 23	Hearings 1	Inputs from universities: USU, UI, Unpad, UGM and Unhas ²⁷²
4	2003 Apr 24	Hearings 2	Inputs from LIPI and KPU ²⁷³
5	2003 Apr 25	Hearings 3	Inputs from CETRO, ADKASI and PSHK ²⁷⁴
6	2003 May 7 ²⁷⁵	Working Meeting 1	Work mechanism, agenda and Factions Overview
7	2003 May 20	Working Meeting 2	Government's reply on Factions Overview, DIM discussion
8	2003 May 21	Working Meeting 3	Brief report, discussing DIM 13
9	2003 May 22	Working Meeting 4	Brief report, discussing DIM 72
10	2003 May 26	Working Meeting 5	Brief report, discussing DIM 106
11	2003 May 28	Working Meeting 6	Brief report, discussing DIM 167
12	2003 May 29	Working Meeting 7	Brief report, discussing DIM 53
13	2003 Jun 2	Working Meeting 8	Brief report, discussing DIM 147
14	2003 Jun 3	Working Meeting 9	Brief report, discussing DIM 381
15	2003 Jun 4	Working Meeting 10	Brief report, re-discussing DIM 2 onwards
16	2003 Jun 5	Working Meeting 11	Brief report, re-discussing DIM 22
17	2003 Jun 9	Working Meeting 12	Brief report, re-discussing DIM 60
18	2003 Jun 12	Working Meeting 13	Brief report, re-discussing DIM 85
19	2003 Jun 17	Working Meeting 14	Brief report, discussing DIM 233
20	2003 Jun 18	Working Meeting 15	Brief report, discussing DIM 535
21	2003 Jun 23	Working Meeting 16	Appointed <i>Panja</i> (working group)
22	2003 Jun 25	Committee Meeting 1	On title, MPR and joint session
23	2003 Jun 26	Committee Meeting 2	On MPR and amount of speakers
24	2003 Jun 27	Committee Meeting 3	On MPR committee
25	2003 Jun 28	Committee Meeting 4	On DPR and the legislation process with DPD
26	2003 Jun 29	Committee Meeting 5	On DPD
27	2003 Jul 1	Drafting Meeting 1, 2	Report of Formulation Team

²⁷² Names of local universities: USU= Universitas Sumatra Utara (North Sumatra University), UI = Universitas Indonesia (University of Indonesia, Jakarta), Unpad = Universitas Padjajaran (Padjajaran University, Bandung, West Java), UGM =Universitas Gadjah Mada (Gadjah Mada University, Yogyakarta), Unhas =Universitas Hasanudin (Hassanudin University, Makassar-Southeast Sulawesi)

²⁷³ LIPI = Lembaga Ilmu Pengetahuan Indonesia (Indonesian Institute of Science), KPU = Komisi Pemilihan Umum (Election Commission), both are government authorities.

²⁷⁴ Cetro = Center of Electoral Reform, ADKASI = Asosiasi DPRD Kabupaten Seluruh Indonesia (Indonesian District DPRD Association), PSHK = Pusat Studi Hukum dan Kebijakan Indonesia (Indonesian Centre for Law and Policies Studies), all are non-government organizations.

²⁷⁵ The document starts from this date

28	2003 Jul 2	Committee Meeting 6	On DPRD (provincial level)
29	2003 Jul 3	Committee Meeting 7	On DPRD and its secretariats
30	2003 Jul 4	Committee Meeting 8	On secretariat and DPD status in legislation
31	2003 Jul 5	Committee Meeting 9	Tasks of each committees, sanction and immunity
32	2003 Jul 6	Drafting Meeting 3	Re-discussion whole subjects
33	2003 Jul 6	Lobby Meeting	NO FILE
34	2003 Jul 7	Committee Meeting 10	Report of Drafting team
35	2003 Jul 8	Working Meeting 17	Agreeing on DPR tasks, for plenary session
36	2003 Jul 9	Plenary Session	Enacted the bill, NO FILE

4. Law no. 32/2004, Law on Regional Governance (*Undang-Undang tentang Pemerintahan Daerah*).

The law almost completely revised the content of the previous Law 22/1999, governing the regional governance into one single entity of regional governance. The DPRD was no longer a separate body with the executive.

No	Date of Meeting	Type of Meeting	Topic
1	2003 Sep 24	Plenary Session	Proposing the revision bill of Law 22/1999
2	2003 Nov 10	Plenary Session	Factions Overview of the bill 22, announcement of proposition to revise the Law 25/1999
3	2003 Dec 11	Plenary Session	Factions Overview of the bill 25
4	2003 Dec 16	Plenary Session	Enacting Special Committee for discussing bills
5	2004 Jan 28	Leadership meeting	Enacting that 2 bills were discussion in 1 committee
	2004 Feb 4-24	Draft correction and the bill will be DPR initiative bill	
	2004 May 27	Bill was ready to discuss	
6	2004 Jun 14	Working Meeting 3	Compiling crucial issues of bills, 2 groups for Law 22 and Law 25
7	2004 Jun 16	Working Meeting 4	Direct election
8	2004 Jun 22	Working Meeting 5	Direct election
9	2004 Jun 23	Working Meeting 6	Direct election (candidates)
10	2004 Jun 24	Working Meeting 7	Series of election
11	2004 Jun 29	Working Meeting 8	Election budget, sanctions
12	2004 Jul 6	Working Meeting 9	Election implication, status of governor
13	2004 Jul 7	Working Meeting 10	<i>Perda</i> (local regulation), position of DPD and DPOD
14	2004 Jul 12	Working Meeting 11	Budget in Law 25

15	2004 Jul 13	Working Meeting 12	Budget allocation (DAU, DAK), "money follow function"
16	2004 Jul 15	Committee Meeting 1	Managing regional budget
17	2004 Jul 16	Committee Meeting 2	"money follow function"
18	2004 Jul 19	Committee Meeting 3	NO FILE
19	2004 Jul 24	Committee Meeting 4	Candidates in direct election
20	2004 Jul 25	Committee Meeting 5	Oversight in direct local election
21	2004 Jul 26	Committee Meeting 6	Series of election
22	2004 Jul 27	Rapat lobi Law 22	NO FILE
23	2004 Jul 28	Rapat lobi Law 22	NO FILE
24	2004 Jul 30	Committee Meeting 9	Villages and DPOD
25	2004 Aug 2	Committee Meeting 10	Input from experts, Ryaas Rasyid & Pratikno
26	2004 Aug 3	Committee Meeting ..	Budget fiscal
27	2004 Aug 9	Committee Meeting ..	Sources of funds, and budget accountability
28	2004 Aug 10	Committee Meeting ..	On DAU, DAK and fiscal balance
29	2004 Aug 13	Rapat lobi Law 25	NO FILE
30	2004 Aug 19	Committee Meeting ..	Report of Small Meeting: direct election - candidates, circle, implications etc
31	2004 Aug 20	Working Meeting ..	
32	2004 Aug 20	Drafting Meeting 1	NO FILE
33	2004 Aug 20	Rapat lobi Law 22	NO FILE
34	2004 Aug 21	Committee Meeting ...	
35	2004 Aug 22	Working Meeting 10	
36	2004 Aug 27	Drafting Meeting 2	
37	2004 Aug 31	Rapat lobi Law 25	NO FILE
38	2004 Sep 7	Rapat lobi Law 22	NO FILE
39	2004 Sep 16	Rapat lobi Law 25	NO FILE
40	2004 Sep 21	Rapat lobi Law 25	NO FILE
41	2004 Sep 24	Rapat lobi Law 25	NO FILE
42	2004 Sep 27	Working Meeting	Report from <i>Panja</i> (Committee Meeting) Group 22 and 25
43	2004 Sep 28	Working Meeting	Report from <i>Panja</i> (Committee Meeting) Group 22 and 25
44	2004 Sep 29	Plenary Session	Reports of the committee and factions, approval

5. Law no. 27/2009, Law on MPR, DPR, DPD and DPRD (Undang-Undang tentang Majelis Permusyawaratan Rakyat, Dewan Perwakilan Rakyat, Dewan Perwakilan Daerah, dan Dewan Perwakilan Rakyat Daerah).

Although the style of discussing the law was a bit focused and advanced, the procedure was practicing the 'politics as usual' as the new political parties had known the procedure better. Using the old procedure, which basically still reacted against the problems' list, the members were shackled to find solution based on problems, instead of projecting a longer-term impact for the law.

No	Date of Meeting	Type of Meeting	Topic
1	2008 Apr 2	Working Meeting 1	Agreed on working program
2	2008 Sep 18	Working Meeting 2	Discussing DIM based on clusters: MPR, DPR, DPD, DPRD, Secretariat
3	2008 Oct 13	Working Meeting 3	Title and clusters divisions
4	2008 Oct 15	Working Meeting 4	On MPR
5	2008 Oct 20	Working Meeting 5	On MPR and DPR (speaker, rights, finance)
6	2008 Oct 22	Working Meeting 6	On DPR
7	2008 Oct 23	Working Meeting 7	Financial rights and DPD
8	2008 Oct 27	Working Meeting 8	Status of DPRD and secretariats
9	2008 Nov 26	Committee Meeting 1	The title of law
10	2008 Nov 27	Committee Meeting 2	Title and empowerment of DPRD, MPR members
11	2008 Nov 28	Committee Meeting 3	MPR: procedure and code of conduct
12	2008 Nov 29	Committee Meeting 4	On MPR
13	2008 Dec 1	Committee Meeting 5	Tasks of MPR Speakers
14	2008 Dec 2	Committee Meeting 6	MPR and task on sessions
15	2008 Dec 3	Committee Meeting 7	MPR Ad Hoc Committee
16	2008 Dec 4	Committee Meeting 8	MPR, <i>Badan Kehormatan?</i>
17	2008 Dec 9	Committee Meeting 9	DPR: definition and membership
18	2008 Dec 10	Committee Meeting 10	DPR: membership, task and leadership
19	2009 Feb 4	Committee Meeting 11	DPR: task and power
20	2009 Feb 5	Committee Meeting 12	DPR: finance
21	2009 Feb 10	Committee Meeting 13	DPR: replacement (PAW)
22	2009 Feb 11	Committee Meeting 14	DPR: membership and immunity rights
23	2009 Feb 12	Committee Meeting 15	DPR: investigation
24	2009 Feb 17	Committee Meeting 16	DPR: immunity, double post, gratification
25	2009 Feb 18	Committee Meeting 17	DPR: faction, procedure

26	2009 Feb 19	Committee Meeting 18	DPR: leadership, Ethical Committee
27	2009 Feb 24	Committee Meeting 19	DPR: Committee
28	2009 Feb 25	Committee Meeting 20	DPR: Budget Committee
29	2009 Feb 26	Committee Meeting 21	DPR: obligation, sanctions
30	2009 Apr 29	Committee Meeting 22	Working mechanism to proceed discussion
31	2009 Apr 30 - May 2	Small team meetings	NO FILE
32	2009 May 6	Committee Meeting 23	DPR: rights of interpellation and inquiry
33	2009 May 7	Committee Meeting 24	DPR: rights of inquiry, mechanism to submit a bill, and joining DPD into legislation
34	2009 May 13	Committee Meeting 25	Legislation process with DPD
35	2009 May 14	Committee Meeting 26	Stages of bill discussion
36	2009 May 20	Committee Meeting 27	On MPR and DPR function of representation
37	2009 May 21	Committee Meeting 28	DPR functions
38	2009 May 22	Committee Meeting 29	Rights and obligation of DPR members, Parliamentary Procedure
39	2009 May 27	Committee Meeting 30	On DPD
40	2009 May 28	Committee Meeting 31	On DPD
41	2009 May 29	Committee Meeting 32	On DPRD
42	2009 Jun 3	Committee Meeting 33	On DPRD
43	2009 Jun 4	Committee Meeting 34	On DPRD
44	2009 Jun 5	Committee Meeting 35	DPRD finance
45	2009 Jun 11	Committee Meeting 36	Re-discuss on MPR, DPR and DPRD
46	2009 Jun 12	Committee Meeting 37	DPR finance, commission at DPRD and PAC-Public Accountability Committee
47	2009 Jul 2	Committee Meeting 38	Work mechanism of Drafting Team, Report of <i>Panja</i> (Committee Meeting), and lobby meeting
48	2009 Jul 9	Committee Meeting 39	PAC-Public Accountability Committee
49	2009 Jul 10	Committee Meeting 40	Enacting regulation at DPRD
50	2009 Jul 11	Committee Meeting 41	Decision-making at DPRD, reses, and interpellation right
51	2009 Jul 28	Working Meeting 9	Report from <i>Panja</i>
52	2009 Jul 31	Working Meeting 10	Reports on Small Meeting
53	2009 Aug 3	Plenary Session	Factions Final Opinion and Approval

Total document studied = 165 meeting files, or 11,209 pages (not including the laws' documents themselves).

APPENDIX 2- WORK MECHANISM OF THE COMMITTEE (BASED ON LAW 22/2003)

Translated from the file “*Mekanisme Kerja Pansus RUU tentang Susunan dan kedudukan MPR, DPR, DPD dan DPRD*”, Work mechanism of the Special Committee of Law on Structural Organization of MPR, DPR, DPD and DPRD, this document showed the regulation of meetings used in the committee.



Work Mechanism of Committee of Bill on Structural Organization of MPR, DPR, DPD and DPRD

1. References

The material or references is the Compilation of Problems List Document (DIM) on the bill of Bill on Structural Organization of Representative Institutions: MPR, DPR, DPD and DPRD, and referring to the DPR Rules of Procedures.
2. Hearings (*Rapat Dengar Pendapat*)

The Committee may have hearings with KPU, LIPI, experts and political commentators, Political Science Association, Universities, CETRO and coalitions of NGOs.
3. Working Meeting
 - a. Listening to the Factions' Overview on this law
 - b. Listening to Government's reply over the Factions' Overview
 - c. Discussing all material and aspect from the Compilation of DIM documents consecutively according to the numbers stated
 - d. Issue that is **agreed** by factions is directly forwarded to be agreed by the committee
 - e. Technical (editorial) issue, numbering and article arrangement is handled by the Drafting Team/ Synchronized Team through an agreement of this committee
 - f. Substantial issues is discussed/ responded for maximum 2 (two) round of discussion (including the explanation from the initiator), for later to be decided as follows:
 - i. If the issue is not yet agreed, it should be further discussed in the *rapat lobi* (meeting of private leaders) of the committee. If the meeting does not produce any agreement, the issue is reported/returned to the committee plenary (all committee members) to be discussed again at this committee

- ii. If the issue is agreed but need to be formulated, it goes to the Drafting Team through an agreement of the committee
 - g. After finished discussing all material from the Compilation DIM document, a committee meeting is set up
 - h. The working meeting is chaired by the committee leadership
4. Working Committee Meeting (*Panja*)
- a. The Committee meeting is chaired by one person from the committee leadership (but not the Head of Committee), accompanied by 2 (two) vice chairs. The task is collectively distributed, meaning that from these 3 (three) persons, one will act as the head of Committee Meeting, one as the head of Drafting Team, and one as the head of Synchronized Team.
 - b. The number of this committee meeting is maximally half of the committee, according to faction configuration.
 - c. This *Panja* has task to discuss, to formulate, and synchronized all material and issues with explanation, according to the committee's order
 - d. The substantial issues is discussed/ responded for maximum 2 (two) rounds of discussion, under following conditions:
 - i. If the issue is not yet agreed, it should be further discussed in the *rapat lobi* of *panja*. If the *rapat lobi* does not produce any result, the issue is reported/returned to the committee plenary (all committee members) to be decided in the committee
 - ii. If the issue is agreed but need to be formulated, it goes to the Drafting Team through an agreement of the committee
 - e. To finish the tasks, *Panja* establishes Drafting team, Small Team and Synchronized Team.
 - f. *Panja* reports its result to the Committee Meeting
 - g. The issues agreed by *Panja* is recommended not to be discussed again in the Committee (plenary) Meeting, except agreed by all factions
5. Drafting team Meeting
- a. The drafting team is chaired by one head from the committee leadership
 - b. This team has task to formulate the material (including the article's explanation) but not changing the issues discussed at the committee or in *Panja*
 - c. The Drafting team reports its result to Committee meeting/*Panja*
6. Small Team Meeting
- a. The Small team is chaired by one head from the committee leadership
 - b. This team has task to formulate the editorial terms for legal standing for the law (consideration to other laws etc), and elucidation of the law.
 - c. The Small team reports its result to Committee meeting/*Panja*
7. Synchronized Team Meeting
- a. The meeting is chaired by one head from the committee leadership

- b. This team has task to synchronized all the material from both Small Team and Drafting Team, and delegated by the committee or *Panja*
8. Members of meeting
 - a. Working meeting
Attended by all committee members together with the Minister of Home Affairs represented the government and staff.
 - b. Other meetings
Attended by members of these teams (according to the appointment) together with the high ranking of government official as government representative.
 9. Language experts and legal drafters
During the discussion, language experts and legal drafters are presented.

Decided in Jakarta.....2003

Signed by (name and position in the committee-head and vice-head)

Head: M. Yahya Zaini

Vice-head: Sukowaluyo Mintorahardjo

Vice-head: HM. Thahir Saimima

Vice-head: Chotibul Umam Wiranu

Government: Dr. Hari Sabarno

APPENDIX 3- EXAMPLE OF DIM (DAFTAR INVENTARISASI MASALAH) OR PROBLEMS LISTS (BASED ON LAW 22/1999 AND LAW 22/2003)

Translated from the Law no. 22/1999, Law on Local Governance (source File Law 22/1999/Law Pemda: p. 237, 266, 267. For all DIM on pages 237 - 434)

No	Bill document	FKP*	FABRI*	FPP*	FPDI*
1	Bill....year 1999 on Local Governance	Same	Same	Same	Change Proposal The title is added with phrase "Republic Indonesia" after the term "Bill/Law" After: "The Bill/Law of the Republic of Indonesia no....year 1999 on Local Governance"
2	By THE GRACE OF GOD THE ALMIGHTY THE PRESIDENT OF THE REPUBLIC OF INDONESIA	Same	Same	Same	Same
3	Considering: a. that pursuant to the Constitution of 1945 the system of administration of the Unitary State of the Republic of Indonesia allows freedom to the regions	Change Proposal: Considering a. Need to insert the word "and completing" after the words so that....	Change Proposal: After the term region, the words are deleted	Change Proposal: Deleted	Change Proposal: a. Editorial is simplified, the issue is the same. The term '...
...					
61	(2) Every assignment, as meant in sub-article (1), shall be stipulated by the Regulation	Change Proposal: The term regulation is changed by Government Regulation After: (2) Every assignment,	Same	Same	Same

		as meant in sub-article (1), shall be stipulated by the Government Regulation			
62	CHAPTER V FORM AND STRUCTURE OF REGIONAL GOVERNANCE	Same	Same	Same	Same
63	Part One General	Same	Same	Same	Same
64	Article 13 (1) Region has DPRD as a regional legislative assembly and a regional government as a regional executive agency	Change proposal: This article needs to be revised After Article 13 Regional Governance consists of DPRD as a Legislative Body and Regional Government as Executive Body	Same	Same	Same
65	(2) A regional government shall be made up of a regional head with other regional apparatuses.	Same	Same	Same	Same
...					

* Name of factions in DPR 1997-1999: FKP (*Fraksi Karya Pembangunan*) = Golkar party; FABRI (*Fraksi Angkatan Bersenjata Republik Indonesia*) = Military (army and police) Faction, FPP (*Fraksi Persatuan Pembangunan*) = PPP (Islamic) party faction, FPDI (*Fraksi Partai Demokrasi Indonesia*) = PDI (nationalist) party

Translated from the DIM document of Law no. 22/2003, p. 16-17 (source DIM.pdf: *Daftar Inventarisasi masalah Rancangan Undang-Undang tentang Susunan dan Kedudukan MPR, DPR, DPD dan DPRD*s, 415 pages)

No	Bill document	<i>Fraksi*</i>	Change Proposal	After	Notes
...	...				
16.	Enacted: Law on Structural Organization of MPR, DPR, DPD and DPRD	PDIP	Omit the terms 'structural and organization'	Enacted: Law on MPR, DPR, DPD and DPRD	
		PG			
		PPP	Delete the terms 'structural and organization' and on DPRD, in accordance with the title	Enacted: Law on MPR, DPR, and DPD	In accordance with the title of state institution like Law on Supreme Court etc. Regulating the DPRD should be separated from this law.
		KB	Changed into Law on MPR, DPR, DPD and DPRD	Enacted: Law on MPR, DPR, DPD and DPRD	
		REF	change	Enacted: Law on MPR, DPR, DPD and DPRD	
		TNI/POLRI	Omit the terms 'structural and organization'	Enacted: Law on MPR, DPR, DPD and DPRD	
		PBB		Enacted: Law on MPR, DPR, DPD and DPRD	
		KKI	Omit the terms 'structural and organization'	Enacted: Law on MPR, DPR, DPD and DPRD	
		PDU	Adapted with title proposal	Enacted: Law on MPR, DPR, DPD and DPRD	

* Name of factions in DPR 1999-2004, see Chapter 5. REF =*reformasi*