



## **Reconstruction of Political Party Membership In the Indonesian House of Representatives\***

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### **Abstract:**

The House of Representatives (DPR) is an embodiment of the provisions of Article 1 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Sociologically, the existence of the DPR as people's representatives is a mandate from all Indonesian people that must be carried out. In Indonesian constitutional practice, the role of the DPR as a people's representative institution is manifested in the form of a faction, which is an extension of the political parties and DPR institutions. The faction was formed to optimize the functions, duties, and powers of the DPR. This study uses a qualitative research method with a statutory approach. The data recorded is the result of the author's research in the form of literature collection and interviews with several related parties. The results showed that the membership of political parties in the DPR towards the existence of the DPR as the implementer of the people's sovereignty did not show any connection between one another. The existence of political party membership and DPR membership are two different things that have no juridical relevance.

**Keyword:** DPR, Political Party, General Election

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## **Rekonstruksi Keanggotaan Partai Politik Di Lembaga Dewan Perwakilan Rakyat Republik Indonesia**

### **Abstrak:**

Dewan Perwakilan Rakyat (selanjutnya disebut DPR) merupakan lembaga perwakilan rakyat, yang merupakan perwujudan dari ketentuan Pasal 1 Ayat (2) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. Secara sosiologis keberadaan DPR sebagai wakil rakyat merupakan amanat dari seluruh rakyat Indonesia yang harus dijalankan. Dalam praktek ketatanegaraan Indonesia, peran DPR sebagai lembaga perwakilan rakyat diwujudkan dalam bentuk fraksi, yang merupakan perpanjangan tangan partai politik dan lembaga DPR. Fraksi dibentuk dengan maksud untuk mengoptimalkan fungsi, tugas, dan wewenang DPR. Penelitian ini menggunakan metode penelitian kualitatif dengan pendekatan peraturan perundang-undangan. Data yang didata merupakan hasil riset penulis dalam bentuk pengumpulan literature dan wawancara kepada beberapa pihak terkait. Hasil penelitian menunjukkan bahwa keanggotaan partai politik di DPR terhadap eksistensi DPR sebagai pelaksana kedaulatan rakyat ternyata tidak menunjukkan adanya keterkaitan antara satu dengan yang lain. Adanya keanggotaan partai politik dan keanggotaan DPR merupakan dua hal berbeda yang tidak memiliki relevansi secara yuridis.

**Keyword:** DPR, Partai Politik, Pemilu

## **Восстановление членства в политической партии В Палате представителей (DPR) Индонезии**

### **Аннотация:**

Палата представителей - это учреждение представителей народов, которое является реализацией положений в статье 1 пункт (2) Конституции государства Республики Индонезии от 1945 года. Существование DPR в качестве представителя народа является социологически мандатом от всего народа Индонезии, который должен быть выполнен. В практике государственного управления в Индонезии, роль DPR как учреждения представителя народов проявляется в виде фракции, которая является продолжением политических партий и DPR. Фракция была сформирована с целью оптимизации функций, обязанностей и полномочий DPR. Данное исследование использует качественный метод с подходом нормативных актов. Полученные данные являются результатом исследования автора в виде сбора литературных материалов и интервью с несколькими связанными сторонами. Результаты исследования показали, что не существует какой-либо связи между членством в политической партии в DPR и наличием DPR как исполнителем суверенитета народов. Членство в политической партии и членство в DPR это две разные вещи, которые не имеют отношения к юридической стороне.

**Ключёвые Слова:** DPR, Политическая Партия, Всеобщие Выборы

## A. INTRODUCTION

The People's Representative Council (DPR) is a people's representative institution, which is the manifestation of the provisions of Article 1 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Sociologically, the existence of the DPR as people's representatives is a mandate from all Indonesian people that must be carried out. In Indonesian constitutional practice, the role of the DPR as a people's representative institution is manifested in the form of a faction which is an extension of the political parties and DPR institutions. The faction was formed to optimize the functions, duties, and powers of the DPR.

This paper has different approaches when it is related to the basic theory of democracy regarding political links, which are generally between political parties and their voters (voters) (Lawson, 1988: 113), between politicians and citizens (Kitschelt, 2000: 33), and between parliamentarians and their people (Olle & Stokke, 2013: 121). However, more emphasis is placed on the pattern of relations between people's representatives and the people represented, concerning the existence of factional institutions within the DPR which are the implementers of people's sovereignty.

In fact, the 1945 Constitution of the Republic of Indonesia does not regulate the formation of factions in the DPR institution, either implicitly or explicitly, but states that the composition (MPR, DPR, and DPRD) is regulated by law. In the history of the provisions regarding factions, there are 2 (two) laws that state and implicitly regulate the formation of factions in the legislative body, namely Law Number 2 of 2018 concerning the Second Amendment to Law Number 17 of 2014 concerning the MPR, DPR, DPD, and the DPRD, as well as Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties. Article 82 paragraph (1) of Law Number 2 of 2018 concerning the Second Amendment to Law Number 17 of 2014 concerning the MPR, DPR, DPD, and DPRD Law Number 17 of 2014 confirms that factions are groupings of members based on the configuration of political parties based on the results of general elections. Besides, the regulation regarding factions, be it the MPR, DPR, DPD, and DPRD (Provinces and Districts) is also regulated in Article 11, Article 80, Article 301, and Article 352 of Law Number 2 of 2018 concerning the Second Amendment to Law Number 17. 2014 concerning the MPR, DPR, DPD, and DPRD.

The existence of factions in the people's representative institutions, if examined in Law Number 2 of 2018 concerning the Second Amendment to Law Number 17 of 2014 concerning the MPR, DPR, DPD, and DPRD, it is seen only

as a consideration of inequitable distribution or representation of the preparation of complementary instruments. As well as the composition of the legislature so that it varies as much as possible or as a grouping tool for the distribution of members into parliamentary organs based on their parties. Besides, there are also many mentions of the role of factions in providing views or opinions related to the three legislative functions, namely legislation, budgeting, and supervision.

Based on such a constellation, the function of the faction is only for simplification called optimization as stated in Article 80 paragraph (1) of Law Number 2 of 2018 concerning the Second Amendment to Law Number 17 of 2014 concerning the MPR, DPR, DPD, and DPRD. However, this also has implications for limiting the rights of members of the legislature personally who carry messages from their constituents but must be filtered by the factions first, which becomes interesting if it is linked to the domain of political party leadership which can directly influence its members, including those who sit as a legislative member. Among the 11 rights of political parties contained in Article 12 of Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties, including forming a faction at the level of the People's Consultative Assembly, the People's Representative Council, the People's Representative Council In its formation for the province, the Regency / City Regional People's Representative Council must also comply with the statutory regulations.

The role of factions in the DPR which is considered important is as stated in Article 80 paragraph (2) of Law Number 2 of 2018 concerning the Second Amendment to Law Number 17 of 2014 concerning the MPR, DPR, DPD, and DPRD which emphasizes that "In optimizing the implementation of the functions, duties, and authorities of the DPR, as well as the rights and obligations of DPR members as referred to in paragraph (1) of the factions to evaluate the performance of their members and report to the public." It can be said that this function has rarely been carried out by each faction, even though it is a very important function compared to other functions because for example, for legislation, budgeting and controlling there are already in every commission or agency that manages it, but for the evaluation of the performance of the People's representatives are rarely carried out, let alone report them to the public as report cards, rather than the people's representatives' performance whether or not they are following the expectations of their constituents.

The presence of factions within the DPR as a form of institutionalization of political parties has both positive and negative implications, but of course, the negative implications must be minimized. Indeed, every member of the legislature carries the sovereignty of his constituents, where the people's sovereignty cannot be overlooked by anyone, but through a faction which is the removal of each member of the legislature who has the same party background (except for the joint faction), it can weaken or even override the people's sovereignty. Any member of a political party, even the chairman of a group, must abide by the laws of the party game itself, and if they do not adhere to it, the party may effectively exclude or dismiss a member who would immediately forfeit his place as a member of the legislature. This has also arisen by way of a recall or firing process based on a request from the party of origin. Such activities result in the transition of people's sovereignty to party sovereignty, and there is no direct process for enforcing sanctions against abuses of people's sovereignty, since they are generally only moral and political sanctions or just effect on prestige, while if they conflict with party policy they will have catastrophic consequences (Bunte & Ufen, 2009: 101).

The faction is not an entity of the DPR, but the faction position in the DPR is rather dominant above the role of the DPR representatives themselves. According to Das Sollen, the formation of a party aims to optimize and streamline the performance of the responsibilities, powers, privileges, and obligations of the DPR as confirmed in Law No. 2 of 2018 concerning the second amendment of Law No. 17 of 2014 concerning the MPR, DPR, DPD, and DPRD. However, in practice (Das Sein) groups have been the sole way of enforcing political party agendas on their representatives within the DPR institutions.

Based on the aforementioned reasons, it can be seen that the presence of political party membership in the DPR organization has an effect on the realization of the goals and essence of the DPR as an extension of people's hands and, in reality, appears to create policies that are not directed towards people's sovereignty. The configuration that is formed with the presence of a party that is the incarnation of representatives of the political parties in the DPR body shows the interdependent relationship between the people, the political parties, and the DPR institutions. On the one hand, the DPR has the power to create legislative items, the quality of which is governed by the organization of the DPR itself, so that it is highly affected by the thought of the DPR members (people's representatives), but on the other hand, these DPR members still have to apply self-generated legislation.

In this regard, it is very interesting if the membership of political parties in the DPR body is analyzed in more depth, especially concerning their existence as a people's representative institution, although they come from political parties, they are "considered as people's representatives". Thus it would be more interesting if the relevance of membership of political parties in the DPR to the existence of the DPR as a People's Representative Body, as well as the reconstruction of political party membership in the DPR which can support the implementation of people's sovereignty in the form of Law on the MPR, DPR, DPD, and DPRD are analyzed deeper again.

## **B. METHODS**

This paper incorporates normative approaches to legal research, i.e. legal analysis through reviewing library records or supplementary information, as a core activity. Normative law review is a scientific empirical approach to the quest for evidence-based legal science theory from a normative point of view (Soekanto, 2015: 13-14). As a result, this study varies from the point of view of the positive legal requirements for the national regulatory system (Marzuki, 2016: 59). The judicial system and case-by-case approach shall be the tools used. Secondary evidence is widely used as the primary legal knowledge under the laws and rules on the eradication of corruption and the decisions of the court. The data that has been collected is qualitatively analyzed.

## **C. RESULTS AND DISCUSSION**

### **1. The relevance of members of political parties and members of the People's Representative Council in the construction of the Law on the MPR, DPR, DPD, and DPRD.**

The state of Indonesia as a rule of law that applies the highest pattern of power in the hands of the people has acknowledged that the highest power cannot be directly exercised by the people, but must be realized in the form of representative institutions. This is evidenced by the inclusion of affirmation of the people's sovereignty in Article 1 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia. According to Jimly, the implementation of people's sovereignty by the people can be carried out according to (participating in) determining certain state policies that can be carried out at -time according to a certain ordinance.

This can be achieved implicitly by way of parliamentary democracy or direct democracy. In the case of the manifestation of the sovereignty of the people, it can be found implicitly in the formulation of laws passed through an arrangement between the Government and the representatives of the people in the DPR. This indicates that in this situation, the sovereign people have a role to play in deciding through the mediation of their delegates in the DPR. In the meantime, the direct allocation of people's sovereignty is carried out to elect members of the people and also to elect those elected authorities who will be in charge of executive government functions, either at the federal, regional or local level, which is carried out by way of periodic elections, namely every five years (Asshiddiqie, 2010: 739).

As is usual in the process of democratization by general elections, a variety of conditions are laid down concerning the protocol for its execution before the general election takes place. The criteria for inclusion in the general election are among them. In this connection, Article 22 E of the Constitution of the Republic of Indonesia of 1945 provides that the parties to the general election to elect representatives of the People's Representative Council and the Provincial People's Representative Council shall be political parties. This indicates that only political parties that can compete in the general election process for members of the DPR and DPRD are interested in completing their membership in the legislative body. Thus, the political parties have the right to identify the electors who would fill those political positions.

In this connection, Article 240(1) of Law No. 7 of 2017 on General Elections provides that prospective candidates for members of the DPR, Regional DPRD, Regency/Municipal DPRD be citizens of Indonesia who must comply with the following requirements; (a) a). They were 21 (twenty-one) years of age or older; b). Fear of the Almighty God; c). Residents of the territories of the Republic of Indonesia; d). Can voice, read, and/or write in Indonesian; (e). With the lowest standard of schooling completed from Senior High School, Technical High School, Madrasah Aliyah Vocational School, or other institutions with the same equivalent; f). Faithful to Pancasila, Constitution of the Republic of Indonesia, 1945; g). Have never been sentenced to imprisonment on the grounds of a court order which has gained permanent legal power for committing a crime punishable by imprisonment of 5 (five) years or more, unless it has been freely and frankly told the public that the person involved is a former convict; h). Physically, mentally healthy, and free from narcotics abuse; i). Registered as voters; j). Willing to work full time; k). Resigning as Regional Heads, state civil servants, members of the Indonesian National Army, members of the State Police of the Republic of Indonesia,

Directors, Commissioners, Supervisory Board, and employees of State-Owned Enterprises and/or Regionally-Owned Enterprises, or other entities whose budgets are sourced from state finances that are stated by irrevocable resignation letter; l). Willing not to practice as a public accountant, advocate, notary, land deed official, or not doing work providing goods and services related to State finances and other jobs that may cause conflicts of interest with the duties, powers, and rights of members of the DPR, DPRD Province, and Regency/City DPRD following the provisions of statutory regulations; m). Willing not to have concurrent positions as other state officials, Directors, Commissioners, Supervisory Board, and employees at State-Owned Enterprises and/or Regional-Owned Enterprises, or other entities whose budgets come from state finances; n). Become a member of a political party participating in the election; o). Only nominated in 1 (one) representative institution, and p). Nominated only in 1 (one) constituency.

Among the criteria that have been formulated, the letter (n) on the participation of political parties involved in the general election is the most important to the topic of this dissertation. If this formula is tested, it can be found that the criteria for membership of political parties apply only to prospective applicants for DPR and DPRD members. As a result, the conditions for political party affiliation extend to those who wish to apply for parliamentary membership.

Elected legislative candidates would automatically become members of the people in the DPR institution. Through the election of the people's representatives, a partnership will be formed between the people, the elected representatives of the people, and the political organs of the people, which will become a forum for these people's representatives.

The relationship between the people, the people's representatives, and the People's Representative Institution (DPR), called the representative relationship, which in this situation involves the relationship between the people's representatives and their electors, the relationship between the people and the political parties, the relationship between the political parties and the people's representatives, People of elected organs of the people.

The presence of the party represented (the representative) has implications for the existence of the party represented. This would have an impact on the perception of the role of the individual in the representative organization about the party that he serves. In this respect, some argue that the political organs of the people and their constituents are roles. The one who considers the position in question is the person who represents and works on behalf of the position



presumed. The relationship between the representative and the party represented thereby remains ambiguous, as though the relationship between the two parties had occurred only through the election of the representative (Asshiddiqie, 2010: 739).

Based on the principle put forth by Gilbert Abcarian, the relationship in question requires, first, the representative serving as a trustee (trustee), in which case the representative is free to act or to make decisions based on his considerations without the need to ask the representative. Second, the representative is behaving like a "delegate" (delegate). In this respect, whether the representative serves as a diplomat or an ambassador for the citizen that he represents, the representative always follows the orders and instructions of the representative in the execution of his duties. Third, the representative functions as a "politico" sometimes acting as a trustee (trustee) and sometimes acting as a delegate. Action depends on the topic (material) under consideration. Fourthly, the representative shall serve as a party. In any situation, the representative shall act in compliance with the desires or initiatives of the party or association of the representative. Once the representative has been named by the elector (whom he represents), he will be disconnected from the election and his association with the party (organization) that selected him for that election (Abcarian, 1987: 85).

When the relationship between the members of the people and their voters is explicitly taken into account, it would be quite obvious that there is disharmony in the relationship. This can be seen by the vast number of electors who do not know the representatives of the people they nominate (but not all) even though the political system is transparent in proportion. In the same way, public officials often do not identify their constituents. Even at the end of the day, this dilemma has contributed to the inability to harness the ambitions of the people. People's leaders appear not to exercise their job as true representatives of the people, but to be more concerned with their interests and the interests of the political parties that fund them. This relationship situation indicates that the style of relationship that is being established is a representative relationship with a partisan sort. In this situation, the People's Representatives (DPR members) believe like they are people's representatives who are mandated by a political party so that they must first seek the consent of their parties before operating. In essence, the representatives of the people (DPR members) who are directly chosen by the people operate on behalf of the political parties that support them. They also operate based on the directions or directions of political parties, which results in the loss of individual freedom for representatives of the DPR to act as a democratic agency of the people. They

are also closely related to the relationship between representation and political parties. This is reinforced by the language of Article 67 of Law No. 2 of 2018 concerning the second amendment to Law No. 17 of 2014 concerning the MPR, the DPR, the DPD, and the DPRD, which confirms that the DPR is made up of representatives of political parties involved in the elections. This indicates that the composition of the DPR must be filled by candidates of political parties who fulfill the conditions for the conducting of general elections. In a way, the conditions for membership of a political party of the DPR apply not only at the time of appointment but also after the person involved has been named as a member of the DPR. Thus, the true role of the political parties, that is to say, as a form of political recruiting, is not just recruitment, but continues to continue till the completion of the duties of the elected members of the people.

To date, the relationship between the people, the people's representatives, and the DPR institutions have been manifested in the form of factions within the DPR. The presence of divisions in the DPR is meant as a division of members of the DPR from political parties running in the general election that have seats in the DPR in compliance with the prevailing laws and regulations. The factions in the DPR are not part of the DPR apparatus. However, the position of factions in the DPR organization is very powerful in the execution of the tasks, functions, and authorities of the DPR, opposed to the role of the DPR itself as a representative of the people.

The Constitution of the Republic of Indonesia of 1945 in no way stipulates the presence of factions, either indirectly or directly. However, the presence of fractions is constitutionally legitimized by Article 82 of Law No. 2 of 2018 on the second amendment to Law No. 17 of 2014 on the MPR, DPR, DPD, and DPRD, which states that:

- (1) A faction is a grouping of members based on the configuration of members of a political party from the general election;
- (2) Every member of the DPR must be a member of a faction;
- (3) A faction is formed by a political party that fulfills the threshold for vote acquisition in determining seat acquisition for DPR;
- (4) Fractions are formed to optimize the implementation of the functions, powers, duties of the DPR, as well as the rights and obligations of DPR members;
- (5) The faction is supported by a secretariat and experts;

- (6) The DPR Secretariat General shall provide the means, budget, and experts for the smooth execution of the duties of the factions;
- (7) Further provisions regarding the facilities and expert staff of the faction as referred to in paragraph (6) shall be regulated in a DPR Regulation.

Provisions regarding factions are also formulated in Article 20 and Article 21 of the Regulation of the People's Representative Council of the Republic of Indonesia Number 2 of 2018 concerning the Third Amendment to the Regulation of the House of Representatives of the Republic of Indonesia Number 1 of 2014 concerning Rules, which in article 20 is formulated, that:

- (1) A faction is formed to optimize the implementation of the functions, powers, and duties of the DPR, as well as the rights and obligations of Members.
- (2) A faction is formed by a political party that meets the threshold for vote acquisition in determining seat acquisition for DPR.
- (3) A faction can also be formed by a combination of 2 (two) or more political parties as referred to in paragraph (2).
- (4) Each Member must be a member of one of the factions.
- (5) A faction has the task of coordinating the activities of its members in carrying out the powers and duties of the DPR as well as increasing the capacity, discipline, effectiveness, and work efficiency of their members in carrying out the tasks reflected in every DPR activity.
- (6) Faction evaluates the performance of its members and reports to the public at least 1 (one) time in 1 (one) session year.
- (7) Faction leaders are determined by their respective factions.
- (8) Fractions form internal work procedures in accordance with statutory provisions.

Article 21 is formulated as follows:

- (1) A faction is supported by a secretariat and experts.
- (2) A Fraction Secretariat is stipulated by the DPR Secretary-General with the approval of the faction leaders.
- (3) Experts in each faction must have at least many DPR organs and receive proportional additions based on the number of members of each faction.

- (4) Recruitment of Faction experts is carried out by the leaders of the Faction and the results of the recruitment are submitted to the Secretary-General of the DPR to be determined by a Decree of the Secretary-General of the DPR.
- (5) Recruitment of Faction experts as referred to in paragraph (4) shall be based on expertise competencies determined by the Faction Leader.
- (6) The faction submits the budget as well as the needs of the secretariat and Fraction experts to the Household Affairs Agency.
- (7) The Household Affairs Agency forwards the Fraction's proposal as referred to in paragraph (6) to the Secretary-General of the DPR for follow-up.

Based on this formula, it can be stated that, fundamentally, factions are created to maximize the efficiency of the functions, forces, and tasks of the DPR. On this basis, representatives of the people who are elected to the general election as members of the DPR are expected to become members of one of the factions created in the DPR. The presence of a party in the DPR is essentially meant to debate very complex politicians or to discuss technical problems within the Council (Marbun, 1992: 183). At the symbolic level, the forming of factions is simply meant as a forum to protest and to express desires relevant to the public's problems and objections. In fact, in this situation, the faction got direct information, which came from the public. However, society is hesitant to express its concerns, provided that, in truth, it always happens that the expectations communicated are not channeled. The presence of a party is a means that only gives preference to the internal interests of the political parties that can be seen by the programs that it formulates. As a result, the functions of the DPR did not work optimally, and the autonomy of the citizens that had to be exercised was not an aspiration.

The factions that were philosophically developed to be an extension of the weapons between the political parties and the DPR have in turn colored the different political processes that have taken place both at the level of the DPR apparatus and at the level of formal institutional relations. The party plays a very significant role in the execution of the duties and powers of the DPR, both institutionally and towards each person. The faction is not only meant as a forum for the assembly of DPR representatives based on their political party parties. But more than that, factions may also affect the political attitudes and decisions taken by members of the DPR.

In certain nations, in their legislative structures, some laws oblige their members, having been elected as representatives of the people, to join the branch of the party that serves them and to remain there for as long as they are members of the DPR. Practices such as these grant factions a high degree of stability. In the German Parliament (Bundestag), members of the faction must be members of the group of DPR members of the same political party. And in certain parliaments of multi-party arrangements, members are not constitutionally bound by groups because the mandate is personal. Members also only go through the party to win seats in the DPR to carry out their duties efficiently. For example, it could be decided that a new bill should be introduced only by factions and no longer by individual members (Chalid, 2000: 13).

In reality, entering elected members of the DPR, who have diverse histories in one party, can undermine or even overpower the nature of people's sovereignty. This is because these DPR members, even though they serve as chairmen of the factions, must abide by the rules of the game laid down by their side. If the party fails to comply with the provisions of the political party that supports it, the party can remove or dismiss a non-compliant member employing a recall process that would, of course, have an effect on their standing as a member of the DPR. As a result of such a process, the authority of the people has transferred to the sovereignty of the democratic group. This is because there are violations of people's sovereignty that do not have a simple and firm penalty process, whereas violations of the sovereignty of political parties may result in the loss of a person's standing as a member of the DPR.

Following this, there are at least two explanations for recognizing the presence of groups within the DPR. The first is the purpose of the amendment of Article 1(2) of the Constitution of 1945, before the third amendment, that is to say, 'Sovereignty is in the hands of the citizens and is carried out solely by the People's Consultative Assembly,' in Article 1(2) of the Third Amendment of the Constitution of 1945, the 'Sovereignty is in the hands of the people and is exercised in conformity with the terms of Article 1(2) of the Constitution of 1945.

Membership of political parties in the DPR RI in the form of a faction is something that is governed in the Constitution, but if it turns out that the basis for the presence of that faction is due solely to political needs, the public may believe that the jurisdiction exercised in compliance with the Basic Law has been ignored. It may also be that the group may believe that the presence of a party potentially hinders their ability to promote themselves in the quest for

their rights to establish together the citizens of their country and state. This symptom emerges that, as members of the group petition their elected officials to fight for something, it is likely that the battle will be fought as a struggle for the legislative body, as long as the struggle does not stand in the way of the party or is only used as a tool of political negotiation by the political powers of a handful of people. In the DPR, their legal arm is called the faction.

In theory, the DPR currently enjoys immunity privileges which are recognized as the individual rights of members of the DPR explicitly granted by the Constitution in Article 20A (3) of the Constitution of 1945. In serving out his mandate as a representative of the people who elect him, he has a fundamental responsibility to combat as far as possible without fear of the threat of any penalties or legislation in the fulfillment of his duties as a representative of the people. The application of the right of immunity, as provided for in the Statute, demonstrates that DPR representatives cannot be tried before a court based on comments, questions, and/or views made either verbally or in writing at a session or DPR meeting or outside a session or meeting. The DPR relates to the responsibilities and authorities of the DPR. Besides, the right to immunity further stresses that DPR representatives cannot be substituted between time due to questions, comments, and/or views voiced either in a session or in a parliamentary meeting or outside a session or a parliamentary meeting about parliamentary duties and meetings.

There are several other types of the threat of sanctions and the members of the DPR are not resistant to this, in particular the internal threat of oligarchic interests inside the political power of bearers who then use fractional instruments in the DPR due to comments or opinions expressed by members of the DPR inside or outside the session. One last example was that there was a lot of news about a member of the DPR who argued that the general chairman of the supporting party should resign from his position as chairman. However, it turned out that this assertion received a reprimand on the part of the party to which it belonged. Except under such circumstances, a member of the DPR who expresses his or her particular stance towards something within or outside the parliament, whether he or she is found to be breaching a party policy line such as the AD/ART, is disqualified as a member of a political party that is linear according to the legal framework involved. Avoid becoming a part of the DPR. The construction of sanctions like this may argue that this is not a difference in time as a result of the argument. And if this is simply in the form of penalties or punishments for carrying out their roles as members of the DPR.

The faction may also be represented as a form of political power within the DPR. This is stated as a party of representatives focused on the composition of the political parties following the general election. Faction is an integral part of the DPR, but it is not categorized as a counterpart to the DPR, as a result of which it is a separate faction established to maximize and efficiently fulfill the roles, powers and privileges, and responsibilities of the DPR, although most specifically, factions have the same rights as instruments. The integrity of the DPR (Widiarto, 2006: 25).

The legal recall policy is laid down in Article 22 B of the Constitution of the Republic of Indonesia, 1945, which specifies that 'Members of the House of Representatives can be removed from their seats under the terms and procedures laid down in statute.' This clause is inspired by the belief that members of the DPR are not above the law. Stuff can happen during his term, which may contribute to the expulsion of his membership. Therefore, for the dismissal process to have a legitimate justification, this clause is made. This was further reinforced by Article 239(2) of Law No. 2 of 2018 concerning the second amendment of Law No. 17 of 2014 concerning the MPR, the DPR, the DPD, and the DPRD.

Members of the DPR shall be dismissed from time to time if proposed by their political parties in compliance with the rules of the existing laws and regulations. Thus, the dominance of political parties in the process of state administration, especially concerning their existence in the legislative body (DPR), is not only related to the process of law-making but is also related to recalling. The incorporation of political parties within the DPR, manifested in the form of a party, indicates that the relationship between the citizens as electors and the elected members of the DPR and the DPR as a forum for the membership of elected officials is a relationship of political representation. Through the emergence of a party, the relationship between the public and the elected leaders has been disrupted, meaning that what exists is the relationship between the elected representatives and the political parties that hold them, as well as the DPR as a forum.

The idea of the relationship that exists between the public and the representatives of the people they elect is a relationship of the "partisan" kind. In this situation, the representative shall behave in compliance with the wishes or program of the party (organization) of the representative. Since the representative has been chosen by the elector (whom he represents), he will lose his relationship with the election and start his relationship with the party (organization) that nominated him for the election (Abcarian & Hoogerwer,

1987: 85-86). Or, in other words, once the people's representatives have been elected by their constituents, their association with the voters will be detached, and relations will continue with the political parties that appoint them in the general election. This partisan relationship will become a shackle for the leaders of the public who wish to express the aspirations of the people they serve because this is counter to the agendas of the political parties they represent. This polarized form of political participation will generate a challenge for DPR representatives to exercise their rights. This problem relates, on the one hand, to its position as a political party leader and, on the other hand, to its rights and responsibilities as a representative of the people. Concerning this dilemma, Jimly argues that "it is very difficult to distinguish the role of members of the DPR as representatives of the public from their positions as members of the political parties because, after all, the presence of political parties relevant to the DPR institutions is still required. It is therefore important to think of an acceptable pattern so that members of the DPR can function professionally.

Thus, the presence of factions within the DPR, which results in numerous memberships, both as representatives of the people and as representatives of the political parties, actually impacts the existence of the DPR as the implementer of the people's sovereignty. The elected representatives of the people (DPR members) are unable to fulfill their duties as actual representatives of the people. Within these terms, the participation of divisions in the DPR and, at the same time, inclusion in the DPR body becomes meaningless if it is connected to their presence as an extension of the forces of political parties to the DPR as an executor of people's sovereignty, in other words, certain circumstances have given rise to the fact that participation of political parties in the DPR as the implementer of people's sovereignty does not show much significance. For this purpose, a more effective form of the representative is required to ensure the true application of the sovereignty of the nation.

The creation of a party that is supposed to put together the representatives of the DPR based on the composition of the members of the political parties following the general election has a positive reason. However, since its nature is politicized only to give preference to the desires of political parties and to have an effect on the actual application of people's governance, this becomes inversely proportional to the essence of creating a real party, namely to maximize the performance of the roles, forces, duties and rights and obligations of DPR representatives. It seems like the presence of factions in the DPR can be retained and can also endorse the practice of people's sovereignty



if their composition is not based on the number of political parties with seats in the DPR. Political parties have a very powerful function (status) and a role to play in every democratic structure. Parties have a very strategic liaison role to play between government processes and residents. Some also claim that it is political parties that decide government, as Schattscheider put it, "Political parties created democracy" (Schattschneider, 1942: 11). The party is thus a very necessary cornerstone to improve the degree of institutionalization of every democratic political structure. In reality, Schattscheider also said, "Modern democracy is unthinkable save in terms of the parties (Schattschneider, 1942: 11)."

There are still, however, many cynical and even dismissive viewpoints of the political parties. The most severe of them is that the political parties are, in effect, nothing more than a political tool for a group of insiders who are in control or wish to maintain their power. Political parties act only as a vehicle for a few people who are fortunate enough to win the votes of people who are easily fooled, to implement that governmental policy "at the expense of the general will" (Rousseau, 2017: 128) or of the public interest (Mair, 2015: 8).

It must also be understood that the role of party organizations is very significant in the sense of the complexities of democratic institutionalization. With the creation of an entity, the fight for shared goals has grown greater in the face of enemies or competitors, because tiny and fragmented powers can be consolidated on one front. The mechanism of democratic institutionalization is determined largely by the institutionalization of political party institutions as an inseparable part of the democratic system itself. Thus, according to Yves Meny and Andrew Knapp (Meny and Knapp, 1998: 86), "A democratic system without political parties or with a single party is impossible or at any rate hard to imagine" It is very difficult to imagine a parliamentary system with only one political party to be considered democratic, particularly if there is no political party at all.

In Indonesia, the presence of factions within the DPR is meant to optimize and streamline the execution of the responsibilities, powers and privileges, and obligations of the DPR, but in practice, the existence of factions is used to compete for the separate interests of political parties by faction members who are members of the DPR. The dual composition of the members of the DPR, both as members of the political parties and as members of the DPR, has formed a representative relationship between the representatives of the people and the people represented in a "partisan" way. In this form of partnership, the representative must behave in compliance with the wishes or

program of the party of the representative. Since the representative has been chosen by the elector (whom he represents), he will lose his relationship with the election and continue his relationship with the party (organization) that nominated him for the election. This is of course very difficult for elected officials of the DPR since they must be able to distinguish their interests as constituents of the public and their interests as representatives of the political parties.

The role of the people as the supreme authority of a nation in the form of people's sovereignty can only be adequately applied if the leaders of the people who serve them are genuinely aspiring. The autonomy of political parties created by the dual participation of political parties and the membership of the DPR must be abolished. It is therefore important to form an aspirational paradigm for the participation of the people, namely by restoring true governance to the people of the world.

Driven by the terms of Article 1(3) of the Constitution of the Republic of Indonesia of 1945, which stipulates that 'the State of Indonesia is a State founded on statute,' it aims to recover the authority of the people, which must, in turn, be based on the legal rules in effect. Article 1(2) of the Constitution of the Republic of Indonesia for 1945, which is the legislative framework for maintaining the autonomy of the people in Indonesia, needs to be enforced in the context of an aspirational model of representation of the people.

According to the formula, the authority of the people is the supreme power in the state. This means the people are independent. Although genuine people's sovereignty cannot be practiced in a country with a vast number of people and a rather heterogeneous population, such as Indonesia, the people of Indonesia must entrust their sovereignty to their representatives in the DPR. In this connection, the people are fully sovereign as they determine their members using a general election process that is carried out periodically and is used as a means of peaceful leadership succession.

If this is related to JJ's Social Contract Theory. Rosseau, who believed that the will of the sovereign people may be channeled in two ways, namely: first, the will of all people, which is generally referred to as the *Volunteer de tous*; second, the general will, which means that not all people must be or is called the *volunte de generale*. The first will is also known as national supremacy, and the second will is known as the rule of law (Asshiddiqie, 1994: 77). In Indonesia's legal structure, national sovereignty is channeled by general elections, which are held annually every 5 (five) years. The outcomes of the general election are what will be filled by the administrative roles of the state

that exercises the sovereignty of the people in the form of the rule of law. It is just that, in the course of exercising the sovereignty of the citizens, the State entities shall comply with the terms of the Constitution of the Republic of Indonesia of 1945 (Asshiddiqie, 2010: 58).

In this respect, there is a strong relationship between members of the DPR and individuals depending on the form of the guardian. It ensures that the members of the people here are trusted and elected people and have legal knowledge of the people they serve so that they can behave on behalf of those they represent or on behalf of the people (Abcarian, 1987: 85). In this situation, the elected members of the people are free to act or to take action based on their considerations without consulting their representatives. In other words, the delegate behaves as a citizen allowed to have absolute authority from the person he serves, so that he may behave in compliance with his view. In the words Gilbert Abcarian and A. Hoogerwerf, the arrangement that is formed are called a trustee (Abcarian, 1987: 85). Through the rebuilding of the leadership of the political parties of the DPR, this current trend of grouping members of the DPR is no longer as various as the groups based on obtaining a threshold for votes on the seats gained but is limited to two factions, namely the opposition faction (balancing) and the government faction.

#### **D. CONCLUSIONS**

The importance of the membership of political parties in the DPR to the life of the DPR as an implementer of the supremacy of the people does not indicate any relationship between them. The nature of political party membership and membership of the DPR are two separate entities that have no legal relevance as they are meant to put together members of the DPR with the same political party affiliation and then to institutionalize them into a faction. This is attributed to two things (1) the membership of the political party is meant to carry out party programs, in particular to win electoral votes, while the membership of the DPR is responsible for exercising the autonomy of the people as required by the Constitution of the Republic of Indonesia in 1945. Thus, if the members of the DPR are also members of the political parties, it is obvious that they would be in dispute and have the ability to establish conflict of interest between their roles as representatives of the public and as representatives of the political parties (2) the status of the DPR members with special powers will be diminished if the political party has the power to "call back" (recall) which is the case.

Reconstruction of political party membership in the DPR RI, which will help the introduction of people's sovereignty, is carried out by modifying the format of the relationship between the people's representatives and the people represented, which was originally based on the Partisan type theory in a relationship format based on the Guardian type theory. This form is formulated by amending the legislation on the structure and status of the members of the DPR, that is to say, the members of the DPR are interpreted as "legislative candidates elected in the election that year." Returning to the original format (reconstruction) would simply affirm the application of Article 1(2) of the Constitution of 1945, which stresses that "the sovereignty of the people is implemented according to the 1945 Constitution" The awarding of a legislative mandate to the members of the DPR, as provided for in Articles 5 to 20 of the Constitution of 1945, specifically granted the power to be representatives of the people, not as party representatives (partisans).

It should also be proposed that the presence of the DPR as an implementer of the autonomy of the people be realized if its membership is no longer related to political parties. This ensures that DPR candidates who have been elected to the general election must be exempt from political party interference. After being chosen, the DPR member involved must be removed from the political party that supports it. In this respect, the presence of factions that have a direct effect on the existence of the DPR as the implementer of people's governance must also be abolished, so that elected DPR representatives can be competent in the execution of their duties.

The existence of recall rights which reduce the status of members of the DPR concerning their special rights due to differences of opinion between members of the DPR and the policies of the political parties must be abolished, as this is contrary to the application of Article 1 (2) of the Constitution of the Republic of Indonesia. In 1945, it is also appropriate to update the language of Article 67 of Law No. 2 of 2018 concerning the second amendment of Law No. 17 of 2014 concerning the MPR, the DPR, the DPD, and the DPRD, which states that 'the DPR consists of representatives of political parties voting in the general election.' The formula is changed to 'the DPR consists of representative candidates who are elected in the general election.'

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