

“Parliamentary reforms through parliamentary procedure: A lesson-learnt from the Indonesian parliament”

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by:

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Abstract:

The democratization process in Indonesia after the fall of the authoritarian regime led by President Suharto in 1998, had empowered its parliament institution, DPR. Apparently, empowerment through the Constitutional amendment and political laws, such as laws on political parties, on election committee and state institutions, are not enough for the DPR, as the political culture within the institution is still retained a character of an institution supporting the authoritarian regime. Accordingly, the process of reform for the parliament arguably should be followed also by revising the internal rule of game within the institution, that is the parliamentary procedure.

The paper will address the political culture and parliamentary procedure within the DPR, which influence the legislative process. The DPR procedure and the parliamentary debates had shed light on the undemocratic aspects within the institution. The case study exemplifies that it is important to address the parliamentary reform through its procedure, as the procedure shapes how the parliamentary culture operates. Therefore, the procedure needs to be revised.

The research recommends the DPR to revise its parliamentary procedure, even upgrades the legislative procedure into a law. Only by addressing the parliamentary procedure, the rule of game inside the DPR, the parliamentary reform and the better policy making through laws may proceed.

Keywords: Indonesian parliament (DPR), parliamentary procedure, parliamentary debates, political culture, parliamentary reform

1. Introduction

The recent studies on the Indonesian parliament, the People’s Representatives Council, *Dewan Perwakilan Rakyat* or DPR, claimed that the DPR did not act as a truly representative body. The DPR is still attached with the negative label as the ‘chamber of cronies’ (Sherlock, 2010: 177) and an institution that ‘obstacles to democratic consolidation’ (Ziegenhain, 2008: 204). These views were derived from the parliamentary theory understood in the countries with liberal democracy, with the parliamentary functions as a measure. Parliament has functions of representation, legislation, (including the budgeting) and overseeing or controlling the

government performance. Although the DPR possesses these functions too - legislation, budgeting, and overseeing -, the practices of them are still far from ideal. The representative function between DPR and voters are still very poor. In fact, this function was only recently introduced since the 2004 election onwards¹. The legislation function is also worrying: numbers of enacted laws annually are always below the DPR's own target, also with the low quality, as seen when many recent enacted laws brought to judicial review by civil society organizations (NGOs). The oversight function was also not effectively conducted. Therefore, testing the DPR under the ideal parliamentary function, it was no wonder that the DPR was considered as not democratic.

The international organizations which promoted parliamentary reform in the DPR - UNDP (United Nations of Development Program), NDI (National Democratic Institution-US based NGO), International IDEA, World Bank, CDI (Center for Democratic Institute-Australian based NGO) - introduced the reform program based on the ideal-type of parliaments found in the democratic countries (usually the donor countries of the NGOs). Seen from this view, the DPR has not effectively exercised its parliamentary functions.

Such negative label cannot be accepted at face value, when understanding different structural setting of the DPR. The DPR was structured to put legitimacy for the authoritarian regime built during President Suharto's regime (Datta, 2002: 20), thus, for example, the DPR did not reflect a true parliament or a place where the public vested their aspirations to their representatives. Suharto became the Indonesian president for 32 years (1966 - 1998), and as the DPR originally was set up as a support agent for the authoritarian regime, its members of parliament (MPs), which came from political parties, were carefully screened and selected in order to show loyalty to Suharto (Liddle, 1996²; Eklöf, 2003). Accordingly, there were no representative relations between MPs and voters, the decision-making rests on elites and small numbers of committee members (oligarchy), the deliberation process is conducted in the committee forum instead in the Plenary Session, the parliamentary tasks are 'balkanised' as they are exercised in smaller forum of meetings (Sherlock 2010). These political culture ingrained

¹ Since 2004, the election law required the DPR candidates to address their constituencies. To be elected, all candidates came to their electoral based. This type of activity normally exercised mostly during the election time. During off-election time, voters relations were not shown.

² Especially on his article 'Suharto's Indonesia: Personal Rule and Political Institution' pp. 15- 36.

within the DPR and compiled in the DPR's procedure, Standing Order, a small book of *Peraturan Tata Tertib DPR (Tatib DPR)*.

Only when the authoritarian regime led by President Suharto fell down in 1998, the democratization process in Indonesia started, notably to empower its parliament institution, DPR. During the 1999 transitional period, the interim president Habibie and the DPR were able to revise the political laws, such as laws on political parties, on election committee and state institutions, so the upcoming election was fairer and participated by new political parties. However, as the political culture within the DPR is still retained a character of an institution supporting the authoritarian regime, and the consistent use of outdated procedure, series of empowerment and constitution amendment - while important - they are not sufficient in changing the institution into a democratic one.

Studying the DPR's procedure and its parliamentary debates on the case of regional parliament³, I argue that the DPR's procedure and legislative process were related to the political culture shaped within the national parliament. Accordingly, the law-making was continuously structured only to ensure that the agenda of the central government legitimized and the DPR deliberates the bill to justify the laws imposed to all citizens. This was the DPR culture shaped by the authoritarian regime and the DPR procedure and legislative processes clearly display such traditions. The political culture of an authoritarian regime and affected - directly or indirectly - the organization or working structure inside the DPR, to the ways it enacted laws, and to the content of the laws.

Accordingly, the process of reform in the parliament is not fruitful if the internal rule of game within the institution, that is the parliamentary procedure, is not addressed and revised. In the case of DPR, series of reform was introduced but as the procedure shaped the tradition or the political culture inside the DPR is not paid in attention, the DPR remains weak as a parliamentary body. This paper suggests that parliamentary reform to democratization could not happen without addressing the political culture shaped such institution. Thus, the parliamentary reform must start by revising the system or the parliamentary procedure of the related parliamentary institution. Political culture matters and addressing the political culture, through the rules of the game (that is the parliamentary procedure), the democratic movement can be

³ I used the regional parliaments, called DPRD as the case study, and the studied parliamentary debates covered the DPRD laws (5 laws) during the period of 1999 - 2009. This article is a mini version of my doctoral thesis *Political Culture in the Indonesian parliament* (Adiputri, 2015).

enhanced. In showing this, the paper elaborates the DPR political culture and procedure, then moves to outline the legislative process, and finally before conclusion, to propose the procedural changes based on the DPR positive values of its political culture.

2. DPR political culture

The main functions of parliaments are the representative function, the oversight function, and the legislative function, and these parameters had been used to test the DPR, the Indonesian parliament. As the DPR was set up to support the authoritarian government, the function of this institution then depend on the government's liking, especially the president. All DPR functions of legislating, budgeting, and overseeing the performance of government, accordingly, are conducted with the presence of the government or the executive. With such requirement, the DPR's functions notably the oversight one, for sure was not effectively exercised, as culturally the DPR was an institution supporting the authoritarian government.

The parliamentary concept of the DPR was adopted from the Western concept of the Dutch colonial administration. In Indonesia, the 350 years Dutch colonial regime was known to be authoritarian, and such authoritarian character was continued by both presidents, Sukarno (1945-1966) and Suharto (1966-1998). Therefore, the Indonesian parliament only exercised its function under the "authoritarian" manner, which displayed elitist characteristics, in which, members were less responsive to citizens. In fact, since its inception, the DPR was immune to a representative function.

The policy of Suharto's authoritarian regime as the longest political system in Indonesia had penetrated deep into the Indonesian political system, and to the DPR, and his using 'traditional cultural notions and values' claimed as Indonesian political culture had been legitimized so that his coercive rule and 'restriction on political liberties' could be justified (Eklöf, 2003: 5). According to Stefan Eklöf (2003),

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 of Suharto's era persists and has influenced the political practices, procedure, negotiation, and decision-making in the DPR.

The DPR parliamentary political culture reflected the general political culture in Indonesia. As the DPR originally was set up as a support agent for the authoritarian regime, its members of parliament (MPs), which came from political parties, also were built with a similar 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, 1996⁴; Eklöf, 2003). Today's Indonesian political parties still are 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.

Studying parliamentary debates reveal that the DPR post-Suharto era has struggled to change for a more democratic parliament, as pressured by an external (international) demand - from the economic crisis and from the international donor agencies promoting democracy - and by internal (domestic) ones initiated from the fall of Suharto in proposing *reformasi* in politics, economic and social life. However, at the same time, the DPR wanted to retain its established identity by clinging to the old (authoritarian) parliamentary procedure. Authoritarian political culture has shaped the DPR working structure including its procedure and legislative processes. This tradition still continues until today.

The DPR structure still see power as a status (Pye and Pye, 1985: 120), and during the 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) instead of extending its parliamentary power, as to using its oversight role towards the executive's performance. The view of power as a status, is reflected from the Javanese concept of power. 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). The status is important for the DPR members, not only for the term 'DPR member' or *anggota DPR*, which means *elected* people sitting in a state institution, at the capital city, Jakarta; but also it implies an upgraded *status* compared to ordinary citizens. Combined with this status, there is also a leadership position, either at the DPR leadership or in factions, giving certain privileges and benefits inside the DPR. The leadership individuals are mostly political party leaders or famous figures at the national level. The DPR's *Tatib* accentuates the privileges of the DPR's status by distributing accessories: membership

⁴ Especially on his article 'Suharto's Indonesia: Personal Rule and Political Institution' pp. 15- 36.

cards, car license plate, stickers and other official items⁵ (Article 309). Sherlock (2003:26) portrayed 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.

The DPR members assume that in the parliamentary compound, they have high hierarchical position, especially compared to the DPR secretariat staffs. This leads to where the DPR members see the technical and administrative secretariat as ‘an acquisition to enhance prestige and influence’ (Sherlock, 2003: 26). The DPR members regarded the secretariat staff as inferiors, or like servants, not much respecting the secretariat’s possible professional skills.

This traditional Javanese concept of power described in the administrative governments of both presidents, Sukarno and Suharto, which made them the apex of political forces, and even the Suharto era, his ‘personal rule’ was also known as a “sultanistic” regime (Liddle, 1996: 18).

In addition to the Javanese concept of power, the political tradition in Indonesia also has influenced the DPR. During the Suharto’s era, the political system took up the concepts of mutual assistance (*gotong royong*), family principle (*asas kekeluargaan*), *Pancasila* Indonesian ideology, *musyawarah* (deliberation) *mufakat* (compromise) - decision-making and oligarchic practice, which are commonly claimed to be non-democratic.

‘*Gotong royong* usually represented as a pattern of “mutual assistance”’, which was commonly found in village communities throughout the archipelago (Bourchier, 1997: 157-8). This is seen in helping neighbors and voluntary works for common goods, but in politics, the term served ‘to mask significant political differences’ (Bowen, 1986: 549), which were used by both presidents to restrict party freedom and to oppress differences and debates.

For the family principle (*asas kekeluargaan*), the concept was also based on the Javanese traditions. First, it was introduced by Ki Hadjar Dewantoro, a prominent educator and prince from Yogyakarta in 1945. Later, the idea was repeated again by Prof. Supomo when introducing his idea of an integralistic state. Dewantoro stated that the state was in accordance with the family, in which ‘father and mother have the same rights but different tasks, have a unity of interests, a unity of strengths, and unity of soul’ (quoted from Eklöf, 2004: 28). While Supomo addressed that ‘no individual was against the state, because the individual is an organic part of

⁵ Items such as business cards, paper with the DPR letter head, email address and identity card, which are probably given to any parliamentary members in any country but are not stated inside the Rules of Procedure.

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). In the DPR, this is interpreted that certain group of elites (under the name of collectivity) are more legitimate to decide on behalf of a whole institution, which also suggest oligarchic practices in the DPR.

Pancasila, or five principles, is an ideological concept introduced by Sukarno when preparing the country’s 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 *Pancasila* principles were ‘broad enough to be acceptable to all Indonesians, regardless of ethnicity, religion or political beliefs’ (Eklöf, 2004: 31), yet this also means Indonesia was regarded as a ‘homogenous culture’ (Wertheim, 1956: 302), an idea that was actually quite difficult to impose on the multicultural country as Indonesia. The fourth principle then lead to the decision-making mechanism in the DPR: *musyawarah mufakat*, or deliberation to reach a consensus.

For *musyawarah mufakat*, Suharto’s own words probably serve as good portrayal:

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 deliberated and found compromise (or consensus) from our deliberation, although there was dissent and disagreement before, we should oblige and obey to what had been decided. That is our understanding on such ‘*musyawarah mufakat*’ (compromise 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*, on the fourth principle. Under *musyawarah mufakat* mechanism, when a case is questioned, all related parties delivered their opinion. In the DPR, all party grouping/faction or *fraksi* is given time to have a say, on the

matter. If there is still a hint of disagreement, deliberation and compromise are exercised so all groups would accept the result of agreement/compromise⁶.

Based on such political culture, voting is discouraged and if possible to be avoided, as ‘dissent’ and ‘opposition’ are the Western concept (Suharto, 1989: 346), which convey negative connotations and are against the Indonesian communitarian (‘togetherness’) social value. Debate is also discouraged. Therefore, since Suharto’s era, such Western concepts (dissent, opposition, debate etc) are ‘official anathema’ (Aspinall, 2005: xi).

The DPR displayed the common parliamentary features, but exercised them differently as it was due to persistent usage of the authoritarian parliamentary procedure. The common perception of the DPR was consisted of ‘4D’: *Datang, Duduk, Diam, Duit* (attend, sit down, keep quiet and [get] money). Such perception is reduced nowadays (at least the DPR is not a quiet institution anymore), but the DPR is still acknowledged as the most corrupt institution in the country (*Kompas*, 2013)⁷. Accordingly, the DPR functions of legislation, budgeting, and oversight were only to give legitimation of the government in exercising the policies. The function of the DPR to control the government has not yet seen to be practiced effectively. The DPR legislate the laws together with the government. Although the power of legislation is transferred to the DPR as a result of the constitutional amendment, in reality, the bills mostly come from the government side. This phenomenon is also similar to the budget bill. The oversight function of the parliament to control and watch the performance of the government is also important besides the legislation, however in the DPR, although sometimes in the media, individual DPR members claimed to question the government’s policy, the formal exercise was almost rarely conducted. When conducted, it was usually a task of certain commission with around 50s DPR members, rather the task of the DPR institution, concerning all members. With the task of a commission, the oversight or questioning function was usually conducted at the smaller commission meeting, instead of at the Plenary Session.

⁶ Actually, the *musyawarah mufakat* mechanism was a good concept as many voices were heard first before reaching an agreement, thus the minority voices were also acknowledged. However, with the increased number of *fraksi* in the DPR after 1999 election, such mechanism would consume a lot of time. Specific in the DPR, the *musyawarah mufakat* mechanism has justified the practice of oligarchy, as it is the elites of *fraksi*, or the party chairs, instead of all DPR - within the closed small meeting room, instead of at the Plenary Session - have reached the decision in the name of the DPR as an institution (Sherlock, 2010).

⁷ The DPR in 2009, 2010, and 2011 has been the most corrupt institution, while in 2012 and 2013, the DPR shared the corrupt institution label with the police corps.

The main parliamentary roles indeed are largely exercised in the committee meetings, rather than at the plenary meetings. The Plenary Session only *formally* enacted the bill into a law as the debate and the approval were decided beforehand. Conducting the parliamentary practices at the committee meetings, might reflect the view that the committee is more important forum of the DPR, compared to the Plenary Session. Consequently, despite its highest forum for decision-making as stated in the DPR procedure, the Plenum lost its significant purpose as the public view of the parliamentary work, and showed only its ceremonial status.

While the DPR, during the post-Suharto era, did not recognize its representative aspects, it gave a greater role to the parliamentary leaders or elites (house speakers, chairpersons of working bodies, and party chairs) to make decisions on behalf of all DPR members. The DPR's *Tatib* emphasizes on the DPR Working Organs⁸, which suggest the 'balkanised' system of work in the DPR. The DPR parliamentary functions was sectioned under the working organs of Legislation Council and Budget Council, and the Oversight function is exercised mainly within the Commission, depended on the tasks of each commission. The sectional type of work in the DPR is worrying, because the importance of parliamentary function only exercised by a commission, consisted of 10% of DPR members, instead of *all* members. It is why the procedure is in urgent need to be revised.

The list also suggests the importance of the DPR Leadership. The position of leadership (also for the commission chairpersons) is drawn proportionally according to the political party seats in the DPR and the Leadership is a collective position, which represents 'a collective consensus of the different political currents in the assembly' (Sherlock, 2003: 10). One leader (*ketua*) and four vice-leaders (*wakil ketua*) are the DPR Leadership and act collectively. The DPR Leadership is usually allocated to the winning parties inside the parliament. While in a common parliament, 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, once elected, the Speaker

⁸ The DPR organs are 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*- BKSAP; House Affairs Council/*Badan Urusan Rumah Tangga* or BURT; Ethics Council/*Badan Kehormatan*; Special Committee/*Panitia Khusus* or *Pansus* (DPR *Tatib* 2009 and Sherlock, 2003 and 2007).

is not formally affiliates to a political party to maintain impartiality; in the DPR, the majority parties sitting in the Leadership 'lead' the DPR.

In fact, a leadership is a token of appreciation for the success of political parties during the election, thus this success is appreciated in the form of obtaining a chair at the DPR or at important/'wet' commissions. Being in the DPR leadership, the leaders automatically chair the Steering Committee (*Badan Musyawarah/bamus*), which is largely responsible for the DPR's agenda setting and may hold off or disregard, certain items in the agenda, even directing to a certain decision by calling for private meetings of leaders (*rapat lobi*)⁹. Due to this high profile of its tasks and its membership, the Steering Committee is considered as an influential body, often called as a 'mini DPR' for its function is often replacing the Plenary Session (Katharina, 2007: 86). The importance of leadership position, and even the status as a DPR member, emphasizes the position of leader compared to common people and led to the formation of an oligarchic practice that affected the parliamentary procedure.

Moreover, the local media reports negatively of the DPR. This mostly revolves around the low number of laws enacted annually, the empty chairs in the Plenary Session, or the corruption cases which overrides DPR members. All accentuate that the procedure in the DPR is not supportive to the process of democratization that Indonesia pursues. As stated above, the DPR is still a bureaucratic institution: a position as a DPR member is seen merely as a status in the society; elites position in the DPR is seek; oligarchy is encouraged in the procedure; deliberation process is conducted in the smaller forum of committee meetings, leaving Plenum as a ceremonial forum only; and there is no debate or exchanging views in the Plenum, only the factions' speeches on the Plenum podium. The heavy bureaucratization DPR's meetings or the Plenum and acquire the DPR's documents. The complicated procedure and the DPR's portrayal suggest disinterest to research the DPR meeting proceedings.

Such significant political culture are still seen when studying on the DPR procedure and parliamentary minutes, however, by studying the internal documents produced by the DPR - the laws, minutes and procedure -, the political culture in the DPR is not only acknowledged but also

⁹ It happened when Akbar Tandjung as the DPR Chairman in 1998-2004. In 2003, Akbar had been convicted of misusing Rp 40 billion (US\$4.49 million) of State Logistics 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 lobbying meeting, attended only by leadership of the DPR and factions totally ignored the intention of all DPR members as a whole to require more explanation on the case.

analyzed. Only after the acknowledgement, the proposal to revise the procedure can be made. The importance to address the political culture in the DPR is even more supported when seeing the legislative process in the DPR below.

3. DPR legislative process and procedure

After the fall of Suharto's regime, the sacred constitution was amended, and the DPR was empowered. However, with the new stipulation in the constitution, the DPR's legislation power can only be exercised with the company of the president¹⁰ and a proposed bill will become a law only after both institutions reach *a joint approval* (Article 20 point 2). By such design, the president still holds important position in the legislation, thus it is misleading to claim that the role of parliament has been enhanced (Sherlock, 2010: 160). 'A joint approval' was considered a middle way to reduce the president's legislative power, but the government not only prepares the bills to the parliament but its accord to the 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 second chamber, which has to negotiate with the DPR on the final legislation. Accordingly, the DPR does not work independent for legislating.

Legislation is indeed the most important of the DPR's function. In fact, the Law 27/2009 accentuates more on the DPR's legislative function compare to other functions, which suggests that the DPR is a legislative body, not a representative body. With this emphasis, the legislative process heavily dominate the content of its Standing Order *Tatib*, however, the legislative procedure is far from clear. The three stages of readings in legislation which commonly found in the parliament was not clearly displayed. It is important for a parliament to practice parliamentary procedure, especially legislation process, in a correct manner (Palonen, 2014: 38), however, the DPR still did not addressed it properly.

In the Westminster parliament, we know the three stages of Reading in legislation. There is a debate in the plenary session and in every stage of Readings, political agreements between each

¹⁰ Although the Constitution states 'the president', it does not mean that the president sits together with DPR to discuss a bill. It means: the (central) government represents the president to sit with DPR discussing a bill (source: *Minutes of Constitutional Amendment*, 2010, MPR Meeting on 13 October 1999 p. 497-8). In practice, the Ministers related to the bill will attend at DPR during the initial meetings while at the 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 portray this tradition.

party had been reached. The important aspect is all parliamentary members acknowledged the bill proposed to the parliament. The DPR's legislative process was different. As previous studies on the DPR reported (Sherlock, 2003; Ziegenhain, 2008), the DPR preferred to exercise its constitutional roles at the committee meetings. It looked similar to the Second Reading, but actually all decisions were already reached in a committee with around 50 DPR members, leaving the Plenary Session as a ritual formal session to legitimate the decision agreed previously. Members outside the committee did not have a chance to express their views (no Report Stage), as there is no debate-style in the DPR Plenary Session, only report speeches by each faction or parliamentary groupings (*Fraksi*) in the DPR. Because the discussion or important decision had been made in a smaller forum, which was out of public view, then exercising compromise style of decision-making and sharing power among elites had suggested an oligarchic practice inside the DPR.

The parliamentary procedure has basically remained the same since the authoritarian regime ruled. 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). With these traditions, the legislative process is drawn.

The overall legislative process in the DPR runs as follows. The bill is usually proposed at the Plenary Session by the government. The government will have the explanation first at the appointed commission or committee, then the *Fraksi* give an Overview on the Bill, followed by the Government's Reply towards the Faction's Overview. All these are in format of speech from the podium and no dialogue occurs during the process. If the bill comes from the DPR's initiative, a member or the representative from the commission (or the mergers of commission) will deliver the explanation, followed by Faction's Overview and the government overview. The Reply for the Overviews may be delivered. Only after that, the discussion process can be started. After the Government Reply, then the bill is agreed to be sent to a commission¹¹. The commission/committee normally consists of 50 members based on faction configuration. Each faction later submits a Problems List (*Daftar Inventarisasi Masalah* or DIM), based on the Overviews read at the plenum, showing each faction's standpoints. This DIM document will be used throughout the deliberation process. The discussion of each faction and government, inside

¹¹ A special committee is set up if the issue overlapped with more than one issues discussed at a certain commission.

the commission/committee later, is based on these DIM documents, which follows clause-by-clause steps of discussion. The commission or committee may invite experts, conduct hearings, and form a smaller team inside it 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 are smaller to focus on certain issues to be discussed thoroughly. This is the discussion Level I. If the problem lists of the bill have been all discussed and agreed, all factions and the government will accept the content of the bill. Each faction gives a Mini Standpoint and the government gives Preliminary Overview. The bill has been agreed by both parties to be accepted, and then the bill can be processed to the Level Discussion II at the plenary session.

The Discussion Level II starts when the Head of the related commission or committee reports the process of discussing the bill from the previous level, then each faction gives their Final Statement towards the bill followed by the Government's Final Statement. The DPR Leadership will ask a decision from the floor of DPR members, whether the bill is approved or rejected. Usually the bill then will be enacted, because the bill has already been agreed in the smaller forum or at the previous level of discussion, but still there is no exchange- views between members in the Plenary Session. The Plenum will in formality agree to enact the bill into a Law. After approval at the Plenary Session, the law is delivered to the state secretariat for numbering, and if rejected (which has rarely happened), the law could not be proposed again in the same term, but is possible to be discussed again in the next DPR session time.

The legislation process can be drawn based on studying the DPR parliamentary debates and procedure, as a figure example below.

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

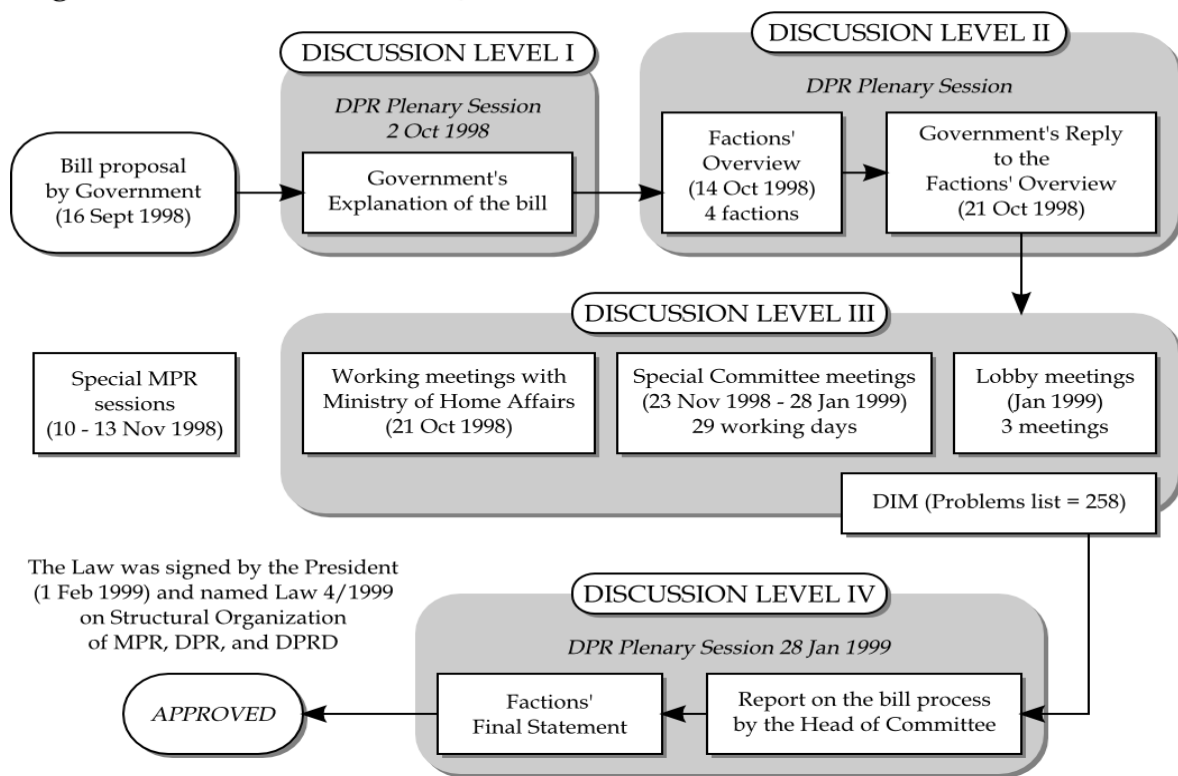


FIGURE 1 The legislation process of Law 4/1999 on Status and Position of MPR, DPR, and DPRD compiled from the parliamentary debates.

Seeing from this process, the legislation system arrests many good argument postulated by the members of parliament. The complicated process within the DPR's legislation actually starts soon after the Problems List (DIM) has been produced. The discussion of the bill from each faction and government is based on the DIM document, follows the clause-by-clause steps of discussion. For example: the title of the bill will be read and if a faction does not agree with the sentence/wording of the title, such faction gives notes at DIM, suggesting the change on the sentence/wording; then moves to Definition, article 1, article 2 with the same treatments. If any faction does not agree with the content, it suggest something else and other factions may discuss, reject or give opinion about it. Thus the discussion is based on the wording for specific clause or article, not on ideas or major issues, based on the political party's agenda or the voters needs.

Interestingly, after a decade, the legislative process did not change much. The below figure shows the event-based discussion is maintained.

Legislative Process of Law 27/2009 (2 steps of discussion)

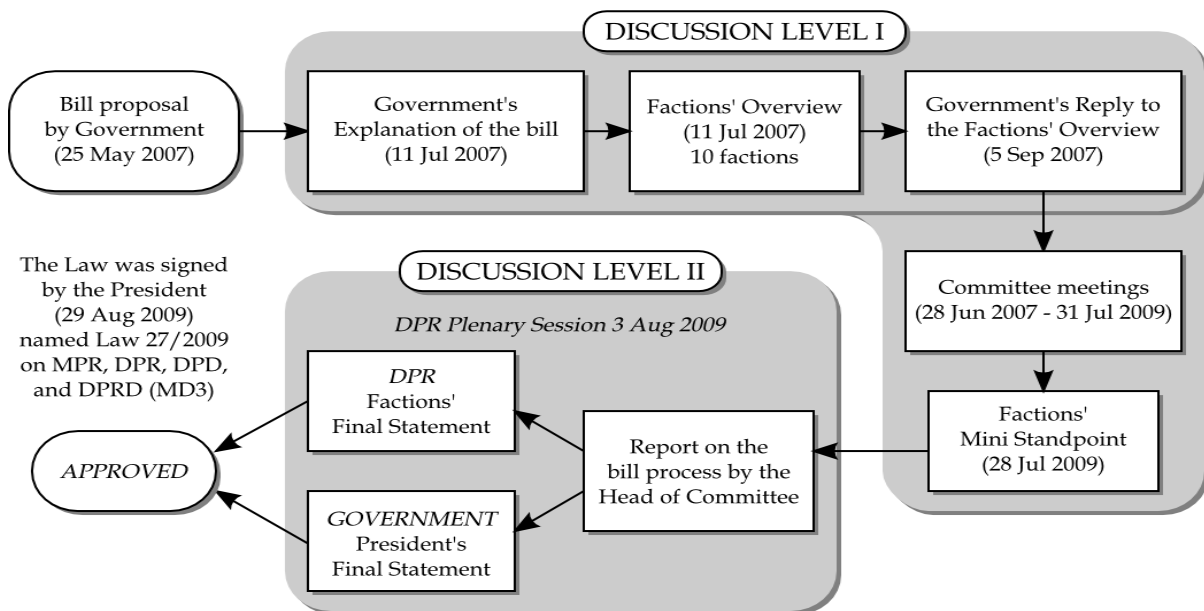


FIGURE 2 The legislation process of Law 27/2009, on Status and Position of MPR, DPR, DPD, and DPRD, compiled from the parliamentary debates.

The legislative process above shows problems of event-based instead of decision reach of each stages. The 1999 started with four levels of discussion, and reduced into two in 2009, yet, the event-based remained and the practices were mostly at the committee level. Discussing the bill by using the Problems List document, instead of the bill itself, reduces the opportunity of parliamentary members to see the purpose of the law to be enacted. By this method, the law articulated would be based in finding the solutions for the wording problems and not seeing the big picture. By using the Problems List, the members are trapped in discussing in details, choosing words and scrutinizing small aspects, 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 detail structure of the bill, DPR members are expected to be 'experts' in legislative drafting¹² and should master the knowledge covering the issues of the bill and its construction. A DPR member should also become an expert in drafting law and language corrector for synchronization work inside the commission. Such a legislative process is exhausting because it involves a detailed and thorough

¹² Interviews with Ganjar Pranowo (former DPR member of PDIP) 22 July 2011, and Ahmad Farhan Hamid (former DPR member of PAN) 31 May 2013.

legislative drafting which hardly any DPR member could be capable of having such a multi-skilled role including being a politician, a lawyer, an administrator, a legal drafter, a consultant, and even a language expert, at one time. Due to the status issue between DPR members and the Secretariat, the DPR members do not trust the professional work of the legal drafters or researchers of the Secretariat. The Secretariat staff remains in a supportive administrative role for typing and petty jobs at the meeting rooms, instead of being partners with which the politicians can exchange views. The DPR members and the government's representatives assume that they are the only brains for deliberating the bill.

The *Tatib* does not mention anything about the debate and its rules, as the DPR has never been set up as a debate chamber. Suharto's presidency made debate a taboo under the Indonesian political culture¹³. Under this legislative process, the issues of neglected plenary session, and quorum became classic. Most DPR members are reluctant to attend the Plenum, as they realized the session was merely for a fake show there is no opportunity for an ordinary member to have a say. The decision-making process has already conducted within the smaller forum of a commission, or even by decision was reached by the oligarchic practices by the elites of *fraksi*. Political practices and arrangements in the DPR have been shaped in a way, which aimed to reach compromise in law-making that pleased all *fraksi*. Reading the parliamentary minutes on the regional parliament case revealed such a tendency.

4. Revising the procedure based on the parliamentary political culture

Scholars studying Indonesia must acknowledge the apparent cultural differences in its politics (Liddle, 1996: 10). In fact, in each study of the DPR, the writers found the ostensible political culture reflecting the whole operational system in the DPR (see Schneier, 2005; Sherlock, 2003, 2010; and Ziegenhain, 2008, 2009), yet these studies did not elaborate on the political culture seriously. In fact, most international organizations proposing parliamentary reform in the DPR based on the liberal democratic function and did not focus on the internal parliamentary procedure, which became the rules of the game inside the institution. Revising the procedure will build and fix the system. The UNDP and DPR Secretariat handbook (2009), for example, also emphasized that the success of parliamentary democracy in Indonesia rest on the

¹³ In the Suharto's era, debate was discouraged in the DPR as it was considered as dissent or protesting act towards the president. Such exercise was ruining the harmony and shaking the dominant presidency, as Suharto tried to 'repress the organized opposition' (Liddle, 1996: 21).

DPR members. If the members is given a greater role, the system must be fixed first. Working towards democracy cannot be reached using the outdated authoritarian-type of parliamentary procedure. The procedure also put the political culture in practice. The democratization process, pioneered by the constitutional amendment and series of empowerment and laws revision, the DPR and its secretariat constantly remained weak if the political culture is ignored and the DPR procedure is not revised accordingly.

The DPR members, especially coming from the new parties, are keen to reform the institution, but they did not know what to address first. During the transition era, the government also had proposed of reform in legislation. For example,

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 in the same time and to be discussed. This is the way in modern democracy. It is much more effective and **gives greater role to the members**. Thus,...the bill won't only come from the government, but the civil society may also initiate to lobby members in sub-committees in the DPR to make laws...the importance is the initiative to give meaning to the state based on laws, there is an initiative to submit bills as many 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. (Minutes Law 4/1999, Working Meeting-7, 15 December 1998 p. 1204-5, emphasis added)

The remark, if addressed, would require a series of changes in the DPR's parliamentary procedure. The government still prepares many bills for the DPR, although the legislative power is moved to the DPR's hands. The DPR must not rely only on the government's proposals. Unfortunately, as usual, this view was not reviewed thoroughly afterwards because the DPR still did not consider the importance of the procedure. The old mechanism did not allow for such good proposal to be discussed thoroughly.

When scholars criticized 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 portrayed above, a parliament member – either a senior from the old regime or a new one coming from the political party - at the DPR can hardly be an expert in everything and know all details of the legislative work as exercised in the DPR. The empowerment of the DPR members would presuppose that their position will be reinterpreted from a mere status as a member, into a real practice of acting politically. The legislation works become more complex and with the public also becoming critical, the DPR should reform also the (legislative) procedure to address the problems. In one way, members may table the specific issue of the bill for the discussion and

discuss (or debate) on the issue, thus delegate detail, like language usage, to other, such as the Secretariat staffs or other experts.

The DPR procedure as regulated by the *Tatib* was likely to be only known by its members and focused on the DPR affairs solely, although actually the DPR task was also related to the government in running the country. The circle outside the DPR, or common people did not know how the DPR and its legislative function affected the life of Indonesian citizens. 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 revitalization of the Plenary Session should be enacted. Upgrading the parliamentary procedure into a law or having a law on legislation process would be the options for the DPR to address its problems of internal regulation and confusing legislative processes.

Upgrading the legislative procedure into a law would bring 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)- bound by the law and the process would be acknowledged publicly. The mechanism of *musyawarah mufakat*, which is suspect as the main obstacle to a democratic parliamentary feature, can still be adopted if the role of the leadership is eventually reduced in discussions, and all DPR members are involved in the process. Ideally, such decision-making would best be conducted in the Plenary Session, viewed by the public. This procedure would rationalize the time of speaking, and as the public watched the process, the members would certainly learn to state his/her remarks eloquently and even work with limited time. With the introduction of such a new mechanism, the DPR would encourage the emergence of effective, but perhaps very loyal, opposition in the future DPR.

Utilizing outdated parliamentary procedure for enacting new issues for democratic policy is clearly limited the DPR members and the government to effectively deliberate and legislate. The case studies on regional parliaments show that Indonesia is indeed embracing democracy at the conceptual or policy level, which then has brought about a “good-in-paper” policy but chaos in implementation. Applying democratic policies using the old ingrained political traditions, created a struggle of interests between the actors inside the DPR and political realities. This relates to what Lev mentioned about the Indonesian deficit of rule of law that ‘Indonesian parliament always easier to promulgate than to enforce’ (quoted from Davidson, 2009: 299).

For promoting democratic changes 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* document. Perhaps the work should be done along, and not against, Indonesian political culture. When Indonesian elite culture is still dominant, it is the leadership personnel who must be active in reforming the parliament and propose changes. Cultural change in Indonesian society has taken place if the leaders conduct it first (Wertheim, 1956: 279). This may be paradoxical, but with the leading of the elites, revising the DPR procedure within the institution, would have good prospect of success. The institutional reform that has been started in the DPR, certainly requires the DPR elites to be agents of change, so that the DPR starts to act as a true parliament (Carnegie, 2008: 518). Only by a modification of the procedure, the elite behavior, all DPR members, and the secretariat, together with other elements associated with the DPR may adjust to the new procedure. If the DPR leadership committed for a reform in the DPR, the intention would be followed by all members, and thus the significant change would occur.

The Indonesian DPR has displayed promising elements of democratic culture, such as ‘flexibility, trust, efficacy, openness to new ideas and experiences, tolerance of differences and ambiguities, acceptance of authority and attitude towards responsible authority’ (Diamond, 1994: 12). Moreover, the DPR members have also displayed a respecting attitude towards the rule of the game and trust towards the leaders. These later elements might be seen not democratic, but they characterize the significant 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 occurred 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). It depends on the elite’s determination to commit to the democratization and modify the rules of game to be more democratic.

5. Conclusion

The study suggests that the parliamentary reform must address the institution’s political culture and the rules of the game. As the rule of the game in the parliament is the parliamentary procedure, it is important to revise the procedure after series of reform conducted. The case of Indonesian DPR shows that the regime and institutional changes did not suddenly change the

DPR into a democratic institution or a parliament, as the core structure was basically similar as in the authoritarian regime.

Addressing the DPR's political culture that it is a place to gain and display a status, and not as a place to exercise representative political power, reflects overall Indonesian political culture (derived from the Javanese concept of power). Thus, the DPR elites would like to be appreciated for their statuses, although their positions are in groups and not individual. Status derived the DPR members from their actual representative roles.

Working with the internal political culture - either the political structure or the institutional tradition - arguably would recognize the obstacles to achieve the democratization process, and later to contribute to reform. It is a matter of political culture that the DPR was not democratic, and did not pose as an effective parliamentary institution, but with the political culture of upholding the rule and the elite-driven, there is a chance for the DPR to be democratic.

Democracy is a work in progress, as previous assessment on political culture and democracy have observed (Anderson, 2000: 437; Ellis, 2005: 8) thus it needs time to be rationalized and adapted. For the DPR, only after the procedural revision, which should be promoted by the DPR's elites, the democratic parliament in the DPR would be fostered.

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