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The empowerment of parliament in the transition from an authoritarian to a democratic regime: Indonesian experiences and problems

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ABSTRACT

This article presents the experiences and problems of the Indonesian parliament, or DPR (*Dewan Perwakilan Rakyat*), during the transition from an authoritarian regime to a democratic one, in 1999–2004. Despite empowerment through the amended constitution and political laws, the DPR did not significantly change its parliamentary procedure and practices. The problems in the DPR actually lie in its procedure. The DPR procedure and the parliamentary debates retain the authoritarian tradition that favours the executive government (president), encouraging small groups of commissions to take the decisions and to discuss parliamentary tasks outside the plenary session. Aspects of parliamentary procedure are also discussed. Accordingly, as the parliamentary procedure and its political culture remain outdated, the DPR cannot yet be considered to be a fully democratic parliament. As a means to empower the parliament, this article discusses the possibilities of reform in the DPR, including revising its procedure, as part of its democratization process.

KEYWORDS

Parliament in democratization; democratization in Indonesia; Indonesian parliament (DPR); committee-dominated parliament; reform of parliamentary procedure

The democratization process in Indonesia started in its parliament, the People's Representative Council, *Dewan Perwakilan Rakyat* or DPR. It began when the financial crisis hit Indonesia in 1998 and students sat down in the DPR building, asking President Suharto to step down from his 32-year presidency. Owing to many days of student protests against the government in many places, including in the parliament, the DPR/MPR¹ Speaker asked the authoritarian president to resign, and finally he did so. The president's speech was not delivered at a plenary session in the MPR (it was delivered only at the

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¹MPR is *Majelis Permusyawaratan Rakyat* or People's Consultative Assembly, which in 1998 was the highest state institution, appointing the president and enacting the state guidelines. Its members consisted of DPR members and envoys of regions and groups. At that time, the DPR Speaker also acted as the MPR Speaker. Today, the MPR consists of members from the DPR and the DPD (*Dewan Perwakilan Daerah* or Regional Representative Council), and has the function of amending the constitution and inaugurating the president and vice president, after the executive is directly elected. The DPD is a national political institution, established after the constitution was amended. The DPD aimed to replace the appointed members in the MPR, and it comprises four members elected individually from every province in the general election. While the DPD looks like a second chamber, its function is limited to consulting with the DPR on certain laws. With this structure, the DPR ultimately still holds the national legislative power.

Presidential Palace), and this showed how the president's position was unequal to that of the parliament, but still the DPR was seen as a place where people could count on support when the (political) crisis arose. The parliament finally responded, asking the president to step down as the public demanded. Thus, democracy in Indonesia started in the parliament.

Despite this important history, however, the DPR is still not a truly representative body. While during the authoritarian regime the DPR acted as a rubber-stamp institution, now it remains stuck with the negative label of a 'chamber of cronies'² and an institution that presents 'obstacles to democratic consolidation'.³ These views were derived from parliamentary theory understood in countries with liberal democracies, measured by parliamentary functions of representation, legislation (including budgeting) and overseeing government performance. In parliamentary studies, most scholars tend to focus their studies on representative and legislative aspects, undermining the importance of parliamentary procedure and debate.⁴ For the DPR case, the problem lies in its procedure.

Having studied the DPR's procedure and its parliamentary debates based on the case of regional parliaments,⁵ I argue that the DPR's procedure and legislative process retained a similar tradition to that of Suharto's authoritarian regime, and were partly a continuation of the historical period of Dutch colonialism and the Sukarno era. Accordingly, law making has continuously been structured only to ensure that the agenda of the central government is legitimized and the DPR deliberates the bill to justify the laws imposed on all citizens. The legislative process clearly demonstrates that the DPR culture is shaped by the authoritarian regime, showing the inferior powers of the legislature compared with the executive. This political culture has affected, either directly or indirectly, the organization or working structure inside the DPR, the ways it enacted laws and the content of these laws. For empowering the DPR, the revision of the internal rules of the game, that is, the DPR's procedure, must be part of or engrained in the revision of many democratic laws. It is important for the DPR to reform its parliamentary procedure, as part of the democratization process, which so far has not extended to the internal workings of the DPR. To demonstrate this, this article elaborates a short history of the DPR, steps to democratization, undemocratic features in the procedure and suggestions for reform to empower the DPR.

The DPR – a short history

The parliamentary concept of the DPR was adopted from the Western concept of the Dutch colonial administration. In Indonesia, the 350-year-old Dutch colonial regime was known to be authoritarian, and such authoritarian practice was continued by both the first two presidents, Sukarno (1945–66) and Suharto (1966–98). Consequently, the Indonesian parliament exercised its legislative function as if working in an authoritarian regime, which only legitimized executive policy and had members with elitist

²S. Sherlock, 'The Parliament in Indonesia's Decade of Democracy: People's Forum or Chamber of Cronies?' In E. Aspinall and M. Mietzner (eds), *Problems of Democratization in Indonesia: Elections, Institutions, and Society* (Singapore, 2010), p. 177.

³P. Ziegenhain, *The Indonesian Parliament and Democratization* (Singapore, 2008), p. 204.

⁴K. Palonen, 'Political Ideal Types of Parliament', *Parliaments, Estates & Representation* (in this volume of PER).

⁵See R. Adiputri, 'Political Culture in the Indonesian Parliament: Analyzing Parliamentary Debates on the Regional Parliaments 1999–2009' (University of Jyväskylä, PhD thesis, 2015). I used the case study of regional parliaments, called DPRD (*Dewan Perwakilan Rakyat Daerah* or Regional level of People's Representative Council), as regulated by five laws between 1999 and 2009. The research materials are the laws, bills and parliamentary debates discussing the DPRD laws.

characteristics, largely non-responsive to citizens. In fact, since its inception, the DPR was unconcerned by its representative function.

Before discussing the DPR's history, it must be known that Indonesia was colonized by the Dutch from 1602 with the arrival of the Dutch chamber of commerce, the VOC, *Vereenigde Oost-Indische Compagnie* or the United East India Company, and continued by the Dutch government in the nineteenth century. This long-term colonialization shaped Indonesia until today, as such huge differences among multilingual, multi-ethnic and multicultural regions could be bound as one country only by the 'common suffering' of Dutch colonialism.⁶ Dutch colonialism was very authoritarian. It did not transfer the Dutch language to the natives, created a racist division (which positioned the Dutch as the top race, foreigners, usually Chinese and Arab, in the middle and the Indonesians as the lowest race) and a hierarchy of aristocrats, the wealthy and peasants, and only educated Indonesians in the early twentieth century (elites only), when the Dutch government needed local administrative workers.

Owing to the type of colonial government, the governing style was also centralist. All affairs were controlled by the Governor-General, including the legislative power (budget and law) and regional division (numbers of regions, how to expand or merge). Each region also had its own administration following the Dutch regional system, with the province and district consecutively as an upper and lower level, however in practice the centre or Governor-General handled everything.

Against this background, the *Volksraad* or the People's Council, a one-chamber representative body during the colonial period, illustrated the weakness of political institutions. The *Volksraad* became the model for the DPR. The *Volksraad* was established in 1918 and its 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'.⁷ In the beginning, it had 39 members: a chairman who was appointed by the Dutch, 15 Indonesians and 23 Dutch. The members were elected or appointed, but when 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 Indonesians and that 'the Indonesians would never have an effective majority'.⁸ This set-up did not even reflect geographical divisions and lacked a truly representative aspect, thus the *Volksraad's* role was rather marginal. Its recommendations to the Governor-General were often ignored. After hearing a recommendation, the Governor-General might decide the opposite of what had been recommended by the Council. This shows that the *Volksraad* was only an advisory body. Indonesia's first parliamentary model inherited the principle that the parliamentary institution was fairly peripheral to politics, both in its legitimacy and in the making of decisions.⁹ For Indonesians at that time, the *Volksraad* was known as 'talking comedy' (*komedi omong*) as portrayed by Agus Salim, a prominent Muslim leader who was once a member.¹⁰

⁶A.W. Adam, 'Sejarah, Nasionalisme dan kekuasaan', in V. Hadiz and D. Dhakidae (eds), *Ilmu Sosial dan Kekuasaan di Indonesia* (Jakarta, 2006), p. 276.

⁷L.H. Palmier, *Indonesia and the Dutch* (London, 1962), p. 17.

⁸Palmier, *Indonesia*, p. 21.

⁹H. Feith, *The Decline of Constitutional Democracy in Indonesia* (Ithaca, 1962), p. 32.

¹⁰A. Gonggong, 'Desentralisasi untuk kekuasaan atau untuk demokratisasi dan kesejahteraan rakyat', in Yayasan Tifa (ed.), *Pasang Surut Otonomi Daerah: Sketsa Perjalanan 100 tahun* (Jakarta, 2005), p. xi.

When the Japanese replaced the Dutch as rulers of Indonesia in 1942, the Japanese furthered the idea of Indonesia's future independence with a forum named *Chūō sangiin*, or the Central House of Councillors. This move was appreciated by the Indonesian independence elites, who called the Japanese Indonesia's 'older brother' for their support in preparing Indonesian independence. After Sukarno and Hatta declared Indonesia free on 17 August 1945 (and accordingly became the president and vice president), 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 DPR today, but the tradition from the *Volksraad* and its membership remained, notably the unequal position with the president. The date of establishment of the KNIP, 29 August 1945, has also been marked as the birth of the DPR.

By the time the Dutch returned with military force in 1945, Indonesia had already created the Constitution, the institution of parliament and a government that, despite being established with Japanese support, worked and had legitimacy among the people. The Dutch did not accept Indonesia's independence, so after clashes with the Indonesian guerrilla army, the two parties negotiated to agree that the Dutch could continue to control eastern areas while Indonesia covered the islands of Java and Sumatra. The centralized unitary style of government became a federalist and parliamentary government. A general election had not yet been held, so the aim was that the composition of the provisional parliament would represent the composition of political forces in the country.

When the first election was held in 1955, each political party, whether nationalist, communist or Islamist, shared a similar number of votes, around 20 per cent, yet the cabinet still changed constantly and parliamentary government was not seen to be effective. The continuous friction between political parties encouraged President Sukarno to impose a policy of guided democracy or 'democracy with leadership' (*Demokrasi Terpimpin*) on 5 July 1959. With this policy, 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.¹¹ The 1945 Constitution, which was temporary in nature, came into force, giving the president far more power than any other state institutions. The collapse of parliamentary government brought with it a negative impression of the parliamentary system in Indonesia.

State affairs remained in Sukarno's hands. Sukarno's word was law. He also leaned more toward the Communist Party. However, the killing of seven army generals in an attempted coup on 30 September 1965 gave the military the chance to act to defeat the Communist Party and seize power from Sukarno.¹² Suharto, who controlled the military at that time, took the opportunity to issue an order – based on Sukarno's Executive Order – banning the Communist Party from the country and neutralizing Sukarno's influence on members of the DPR and MPR. In 1967, Sukarno, now without any supporters in the

¹¹H. Feith and L. Castles, 'Introduction', in H. Feith and L. Castles (eds), *Indonesian Political Thinking 1945–1965* (Ithaca, 1970), p. 9.

¹²J. Honna, 'From *dwifungsi* to NKRI: Regime Change and Political Activism of the Indonesian Military', in M. Bünte and A. Ufen (eds), *Democratization in Post-Suharto Indonesia* (London, 2009), p. 228.

parliament, was easily impeached. Suharto was sworn in as Indonesia's second president by the MPR, the beginning of his New Order regime, but this continued the authoritarian style of Sukarno, supported by the military, as guaranteed by the 1945 Constitution. Suharto's 32-year presidency brought development, but the DPR was weak, acting as a rubber-stamp institution, and the number of political parties was limited to three: the Islamic party PPP, the Functional Group or *Golkar* and the national party PDI. Before being seated in the DPR (and regional parliaments, DPRD), the members were carefully screened for loyalty to Suharto.¹³ In addition, the DPR also included appointed military members to become members of the DPR. *Golkar* was Suharto's political vehicle and all civil servants had to be part of this group, which guaranteed Suharto's victory in ritual elections for more than three decades.

By historical tradition, the DPR inherited the legacy of lacking representativity, situated on the institutional periphery of executive government and acting only as an advisory body. This was likely to shape the rubber-stamp style of working in the DPR during Suharto's time.

Steps to democratization

During Suharto's presidency, the DPR had the parliamentary functions as a parliament but the practice of them remains far from the ideal, even undemocratic. The DPR's representation of voters is still very poor.¹⁴ Members of parliament still acknowledge their party affiliation more than their constituency context. The legislation situation is also worrying, in so far as the number of laws enacted annually is always below the DPR's own target,¹⁵ and these are of low quality, as seen when many recently enacted laws were brought for judicial review (to the Constitutional Court/MK) by civil society organizations. Furthermore, oversight has not been conducted effectively: it is only seen as the task of committee, not of the DPR as a whole institution. The DPR's plenary session serves only as a ceremonial place to formally enact the decision made by the commission/committee and no parliamentary debate is exercised, although it should be the highest forum in the DPR. The committees indeed do everything from preparation and examination to debates and making decisions. The plenum consists of boring pre-written speeches of factions or parliamentary caucuses, presented without referring any critical comments to the discussions or speeches of others. There is no debate in the plenum. Therefore, it is no wonder that, when the DPR is tested against the ideal parliamentary function, it is considered undemocratic.

Moreover, the international organizations that promoted parliamentary reform in the DPR: the UNDP (United Nations Development Programme), the NDI (National

¹³The loyalty to Suharto was cloaked under the regulation that the elected members must be clean from Communist Party affiliation and background, see R.W. Liddle, *Leadership and Culture in Indonesian Politics* (Sydney, 1996), see especially the article 'Suharto's Indonesia: Personal Rule and Political Institution', pp. 15–36; also S. Eklöf, *Power and Political Culture in Suharto's Indonesia: The Indonesian Democratic Party (PDI) and Decline of the New Order (1986–98)* (Copenhagen, 2003).

¹⁴Since 2004, electoral law has required DPR candidates to address their constituencies. To be elected, all candidates came to their electoral bases. The constituents' visits were normally exercised only during election times.

¹⁵PSHK, *Pusat Studi Hukum dan Kebijakan Indonesia*, a national legal NGO that always publishes annual reports on DPR works. See PSHK, *Catatan PSHK tentang Kinerja Legislasi DPR 2004–2009: Rekam Jejak Kuasa Mengatur* (Jakarta, 2010). It 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, even less than 50% in 2010–13 (<http://www.pshk.or.id/id/blog-id/urgensi-pembenahan-instrumen-perencanaan-legislasi/>).

Democratic Institution; a US-based NGO), International IDEA, the World Bank and the CDI (Centre for Democratic Institutions; an Australian-based NGO)¹⁶ proposed reform programmes based on the ideal-type parliament found in democratic countries, usually the NGO's donor countries, notably from the Western hemisphere. For the Western view of democracy, for example, it is not enough that Indonesia has a parliament, political parties and regular elections, but these systems must function within society, notably with the emphasis on representative function and minority protection.¹⁷ From this perspective, the DPR has not effectively exercised its parliamentary functions.

Such negative labels cannot be accepted at face value. As we saw from the DPR historical background in the previous section, the DPR was structured to give legitimacy to the authoritarian regime built under President Suharto. Accordingly, members of parliament/MPs did not have a representative relationship with voters; the decision making was in the hands of elites and small numbers of committee members (oligarchy); the deliberation process was conducted in the committee forum instead in plenary sessions; parliamentary tasks were 'balkanized' as they were exercised in the smaller forum of meetings;¹⁸ and the plenum only acted as a rubber-stamp of the executive policies. Thus, the DPR did not reflect the characteristics of a true parliament or a place where the public vested their aspirations in their representatives. The democratic value of separation of powers and equal competence between the executive, legislative and judicative branches was not exercised, as the DPR was still inferior to the hegemony of executive government, notably the president. This tradition or political culture was ingrained within the DPR and compiled in the DPR's procedure, collected in a small regulation book or Standing Order called *Peraturan Tata Tertib DPR* or *Tatib DPR*.

It was only when the authoritarian regime led by President Suharto collapsed in 1998 that the democratization process in Indonesia started, and accordingly began to empower the DPR. However, the political culture within the DPR has retained the characteristics of an institution that supported the authoritarian regime, especially with the consistent use of outdated procedures.

After Suharto's fall in 1998, President Habibie opened the path to democracy. Habibie¹⁹ was Suharto's vice president in 1997–99 and led a series of democratizing reforms. General elections were held in 1999 with the participation of new political parties, rather than only the three 'official' parties. He promised to amend the constitution after the election, to devolve power from central government to the regions and even to give autonomy to conflict regions such as Papua, Aceh and East Timor (East Timor finally seceded from Indonesia in 1999). The Habibie government also advanced the adoption of direct presidential election, instead of the previous system of appointment by the high state institution at that time, the People's Consultative Assembly or MPR, two thirds of whose members were in the DPR.

The main points of the democratization process were universal suffrage, free and fair elections, party competition (48 new political parties participated in the 1999 election),

¹⁶Based on personal experience working in the Indonesian parliament compound. I worked in the MPR Secretariat (2000–09) as a government officer, in sections working on the MPR/DPR projects with these international organizations.

¹⁷E. Palmujoki, 'EU-ASEAN Relations: Reconciling Two Different Agendas', *Contemporary Southeast Asia* 19, (1997), pp. 269–85, quotation is from p. 278.

¹⁸Sherlock, 'Parliament'.

¹⁹Habibie experienced living in a democratic country, in Germany (in the 1970s) for a decade.

citizens' political freedoms (civil servants were no longer obligate to vote for *Golkar*) and decentralization to regions, upgrading the DPRD to become a truly regional parliament. The 48 parties in the 1999 election were the seedbed for the 10 main parties in the DPR today.²⁰ Thus, a series of moves to change the political laws (laws on political parties, regulation of elections, state institutions) and to amend the constitution affected the DPR. However, while important, they have not turned out to be sufficient to change the institution into a democratic one, at least not as instantly as the public expected. When the outdated procedure has been used, the DPR political culture more or less remains the same.

Although their role is more than a rubber-stamp one, the DPR members are still portrayed by most citizens as 'corrupt, isolated from society and lack of responsiveness'.²¹ The DPR members, especially the regional representatives, are still selected from political party elites in Jakarta and usually actually live in the capital, close to the elites or party leaders. Individuals from elite families, celebrities, ex-ministers or former members of the military are posted to electoral constituencies to which they do not have local ties. This shows how vestiges of the political culture from the previous authoritarian regime remain and how the nepotism of party elites in Jakarta continues.

The first direct elections of the president and regional leaders (governors and mayors/regents) were held in 2004 and 2005 respectively. President Susilo Bambang Yudhoyono was directly elected for the term 2004–09 and even successfully continued his second and final term presidency in 2009–14. During a decade of rule, however, President Yudhoyono's presidency shared many similarities with that of Suharto. Despite being directly elected, Yudhoyono was not confident enough to choose his own ministers. His presidential system included almost all parties 'in government' and did not have officially recognized opposition in the DPR.²² In fact, Yudhoyono's coalition parties sometimes did not guarantee their support for Yudhoyono's policies. This confirms the previous view that:

... as during the New Order, following the five-yearly parliamentary elections, there is usually a flurry of interest in how many votes and seats the various parties have won and how that might influence the allocation of cabinet positions ... the role of parties in executive government ... is seen as much more important than their activities in the legislature.²³

²⁰They are *Golkar*, PDIP, PPP, PKB, PAN, PKS, *Democrat*, *Nasdem*, *Gerindra* and *Hanura*. *Golkar* survives from the previous regime. Although special requirements (e.g. civil servants having to vote for this party and being able to campaign on the village level, while others were limited to districts only) were removed, *Golkar* survives and develops in the new era, showing an effective party mechanism and structure. PDIP (*Partai Demokrasi Indonesia-Perjuangan*) is another side of the previous PDI party (which was dissolved) and led by Sukarno's daughter, Megawati Sukarnoputri. PPP (*Partai Persatuan Pembangunan*) had been an Islamic party in Suharto's time, a home for Islamic groups and movements in the country, but, owing to the new wave of democratization, Islamic groups wanted to establish their own parties such as PKB (*Partai Kebangkitan Bangsa*), PAN (*Partai Amanat Nasional*) and PKS (*Partai Keadilan Sejahtera*). PKB was chaired by Gus Dur, also the chair of the biggest Islamic organization in Indonesia, *Nahdlatul Ulama*. PAN was also founded by Amien Rais, the former chair of the second biggest Islamic organization, *Muhammadiyah*, while PKS was established by university students, inspired by Egypt's Muslim Brotherhood.

²¹M. Marcus, 'Comparing Indonesia's Party Systems of the 1950s and the Post-Suharto Era: From Centrifugal to Centripetal Inter-party Competition', *Journal of Southeast Asian Studies* 39, (2008), pp. 431–53.

²²Although PDIP in 2004 declared its faction in the DPR as opposition, this movement was not formally shown through the debates in the DPR Plenary for example, but just showed the protest against Yudhoyono's manoeuvre owing to personal friction between Yudhoyono and Megawati, the PDIP chair.

²³S. Sherlock, 'Made by Committee and Consensus: Parties and Policy in the Indonesian Parliament', *South East Asia Research*, 20, (2012), pp. 551–68, quotation from p. 552.

In fact, the DPR party's members simply used their position in the government (as ministers) to control 'the financial and political resources of a ministry, with all its opportunities for patronage'.²⁴ The DPR's functioning as a parliamentary institution depended on the executive, especially the president.

Thus, democratization in Indonesia, as described above, did not change much in the parliament. Other than elections, the removal of the military seats and the configuration of political parties, the DPR was only partially democratized. Sherlock's pioneering study of the Indonesian parliament indicated that researching the activities (of political parties) in Indonesian legislatures does not interest many scholars nearly as much as the study of political parties, elections and other state institutions. Studies of the DPR merely revolved around legislative issues or the parliamentary tasks in general: legislation, budgeting and oversight of the executive. No major attention has been paid to the DPR's internal procedures and practices, although procedure regulates all activities in the institution.

Undemocratic features of the DPR procedure

Since the DPR was established to support the (authoritarian) government, it is no wonder that all its functions of legislating, budgeting and overseeing government performance are conducted with the presence and approval of the executive. Indeed, the 1945 Constitution requires that the DPR's legislative power can only be exercised with the president and the law is indeed the result of the *joint approval* of both executive and legislative institutions.²⁵ This suggests that the president has the right to veto the legislation.

For the research on the evolution of regional parliaments in the decade 1999 to 2009, I used the DPR's legislation minutes as my main source. The minutes show how the DPR exercises its politics: the discussion of laws was being steered by the 'senior' members of the military group, which was seen as more expert on legislative matters at the beginning of this period. Negotiation was conducted between these 'senior' members and representatives of the executive, which was 'superior' in rank to the DPR. This power imbalance between the DPR and the executive, as well as within the DPR itself, continues to prevail.

The key elements of this political system are the centralized party boards in Jakarta, which are dominated by incumbent party leaders. In contrast to the free mandate presupposed by debating parliaments, a DPR member can be removed or recalled based on orders from this board.²⁶ These rank and status aspects affect the position of the DPR Leadership or the factions, and the distribution of certain privileges and benefits inside the DPR. The DPR Leadership mostly consists of political party leaders or famous figures at the national level. The DPR's *Tatib* accentuates the privileges of its members by distributing accessories: membership cards, car licence plates, stickers and other official items (Article 309).²⁷ DPR members assume that, in the parliamentary compound, they have a high hierarchical position, especially compared with the DPR secretariat staff. This leads to

²⁴S. Sherlock, 'A Balancing Act: Relations between State Institutions under Yudhoyono', in E. Aspinall, M. Mietzner and D. Tomsa (eds), *The Yudhoyono's Presidency: Indonesia's Decade of Stability and Stagnation* (Singapore, 2015), p. 99.

²⁵See Adiputri, 'Political Culture'.

²⁶P. Ziegenhain, 'The Indonesian Legislature and Its Impact on Democratic Consolidation', in Bünthe and Ufen (eds), *Democratization*, pp. 48–9.

²⁷Items such as business cards, paper with the DPR letterhead, email address and identity card, which are probably given to any parliamentary members in any country, are not stated in the Rules of Procedure.

a situation where the DPR members see the technical and administrative staff as ‘an acquisition to enhance prestige and influence’.²⁸

The DPR still views power as status,²⁹ reflected from the Javanese concept. 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’.³⁰ Status is important for the MPs, not only for the term ‘DPR member’ (*anggota DPR*) itself, which means *elected* people sitting in a state institution, in the capital city, but also because it implies a higher *status* than ordinary citizens. This status has been nurtured during Suharto’s regime and engrained in the DPR. As a DPR member, demonstrating the glamour and prestige of parliament, with cars, drivers and fancy offices, is a must.³¹ Thus, in the DPR, through its systemic patronage, members try to gain personal benefits to upgrade their status, instead of using their parliamentary powers, such as their role monitoring the executive’s performance. No wonder corruption in the DPR is common. The focus is on ‘the quest for power and position’,³² but not on policy debate.

In its procedure, the DPR adopts the decision-making mechanism of *musyawarah* (deliberation) *mufakat* (compromise), which emphasizes consensus and consultation. *Musyawarah* means ‘that a leader should not act arbitrarily or impose his will, but rather make gentle suggestions of the path a community should follow, being careful always to consult all other participants fully and to take their views and feelings into consideration before delivering his synthesis conclusions’. *Mufakat* means consensus and is the goal toward which *musyawarah* is directed. *Musyawarah* relies on the willingness of the members to be aware of the larger interests at stake in a situation. The negotiations that take place in the spirit of *musyawarah* are ‘not as between opponents but as friends and brothers’.³³ Under the *musyawarah mufakat* mechanism, when a case is questioned, all party groupings, factions or *fraksi* are given time to have a say and express their opinions, regardless of their size. Deliberation and compromise are exercised so that all groups will accept the result of the agreement suggested by the committee chair, and, once agreed, all members are obliged to obey it.³⁴ While this mechanism is good for addressing the minority’s opinion, it became quite time-consuming with the increased number of *fraksi* in the DPR after the 1999 election. If gridlock occurs, the issue is brought to the DPR Leadership of *fraksi*, or the party chairs, to make decisions in the name of the DPR as an institution, instead of being voted on by all DPR members in the plenary. Based on this mechanism, voting is discouraged and avoided if possible, as ‘dissent’ and ‘opposition’ are despised as Western concepts³⁵ that convey negative connotations and are opposed to the Indonesian social value of communitarianism (‘togetherness’). Many scholars studying the DPR usually claim that this decision-making mechanism is undemocratic as it encourages oligarchic practice.

²⁸S. Sherlock, *Struggling to Change: The Indonesian Parliament in an Era of Reformasi* (Canberra, 2003), p. 26.

²⁹L. Pye and M. Pye, *Asian Power and Politics: The Cultural Dimensions of Authority* (Cambridge, 1985), p. 120.

³⁰K.D. Jackson, ‘The Political Implication of Structure and Culture in Indonesia’, in K.D. Jackson and L.W. Pye (eds), *Political Power and Communication in Indonesia* (Los Angeles, 1978), pp. 23–42.

³¹W. Case, *Executive Accountability in Southeast Asia: The Role of Legislatures in New Democracies and under Electoral Authoritarianism*. Policy Studies East West Center no. 57 (2011), p. 9.

³²Sherlock, ‘Made by Committee’, p. 555.

³³S. Narine, *Explaining ASEAN: Regionalism in Southeast Asia* (London, 2002), p. 31.

³⁴Suharto (Soeharto), *Soeharto: Pikiran, Ucapan, dan Tindakan Saya, Otobiografi*, as written by G. Dwipayana and Ramadhan KH (Jakarta, 1989), p. 422.

³⁵Suharto, *Pikiran*, p. 346.

The DPR displays the common features of a parliament, but exercises them differently owing to persistent usage of authoritarian parliamentary procedure. The common perception of the DPR consists of the '4D': *Datang, Duduk, Diam, Duit* (attend, sit down, keep quiet and [get] money), which have lessened today (at least the DPR is no longer a quiet institution), but the DPR is still considered the most corrupt institution in the country.³⁶ The DPR functions of legislation, budgeting and oversight were only to legitimate the government in terms of exercising its policies. The latter function in particular has not yet been seen to be practised effectively.

The DPR legislates together with the government. Although the power of legislation was transferred to the DPR when the constitution was amended, in reality the bills mostly come from the government, which still has abundant legislative resources, compared with the DPR. The oversight function of the parliament, to control and monitor the performance of the government, while important, is only conducted by individual DPR members questioning the government's policy in the media. Formal control is rare or exercised by a certain commission with around 50 DPR members at a smaller commission meeting, without reporting to the plenary session to make the final decision. The plenary session only *formally* enacts the bill into a law, as the debate and the approval are conducted beforehand. This formal decision is somehow a notification to all DPR members about the commission's task, but non-committee members cannot interfere with the decision, as there is no debate in the plenary session. The committee is likely to be a more important forum than the plenary session, as the decision is made there. Consequently, despite being the highest forum for decision making, as stated in the DPR procedure or *Tatib*, as is usually also the case in most parliaments, the DPR's plenum has not really had its significance as the public forum for overseeing parliamentary work, and only acts out its ceremonial status.

The *Tatib* emphasizes the key role of the DPR Working Organs,³⁷ which suggests a 'balkanized' way of working in the DPR. The important parliamentary functions are exercised in commissions consisting of 10 per cent of DPR members. The *Tatib* also emphasizes the importance of the DPR Leadership. The leadership positions (including the commission chairpersons) are allocated proportionally to the political party seats in the DPR. The leadership consists of one leader (*ketua*) and four vice leaders (*wakil ketua*), who form a collective position that represents 'a collective consensus of the different political currents in the assembly'.³⁸ The DPR Leadership is usually allocated to the majority parties in the parliament.

In parliamentary systems, the speaker is expected to be impartial and *above* partisanship (not even formally affiliated to a particular party) in dealing with parliamentary proceedings. The DPR Leadership, however, is 'leading' instead of 'presiding', which means that it could guide the DPR to highlight certain issues and disregard others, and impose

³⁶The annual citizen survey conducted nationwide conveys that the DPR had been judged as the most corrupt institution in 2009, 2010 and 2011 and shared the dubious title with the police corps in 2012 and 2013, according to the leading national newspaper, *Kompas*, 2013, <http://nasional.kompas.com/read/2013/09/16/1724195/Dalam.5.Tahun.Berturut.turut.DPR.Berpredikat.Lembaga.Terkorup>.

³⁷The DPR organs are the DPR Leadership/*Pimpinan DPR*; Steering Committee/*Badan Musyawarah* or *Bamus*; Commission/*Komisi*; Legislation Council/*Badan Legislasi* or *Baleg*; Budget Council/*Badan Anggaran*; Council for Inter-Parliamentary Cooperation/*Badan Kerja Sama Antar Parlemen* or *BKSAP*; House Affairs Council/*Badan Urusan Rumah Tangga* or *BURT*; Ethics Council/*Badan Kehormatan*; Special Committee/*Panitia Khusus* or *Pansus* (DPR *Tatib* 2009, 2012).

³⁸Sherlock, *Struggling*, p. 10.

certain party groups. The majority DPR parties sitting in the leadership thus 'lead' the DPR.

Leadership is a token of appreciation for the success of political parties during the election, reflected in the positions of chairs of important or 'wet' commissions in the DPR. The leaders automatically chair the Steering Committee (*Badan Musyawarah/Bamus*), which is largely responsible for setting the DPR's agenda and may delay or disregard certain items on this agenda, even directing a certain decision by calling for private meetings of leaders (*rapat lobi*).³⁹ Owing to this high profile of its tasks and its membership, the Steering Committee is considered an influential body, often called a 'mini DPR' when it replaces the plenary session.⁴⁰ The importance of leadership positions, and even high-low rank status (hierarchy) as a DPR member, emphasizes further reduced the role of ordinary DPR members, and has led to oligarchic practice affecting parliamentary procedure.

The local media has reported negatively about the DPR, mostly in connection with the low number of laws enacted annually, the empty chairs in the plenary session and corruption cases. In this context, the DPR still acts a bureaucratic institution which merely legitimizes the executive policy. The only difference is that this is no longer done in an authoritarian atmosphere.

To sum up, the undemocratic features of the DPR are: the emphasis on DPR's social status; the importance of elite positions in the DPR; the procedure encourages oligarchy; the deliberation process and decision making are conducted in the smaller forum of committee meetings with only 10 per cent of DPR members, leaving the plenum as a merely ceremonial forum; and there is no debate or exchange of views in the plenum, only the factions' speeches from the podium. All these issues, combined with the complicated procedure, are reasons why the *Tatib* must be revised urgently. There has been no significant change in the DPR parliamentary procedure since Suharto's New Order regime, apart from reducing the number of discussion forums from four in 1999 to two in 2009.

Suggested reforms in the DPR

The parliamentary procedure, especially the easy-to-follow legislative process, is important for parliaments,⁴¹ however this is not the case for the DPR. The DPR of the post-Suharto era, despite its democratic intention, does not show a greater improvement from the one exercised in the authoritarian culture. Palonen has pointed out that legislature is emphasized more in 'the separation-power system' as in the US presidential system.⁴² While the DPR tends to follow the model of the US presidential system,⁴³ its capacity is far from that of the US Congress, especially when the legislation is a work of

³⁹This occurred when Akbar Tandjung was the DPR Chairman from 1998 to 2004. In 2003, Akbar had been convicted of misusing Rp 40 billion (US\$4.49 million) of State Logistics Agency (*Bulog*) money, but he remained free and enjoyed his position as DPR Chairman (*The Jakarta Post*, 14 January 2003). The failure to oust Akbar was due to members being unable 'to get through the process of scheduling for a deliberation from the House's steering committee' (*The Jakarta Post*, 28 January 2003). The lobbying meeting, attended only by the DPR Leadership and factions, totally ignored the intention of all DPR members as a whole to demand more explanation on the case.

⁴⁰R. Katharina, *Pemetaan Masalah Parlemen Ditinjau dari Peraturan Tata Tertib DPR: rekomendasi perbaikan kinerja DPR melalui revisi tata tertib* (Jakarta, 2007), p. 86.

⁴¹K. Palonen, *The Politics of Parliamentary Procedure. The Formation of the Westminster Procedure as a Parliamentary Ideal Type* (Leverkusen, 2014), p. 38.

⁴²Palonen, 'Political', (in this volume).

⁴³I. Datta, 'Parliamentary Politics in Soeharto's Indonesia 1987-1998' (University of London, Phd thesis, 2002).

joint approval between the DPR and the president. Furthermore, following the metaphor of Palonen:

[In] the checks-and-balances model, the government is the ‘engine’ of legislation, while the parliament serves as the ‘brake’ that prevents the realization of misguided proposals.⁴⁴

Here, ideally the positions of the legislative and the executive are equal to one another, while in the DPR this is not the case as the executive government still plays a greater role in any political affairs including legislation. Therefore, the parliamentary democracy in Indonesia is likely to be in a different shape, which will be explained below.

The undemocratic features listed in the previous section and the difficulty to understand the legislative process could be mitigated by revising the *Tatib* procedure. Revising the DPR procedure will empower the plenum, the committee and the role of the opposition, which is still weak in the DPR. This is a reform that the DPR can follow and by doing this, the DPR will make its plenary visible and meaningful, thus making *democracy* public. If the plenary session is empowered, it also means involving DPR members in the debate. In the plenary today, the faction leader simply reading pre-written speeches and does not allowed the (ordinary) DPR members speak or debate the issue. Making the plenary public means that the members can debate controversial issues regarding the state budget and recent legislation, and oversee the executive policy where the public can see. Unlike today’s DPR legislation which only focusing on the stylistic formulation of the wording of laws and are discussed in committee rooms, and not at the plenary. The process of the debate can be regulated more rigidly in the *Tatib*. Accordingly, the committee will change too. In order to support a more active debating style in the parliament, the committee will need to equip the plenary with information and investigation reports on the issues before the plenary session starts. Thus, the role of opposition, or of factions which take different sides on an issue, will become visible and appreciated by the constituents. Therefore, strengthening the plenary session in the DPR will not only empower the plenum itself but also reinforce the role of debate and opposition in the parliament.

On another level, reform of DPR procedure can also be seen as part of democratization. Probably, elevating the *Tatib* to the status of a law makes the procedure legally binding on the related parties in legislation – the president, the DPR and, in some cases, the semi-legislative body of the DPD (*Dewan Perwakilan Daerah*/Regional Representative Council) and the process would be acknowledged publicly, so the regulation would affect everybody outside the DPR institutions. The DPR’s internal procedure, as regulated by the *Tatib*, is likely to be only known by its members and focuses solely on the DPR’s affairs, although not all members understand the rules (or tricks for how to exploit the procedure), which are undefined and based on (previous) consensus.⁴⁵ Persons outside the DPR do not know how much the DPR and its legislative procedure affect the lives of Indonesian citizens. The *Tatib* needs to be given a higher status, either by making it into a law or by enacting a law on legislative procedure which addresses the problems of internal regulation and confusing legislation processes. Making the DPR procedure a law would strengthen it, so that its content could not be superseded by party consensus. Moreover, when the public are able to witness the DPR plenum and active members become more visible, it is more likely that

⁴⁴Palonen, ‘Political’, (in this volume).

⁴⁵Rozzoli, ‘Assisting’, p. 11.

the cartel of party leaders who control parliamentary practices will diminish or break down.

Previous studies of the DPR revealed an ostensible political culture reflecting its whole operational system.⁴⁶ Yet these studies did not elaborate seriously on the procedure regulating the standard operations or rules of the game of the DPR. Revising the procedure will serve to build and repair the system. The UNDP and DPR secretariat handbook,⁴⁷ for example, also emphasizes that the success of parliamentary democracy in Indonesia is in the hands of the DPR members – not the leaders. If the members are given a greater role, the system must be made appropriate for this change.

PSHK reported that the DPR's weakness was based on the law target (called *Prolegnas*) and communication problems between the executive and the legislature. As I try to show here, the problem actually lies in its procedure. Democratization in the DPR cannot be attained by using the outdated authoritarian style of parliamentary procedure that reinforces the existing political culture. Despite the democratization process, pioneered by amending the constitution and a series of empowerments and law revisions, the DPR and its secretariat will remain weak if its internal political culture is ignored and the DPR procedure is not revised accordingly. Revising and upgrading the procedure into a law shows that the procedure is relevant to democracy. Such a reform would mean a 'cultural evolution' for Indonesia, in which the DPR was oppressed by the dictatorship of its executive from its inception.⁴⁸

The mechanism of *musyawarah mufakat*, which is suspected to be the main obstacle to democratic parliamentary practice, can still be adopted if the role of the leadership in discussions is eventually reduced, and all DPR members are involved in the process. Ideally, such decision making would best be conducted in the plenary session, open to the public. This procedure would reduce the length of speaking time, and, as the public would be viewing the process, the members would learn to make their remarks eloquently. The introduction of such a mechanism would encourage the emergence of an effective, but perhaps very loyal, opposition in the future DPR. This is the type of specific democratic culture in Indonesia. With the start of revising the procedure, by empowering the plenum, a democratic culture in the DPR can be started.

Conclusion

This study shows that Indonesia has steadily developed towards democracy, but its DPR is still an undemocratic parliament. The core structure has basically remained similar to that of the authoritarian regime, especially since outdated parliamentary procedure continues to be used. It has also retained the historical inheritance of authoritarian colonial rule and presidents. During the longest authoritarian regime, under Suharto, the DPR was a rubber-stamp institution and had lower status than the president. Somehow the procedure and amended constitution have still retained this tradition.

⁴⁶As stated in the introduction to this article, the DPR is known as a 'chamber of cronies' (Sherlock) and an institution that serves as 'obstacles to democratic consolidation' (Ziegenhain). These labels affect the DPR as a parliamentary institution. See, for detailed descriptions, Sherlock, 'Parliament' and Ziegenhain, *Indonesian Parliament*.

⁴⁷E. Prasjo (ed.), *Handbook on Transparency and Accountability of Parliament* (Jakarta, 2009). <http://www.agora-parl.org/node/2756>.

⁴⁸K. Rozzoli, 'Assisting Parliamentarians to Develop Their Capacities: Experiences from Working in Indonesia and South Pacific'. IPU conference, Bern, 20–21 October 2011. <http://www.ipu.org/splz-e/asgp11.htm>, p. 11.

This article has listed the steps towards democratization in the country and undemocratic features in the DPR. Notably, the institution serves as a place to gain and display status, rather than exercise representative political power, reflecting the Indonesian Javanese concept of power nurtured in Suharto's time and the importance of elites. Procedurally, the DPR commission/committee serves as the main venue for parliamentary tasks from preparation to decision making. This makes the plenary session a ceremonial venue for simply a succession of speeches, without any real debate.

The first step to democratic reform in the DPR is revising the parliamentary procedure and upgrading it into a law. This continues with making democracy visible by strengthening the role of the plenary session, which encourages debate and recognizes the role of opposition at the same time. With the plenum reformed, it is expected that the debate will be meaningful and focus on political issues, not on wording formulation, and the cartel of party leaders will diminish as members' debates are publicly seen. All these necessary reforms would ideally be conducted by the DPR's own elites to ensure good chances of success. Within the political culture of respecting rules and leaders, there is a chance for the DPR to be democratic. It is important that the leadership personnel, including the DPR Speaker, if necessary, are the ones to promote the revision and propose changes in the procedure. As long as the Indonesian elite culture is still dominant, reforming an institution such as the DPR will only happen if the leaders take the initiative. This may seem paradoxical, but with the leadership of the elites, revising the DPR procedure within the institution will have good prospects for success. If the DPR Leadership is committed to reform in the DPR, all members will follow, bringing about a significant change. Only after procedural revision which should be promoted by the parliamentary elites, will democracy in the DPR be fostered.

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