

## The Transformation of Indonesia's Legislature: Increased Role, Remaining Challenges

*An Open Forum with*



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### **Introduction**

On February 15, USINDO hosted an Open Forum on transforming Indonesia's legislature with Djayadi Hanan<sup>1</sup>.

Hanan began by noting that the DPR (*Dewan Perwakilan Rakyat*, also known as People's Representative Council) today is much different than the organization that existed under authoritarian rule. Despite remaining challenges, today the DPR is a functional law making body. The DPR can be categorized somewhere between a reactive and proactive legislature. It is important to note that it is continuing to move in the right direction.

To put into perspective how the nation has transformed since independence, during the first 53 years, Indonesia had only 2 presidents; in the last decade alone, there have been five presidents. Since 1999, there have been four constitutional amendments:

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<sup>1</sup> Djayadi noted the data in his presentation is based on preliminary research.

- Establishing a directly elected president with separation of the executive and legislative branches and a system of checks and balances;
- Removing the military from politics;
- Reducing the power of the People's Consultative Assembly (MPR), which was the highest state body during authoritarian era with responsibility for electing the president and changing the constitution; and
- Establishing a Constitutional Court.

Society has also changed, becoming more critical, demanding greater action and willing to make its own decisions. As an example of this growing import, public opinion polls are frequently conducted.

The Indonesian government system has three branches: executive, legislative, and judicial. The People's Representative Council (DPR) has 560 seats, and a one term limit of 5 years. Created by the DPR, the Regional Representatives Council (DPD), has only advisory powers to the DPR. The Regional Representatives Council is similar to the U.S. Senate, except that it does not have any law making power. In Indonesia, there are two courts – the Supreme Court and Constitutional Court.

The DPR is chaired by a speaker and four deputy speakers elected by the membership. The internal entities of the DPR include:

- Leadership Body
- Deliberation Council, or steering committee
- 11 Commissions (*Komis*), each of which is paired with a government unit; for example, Commission I deals with international affairs and works with the Ministry of Foreign Affairs
- Legislation Council, which drafts bills that are initiated by the DPR
- Budget Council, or budget committee
- State Finance Accountability Council
- Honorary Council, or ethics council
- Inter-parliamentary Cooperation Body
- House Affairs
- Special Committee (ad-hoc)
- Others, as determined by the Plenary

The Constitution has mandated several changes. The DPR now has the authority to initiate, deliberate, and pass legislation. It can modify and approve the budget, oversee the government, and make various appointments and confirmations, such as foreign ambassadors. The Commission for Corruption Eradication (KPK) must also be nominated by the DPR.

The Constitution also stipulates that the President initiate bills. Since 2004, the DPR and President have initiated equal numbers of bills, but those bills with the most impact are often initiated by the executive branch. To pass legislation, joint deliberation between the President and DPR is required, unlike the U.S. where the President can choose to veto a

bill. In Indonesia, if the President does not agree with a bill the legislature wants to pass, the President can refuse to send a representative to deliberate, which ensures the bill is dead-on-arrival. This is not the same as the veto power of the American President, but is more powerful. The executive branch has stronger organization and institutional capacities, which are carried over from its authoritarian past.

Today, transparency has greatly improved. Before 2009, it would be difficult to get access to transcripts of deliberations of the bills. Today, you can go to the Bureau of Information in the DPR and request access. All the processes of the DPR are open to the public unless indicated otherwise. The only limitation is with regard to finance. These budget deliberations are not open to the public.

There are some new structures like the Legislature Council and the Secretary General. The latter is the primary support system of the DPR, similar to the Congressional Research Service (CRS) or other bodies in the U.S. government. It was part of the executive branch until 2009, and had been used under the authoritarian regime to control the legislature.

The Secretary General has been reorganized with more staff and products. Under Suharto, 11 bills per year were passed; since democratization, and especially since 2004, the average number of bills passed annually is 40. Under Suharto, you also could not question the President but today, DPR members can question anything in the government.

Only 30% of DPR members are re-elected, thus 70% are new. Yet there is no parliamentary support office with the necessary technical capacity that can help the DPR scrutinize what are often very large bills and budgets. There is expert staff but recruitment is a problem as it is often relatives, not professionals that are recruited. There is also no CRS or Library of Congress and salaries are low.

Regarding institutional capacity, DPR support staff are broken down into the following categories: 53% administrative staff (1,637 people), 3% researchers (81), 1% young legal drafters (27) and for personal assistants and expert staff members, there are 1 of each per member. There are 636 and 123 partisan and non-partisan expert staff, respectively. This is an improvement over the levels in 2005 but is still problematic.

For political staff, 53% are expert and 47% administrative. Non-partisan staff is dominated by administrative staff, most likely due to the legacy of the new order where most were public servants. The government is still the biggest employer in Indonesia. DPR has a lot of power and authority, supported by the staff.

Aggregating all support staff, the number of administrative staff greatly exceeds the number of functional staff. Since functional staff is responsible for all substantive matters, DPR needs to increase their number.

The executive units in general have a similar organizational structure as the military – they are pyramids – and each has its own staff. The Ministry of the State Secretary once housed all the supporting staff of the DPR. The Ministry of Law and Human Rights coordinates all

matters related to the Legislature. Another important ministry is the Ministry of Law, Justice, and Human Rights, which has approximately 40,000 staff, and many that are functional staff. The Ministry of Finance also has many technical staff.

DPR has power, but the execution of power when dealing with the executive branch is a problem.

Another issue is the salary of DPR members, which is a public relations concern. Members often increase their own salaries and the structure for how these salaries are determined is confusing. They receive roughly \$400 for their basic salary, and receive allowances for a partner, children, for sessions, for their position as a member of parliament, including additional funding if the member is ranked, communication, oversight, and budget function, etc.

It was set up this way by a law on finances, and is controlled by the executive branch. The budget of the DPR is less than 0.2% of the total annual budget yet it is still considered one of the most corrupt institutions in the country. Thus the challenges for the DPR are not only improving capacity through increased technical staff, but resolving the public relations issues associated with member salaries and better communication with the public.

In the U.S., the connection of congressional leaders to society is very important – the American public is always the justification for taking action. The Indonesian legislature is a proportional representation system, thus seats are shared proportionally across all participating parties. Districts are multi-member, with magnitudes of between 2-11 members per district. Most districts in Java have 10-11 members. The political parties determine the list of members competing for seats. Since 2009, the party list is now open so that whoever receives the most votes will be allocated the respective seat as long as it is still available.

One of the problems the DPR is experiencing is connecting members to their constituents. Members mostly live in Java, with 68% living in West Java and Jakarta. Most members are not local leaders – they are based in Jakarta, and thus must convince their party leaders to assign them to districts outside Jakarta. This often requires some kind of payment.

Although most members live in the capital city, the challenge of connecting with constituents could be overcome by constituency visits. However, the current mechanism prevents constituency visits from connecting members to society. The DPR has four sitting periods every year. Between these sitting periods, members have the opportunity to go to their local districts. There are two types of visits on which party leaders will send members: *committee-based*, where a member must visit a district, often not his own, in order to perform duties associated with the committee, and *district-based*, where members go to their representative districts. There are also *working visits* six times per year, where members can go anywhere they choose. This structure limits the impact of constituent visits.

Another way to strengthen relations between members and their constituents is by meeting with civil society organizations (CSOs). In a survey conducted by Hanan, members noted they met with CSOs on average once a month. This is not enough. Members also have a Rumah Aspirasi, or constituency office, but these lack funding and staff, and thus also cannot bridge the connection gap. Remote areas are very difficult to reach, often requiring assistance from the executive branch and creating problems not only with connection, but with corruption.

DPR's approval rating has declined from 44.2% in 2005 to 23.4% in 2011. This approval rating is important for DPR to be able to reform because it must increase its budget to pay for reform activities. But this cannot happen unless you can convince society that DPR *should* receive a budget increase. If they do not, they cannot reform and will be further criticized, which in turn makes it more difficult to receive the additional funding needed to enact reforms.

The structure of DPR has made the decision-making process somewhat cumbersome. The DPR leadership consists of five people, with the head chosen from the political party receiving the most votes, and the four vice-heads chosen from the parties receiving the second through fifth highest votes. In this system, the opposition party also holds a leadership position.

There are currently nine parties in government, and several parties formed into a parliamentary group called the *fraksi*. There is a debate as to whether this system is committee- or party-based, the latter indicative of party leaders having greater control over activities and members. Hanan's research shows the system is both: if the leadership wants to interject in all matters of the DPR, it must increase capacity to do so. Instead, it selects those issues in which to intercede.

The standing orders stipulate that decision-making is based on consensus. If consensus cannot be reached, it goes to a vote. Consensus is universal approval, but from whom? If it were required of all members, that would be impossible. Instead, only the leaders will deliberate, thus in actuality this process is oligarchic. Some see this as problematic because it can make the process cumbersome.

The rules of procedures can also be problematic when members, who are on multiple commissions and bodies, have conflicting meetings. Coalitions and the opposition can be both problematic and beneficial to the executive branch. They do not always vote with or against the administration and thus cannot be used as a tool to guide DPR. Sometimes it is in fact the opposition that supports the executive branch.

Capacity is also problematic for passing budgets. Budget bills are initiated by the President. The budget is usually sent to the DPR in August, and deliberations must conclude less than two months later, by October 1. This budget making process has been highly criticized because DPR has a lot of power in approving bills but not enough capacity to scrutinize them line by line.

What changes are needed to improve the DPR?

### **Recommendations:**

1. Increase technical expertise. Members should reduce committee rotations; they currently rotate committees a few times per year, thus it is difficult to build capacity. Improve the transfer of institutional knowledge by holding mid-term elections or through another mechanism. Create a better, substantive support system and address public relations issues that make it difficult to reform.
2. Improve the connection with constituents.
3. Develop a more effective decision making process.
4. Improve transparency in the budget-making process.

### **Questions and Answers**

#### ***Q: How can the DPR evolve?***

A: The DPR is still in a period of institutional transformation. It is still young, and must determine how to define its institutions. The constitution stipulates the legislative branch play a larger role in law-making in this multi-party presidential system.

#### ***Q: Has anyone looked at the impact of the monthly consultations with civil society and do you think they should increase despite the technological and other barriers? Is anyone studying this?***

A: Hanan surveyed 10% of the DPR; of those, 92% said it was important to have a connection with CSOs. The opportunity is there but they must be more creative in connecting with society. For instance, if they cannot form an aspiration house, why not maximize the use of their local political party chapters? They can also better use social media. Hanan is not aware of anyone examining this issue further.

#### ***Q: Why did the party system develop without roots in the constituency?***

A: Indonesia has been undergoing substantial decentralization of its political system yet the political parties themselves remain very centralized. The challenge is how to reform the political parties.

The law states that DPR members must remain in the capital during the sessions. The electoral laws are also problematic because they do not create incentives for local leaders to run for office. Instead, the law allows proportional representation based on the party system which encourages centralization.

Money is also a problem – it is very expensive to run for office. When there is an election, it is called the Democratic Festival – since elections are on a five-year cycle, constituents rarely see their representatives until the year before the election and demand something in



return for their vote. Indonesia can start with political party system reform, and could explore rewriting electoral laws to have components of both plurality and proportional systems, like in the Philippines or South Korea.

***Q: How do you break the cycle of corruption that causes elections to be expensive?***

A: Today, elections cost between \$200,000 and \$1 million. Experts say the problem of electoral corruption could perhaps be resolved by introducing state-funded political financing, such as in England. This would facilitate the campaigning of all potential candidates. However, it is difficult to pass this type of reform because it would require the parties in the DPR to change the law, and this is unlikely. Recently though, we have witnessed how the public can successfully pressure the government to change, and so perhaps with sufficient public pressure, this will be possible. Two examples of when public pressure corrected governance issues are the pornography law and the criminalization of KPK officials by the police they were investigating.

***Q: Regarding the political party law, does the central party decide who from their party will run from each district and is there a requirement that people live in the district they represent?***

A: In general, it is the central party that determines the candidates for the national legislature. The local legislature is different. There are some requirements, like at least 30% must be women, but no residency requirement.

***Q: What is the power relationship between the executive and the legislature, and how is the coalition and opposition used?***

A: The coalition is the informal mechanism in the Indonesian governmental system, and it works. According to political science theory, the multi-party presidential system will be gridlocked. Yet, Indonesia has not experienced this. Part of the reason is that the President can always go to the coalition to find a compromise. The coalition so far has been able to help the President in most cases. For example, when the Golkar Chairman becomes the Secretariat of the coalition, it not only gives Golkar power, but puts Golkar into the President's orbit. The President will often go to the coalition first before making a decision to ensure there is agreement. He has been criticized by the PDIP (*Partai Demokrasi Indonesia Perjuangan*, or Indonesian Democratic Party of Struggle) for violating the principles of the presidential system but Hanan does not believe this is true.

***Q: In the U.S., a filibuster can be used to disrupt debate. Is there a similar dysfunction in the DPR?***

A: Indonesia does not have a filibuster, but you must work on consensus, which is very time consuming. Under this system, one small party in disagreement can delay the majority taking action on an issue. Introducing a mid-term election would help, but it must be paired with other improvements.

There is also a problem with bureaucracy. For example, law 17/2003 on State Finances says the chief financial officer is the Minister of Finance, so any finance reform must come through this Minister. Bureaucracy reform is then essential. If this is not pursued, reform will not go far. This is one of the challenges in reforming DPR. Also, sustainability is an issue since many reform initiatives are assisted by foreign institutions.