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USE OF ASPIRATION FUNDS OF THE COUNCIL OF REPRESENTATIVES: STUDY ON CONSTITUTIONAL COURT DECISION NUMBER 106/PUU-XIII/2015*

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Abstract.

The background to this research is that Article 80 Letter J of Law Number 17 of 2014 has been reviewed by the Indonesian Constitutional Court. The Petitioner in this case represents the people of Papua, who believe their constitutional rights have been violated because the petition will result in unfair management of state finances that benefits only the people in the area chosen to have the most seats in the House of Representatives. However, the Constitutional Court rejected the request brought against article 80 letter j in decision 106/PUU-XIII/2015. This research employs normative legal analysis by collecting data from the Research Library, which examines relevant documents. The findings of this study indicate that the use of aspiration funds as defined in Article 80 Letter J of Law Number 17 of 2014 does not reflect people's justice, as the allocation of aspiration funds is unfair, as it is based on electoral districts and the number of House of Representatives seats. Individuals within an area are not identical, which may result in development injustice.

Keywords: *Aspiration Fund; People's Representative Council; Constitutional Court*

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A. INTRODUCTION

The division of authority between the executive, the legislature, and the judiciary is known as triaspolitica, which can be understood as the three centers or axes of state power (Mahfud MD, 2001: 73-74). The horizontal division of power in Indonesia is the division of authority according to the role of various institutions, specifically the executive, legislative, and judicial branches (Marlina, 2018: 176). The three state institutions are the organizers of state government whose degrees are equal and balance each other according to the Checks and Balances System theory. The problem that often arises between government administrators is that their duties and authorities often clash. In this case, talking about authority, of course, discusses two elements that are always related, namely organs and functions (Ashiddiqe, 2010: 84). The duties and authorities of state institutions are a combination to implement a function of the state institution. If a state agency does not understand its function, then the problem will arise about how to understand its policies.

According to Law Number 17 of 2014 governing the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council, and the Regional People's Representative Council, the DPR has three primary responsibilities and authorities. The DPR's responsibilities and powers include, first and foremost, the legislative function to make laws and set the State Revenue and Expenditure Budget (APBN) with the President. Second, the job of the budget is to discuss and approve or disapprove the President's proposed draft law on the State Budget. Thirdly, the supervisory function is fulfilled through monitoring the application of laws and the state budget (Mahendra, 1996: 135).

In addition to its legislative, budgetary, and oversight responsibilities, the DPR has three rights under Article 79 of Law Number 17 of 2014, namely: first, the right of interpellation, the right of interpellation is the right of the House of Representatives to request information from the Government regarding

important and strategic policies that have a broad impact on the life of society, the nation, and the state. Second, the right of inquiry, the right of inquiry is the ability of the House of Representatives to investigate Government policies suspected of being in violation of the law and having a broad impact on the lives of society, nation, and state. Third, the right to voice an opinion, which is the right of the DPR to express an opinion on government policies, monitor the execution of the right of interpellation and the right of inquiry, and investigate allegations that the President and/or Vice President have broken the law (Asmawi, 2014: 10).

Article 76 of Law Number 17 of 2014, which controls the membership of the DPR, stipulates that there are 560 members of the DPR. Article 80 of the DPR stipulates that each member of the House of Representatives has the following rights as a member of the DPR: a). Submitting a draft law proposal; b). Asking a question; c). Submitting suggestions and opinions; d). Choose and be chosen; e). Self-defense; f). Immunity; g). Protocol; h). Finance and administrative; I Propose and fight for electoral district development programs; and j). Conduct

The Electoral District Development Program Money (P2DP), sometimes known as the DPR's aspiration fund, has become the subject of public discourse and even a source of controversy. The controversy or issue relates to the authority of DPR members who receive aspiration monies that are deemed inconsistent with the DPR's budget function or budget rights. The amount of funds that can be allocated is one of the topics of public discourse. These monies have the potential for corruption, and the budget distribution in each region is unequal, which can result in unhealthy politics in the form of political patronage (Susanto, 2017: 256).

The DPR's aspiration fund is governed by House Regulation Number 4 of 2015 Governing Procedures for Proposing an Electoral District Development Program. Individual members of the DPR or the DPR as a whole may propose ambition funds to be integrated into the national

program in the State Revenue and Expenditure Budget. The proposal's regulations may originate from their own initiative, the local administration, or the desires of the electoral district's residents. Each DPR member can only propose aspirational money from their own electoral district.

The Constitutional Court of the Republic of Indonesia was subject to a Judicial Review under Article 80 Letter J of Law Number 17 of 2014. In this lawsuit, the Petitioner represents the people of Papua, who feel their constitutional rights have been violated as a result of the bill's influence on the unjust administration of state finances and its exclusive benefit to the region with the biggest number of seats in the House of Representatives. With decision number 106/PUU-XIII/2015, the Constitutional Court, however, rejected the challenge to article 80 letter j.

The considerations of the judges of the Constitutional Court in Decision Number 106/PUU-XIII/2015 are inconsistent with regard to determining which institution shall compete for the district's votes. Article 80 Letter J has the potential to exacerbate inequalities in development because the quantity of aspiration money in each province is proportional to the number of DPR members residing there. The effect of this aspirational fund is to exacerbate the growing disparity in regional development. For instance, the island of Java has the greatest number of seats, 306, whilst Papua only has 13 seats. Obviously, there is a substantial contrast between the two, while the national development plan prioritizes development outside of Java.

The aspiration funds of the House of Representatives may also have the potential for misuse or corruption of aspiration funds. As a result of the unclear allocation of these funds, it is feared that they will become a new source of corruption. The corruption of aspiration funds can be exemplified from fictitious projects carried out by members of the House of Representatives, either in the form of development or the implementation of activities. The big fund, equivalent to 20 billion per seat, can undoubtedly be employed as one of the state budget's corrupting

mechanisms. In addition, the Panel of Judges stated that the DPR has political responsibility for its electoral district, but in a separate opinion, the Panel of Judges stated that the DPR is a political representative or representative of the entire Indonesian people, and thus must meet the needs of the entire community.

B. METHODS

This study uses a normative-juridical approach, so the approach used is the statutory approach and the case approach (Marzuki, 2008: 136). To comprehend the use of ambition money in accordance with Law Number 17 of 2014 and DPR Regulation Number 4 of 2015, a legislative approach is adopted. Observing cases pertaining to Judicial Review Article 80 Letter J of Law Law Number 17 of 2014 employs a case-by-case methodology to determine how judges evaluate the Constitutional Court's Decision No. 106/PUU-XIII/2015 addressing the aspirations of the House of Representatives (DPR).

C. RESULTS AND DISCUSSION

1. Distribution of Aspiration Funds in Accordance with the Principle of Justice

The aspiration fund is the right of the DPR members to propose and fight for the electoral district development program as regulated in Article 80 Letter J of Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council, and the Regional People's Representative Council. The Aspiration Fund first appeared in 2010 spearheaded by the Golkar Faction by proposing a budget of Rp. 15 billion for each DPR member which will be taken from the 2011 State Budget (APBN) (Dirjen Anggaran Kemenku, 2015: 5).

According to Law No. 27 of 2009 on the MPR, DPR, DPD, and DPRD, there is no legal basis for the DPR's aspirations. In Law no. 17 of 2014 (ending Law no. 27 of 2009), however, there

is a legal basis that establishes the existence of the DPR's aspiration funds, as stated in Article 80 letter J: "Members of the DPR have the authority to propose and fight for the electoral district development program." In light of this, the House of Representatives Regulation Number 4 of 2015 pertaining to Procedures for Proposing Electoral District Development Programs. Individual DPR members and the DPR as a whole may submit aspiration funds for inclusion in the national development program of the State Revenue and Expenditure Budget, as per the DPR regulation. The plan may originate from its own initiative, local administration, or the desires of the district's residents. In 2015 the DPR again proposed the aspiration fund for the 2016 RAPBN of Rp.20 billion for each member of the DPR, so that the total budget for aspiration funds that must be provided is around Rp.11.2 trillion for the 560 members of the DPR. This was later rejected by President Joko Widodo, through the Minister of National Development Planning Andriano Chaniago saying the concept of aspiration funds could collide with the President's vision and mission.

The DPR's aspiration fund has a legal basis in Law Number 17 of 2017 and DPR Regulations, but both regulations cannot be implemented due to refusal from the President. The President's refusal shows that the formation of the legal basis for the aspiration fund has not yet matured and involves all parties. As a result, many of the refusals made by the public and the President directly prove that the formation of the aspiration fund did not go through a correct and participatory process.

If the aspiration funds remain valid under Article 80 Letter J of Law Number 17 of 2014 concerning the Representative Consultative Assembly, according to the researcher. The House of Representatives, the Regional Representative Council, and the Regional People's Representative Council raise a number of issues with their use, particularly the absence of the principle of people's justice in allocating funds for development, which has the potential to become corrupt.

Inequality in development can occur in the allocation of aspiration funds because the representation of members of the DPR cannot be separated from their electoral district and these aspiration funds will be attached to each member of the DPR. This means that the amount of aspiration funds in each province depends on how many DPR members come from electoral districts within that province. Members of the DPR proposed a fund of Rp. 20 billion per DPR member. The total number of DPR members is 560 members, the aspiration funds that will be included in the State Revenue and Expenditure Budget are Rp. 11.2 Trillion. The funds are very large for development programs in villages that are still lacking in development, but whether the allocation can guarantee justice, welfare and cover areas that are remote areas that are the goals of national development (Enang, 2011: 129).

Due to the fact that aspiration funds are tied to the DPR for their electoral districts, justice in the allocation of funding must be addressed while using aspiration funds. The allocation of DPR members to each province is not based on the principle of equal representation, nor is the size of the electoral district a single-member constituency (one seat per electoral district), but rather a multi-member constituency (one electoral district for several seats). Focusing on one electoral district for many seats, the aspiration fund will narrow the development gap. Each province, district/city, or combination of districts/cities must have a minimum of three (3) and a maximum of ten (10) seats for DPR members in each electoral district, according to Law No. 7 of 2017.

In the 2014-2019 legislative elections, the allocation of seats for electoral districts, Java Province obtained the most seats compared to other provinces, a total of 255. Sumatra province was allocated 61 seats in the DPR. Sulawesi Province received 39 seats and a 35-seat election district, whereas Kalimantan Province earned 35 seats. The capital city of DKI Jakarta received 21 seats, while Banten received 22. Papua and West Papua had the fewest allocations of electoral districts compared to other

significant provinces such as Java, Sumatra, Sulawesi, Kalimantan, and the capital city of DKI Jakarta, which received 13 seats. Lampung Province won more seats than the Provinces of Papua and West Papua, which received a combined total of 18 seats.

If the aspiration funds are allocated based on the number of seats in the electoral district, Java Province will receive the greatest ambition fund relative to other provinces, amounting to Rp 5,100,000,000,000,000. (five trillion one hundred billion rupiah). Sumatra Province received ambition grants totaling Rp 1,220 billion billion (one trillion twenty-two billion rupiah). Sulawesi Province received an aspirational fund of Rp 780 trillion billion trillion (seven hundred and eighty billion rupiah). The province of Kalimantan got aspiration funding of Rp. 700,000,000,000,000 (seven hundred billion rupiah). DKI Jakarta received aspirational funding of Rp. 420 billion billion (four hundred and twenty billion rupiah). Banten Province was awarded aspirational grants totaling Rp. 440.000.000.000 (four hundred and forty billion rupiah). Lampung received aspirational money of Rp 360 billion trillion (three hundred and sixty billion rupiah) And the Provinces of Papua and West Papua receive Rp 260 billion in ambition money (two hundred and sixty billion).

According to the researcher, the potential for development inequality or injustice is clearly seen in the calculation of the aspiration fund budget to be allocated based on the electoral district. Java Province is a province that is already good in terms of development, it stands out because the majority of DPR seats are spread over the island of Java, namely 55% of the 560 DPR members. In fact, almost all underdeveloped, isolated and underdeveloped areas that require development achievements are provinces that are outside the island of Java, such as the provinces of Papua and West Papua. Meanwhile, Papua Province only gets 10 seats and West Papua Province gets 3 seats, and the total budget is 260 billion. This is inversely proportional to the area that has developed far, namely the island of Java,

which received aspiration funds of 5.1 trillion. Of course, the vast difference between the aspirational budget funds of the Java Province and the Papua Province is a form of injustice in the development system. This injustice, of course, injures the concept of the rule of law adopted by Indonesia, because the concept of the rule of law according to Aristotle is a state that stands above the law that guarantees justice to its citizens (Kusnardi; Ibrahim, 1998: 153). According to the United Development Program (UNDP), the principles of Good Governance to implement good governance practices include the principle of equality, which means that every community has the same opportunity to obtain prosperity and justice (Wasistiono, 2003: 33). This is not in accordance with the objectives of the national development planning system which guarantees justice as regulated in Article 2 Paragraph (4) of Law Number 25 Number 2004.

In addition to the possibility for inequity in development, the researcher believes that ambition funds have the potential to be misused by irresponsible individuals for misappropriation of funds or corruption. The mechanism for channeling ambitions into the aspiration fund is not clearly outlined in Article 80 Letter J of Law Number 17 of 2014 and DPR Regulation Number 4 of 2015, making it easy for unscrupulous parties to take advantage of the system.

The DPR is a government institution that conducts corruption crimes frequently. Members of the DPR engage in numerous forms of corruption, including acquisition of goods and services, bribery, and budget abuse. The sorts of corruption committed by the DPR are the most prevalent types of corruption. From 2004 to 2019, researchers uncovered 613 instances of corruption involving bribery, 199 involving the acquisition of goods and services, and 48 involving budget abuse.

Based on this, the researcher concludes that aspiration funds are highly susceptible to becoming a new source of corruption among DPR members. This is due to the absence of a

regulated process for the absorption of aspirations in the use of aspiration funds, which leaves members susceptible to budget misuse, bribery, and the procurement of goods and services. In the ambition fund, members of the DPR suggest a very big sum of Rp. 20 Billion per member, causing budget abuse to be anticipated. Members of the DPR can conduct fictitious projects with such vast sums of money, including development, organizing activities, and acquiring fictional goods and services. There are ambiguous techniques for bribery in terms of use and goals, such as bribery that will be administered by a small number of individuals to members of the DPR in order to materialize the electoral district development program proposal in a plenary meeting.

According to the findings of a poll conducted by Transparency International Indonesia (TII), the DPR is the most corrupt governmental entity in Indonesia, as determined by the opinions of 1,000 respondents from 31 provinces. Dadang Trisasongko, the Secretary General of Transparency International Indonesia (TII), stated that the extensive reporting of corruption cases involving DPR members in the media has led Indonesians to view the DPR as the most corrupt institution over the past three years.

Given that the TII survey is being done, the researcher believes the ambition fund could offer DPR members a new platform for corruption. Coupled with DPR members' privileges in the practice of aspiration funds, which are legalized under Article 80 Letter J, the researcher believes the DPR has abused its authority in lawmaking, notably with relation to corruption funds. Those with authority can force others to do their bidding. Lord Acton said, "Power Corrupts, Absolute Power Corrupts Absolutely" (Djaja, 2010: 1).

The DPR's reputation as the most corrupt institution is bolstered by cases involving its members, namely the case of the DPR Chairman, Setya Novanto, abusing his authority to ensure the proposed budget for the implementation of an electronic ID card, in which he harmed the state's funds to the tune of Rp. 2.3

Trillion. Corruption involving the vice chairman of DPR commission vii, Zulkarnaen Djabar, who was involved in the procurement of the Al-Quran by the Ministry of Religion. Taufik Kurniawan, the vice chairman of the DPR, is suspected of taking bribes totaling Rp. 3.65 billion from the Regent of Kebumen, Central Java, in relation to the Special Allocation Fund (DAK) allocation in the 2016 Revised State Budget.

According to the researcher, the ambition fund in the development program has the potential to be exploited as a political instrument by council members due to its extremely big budget and the track record of the DPR members who handle it. Carrying out the practice of aspirational funds in the form of the Regional Infrastructure Development Acceleration Program Fund (DPPPID), the DPR committed a criminal act of corruption in the 2011 budget discussions involving the DPR's Budget Agency from the South Sulawesi constituency, namely Wa Ode Nurhayati, who allegedly received Rp. 6 billion as a requirement for the DPR's Budget Agency to realize a project valued at Rp. 40 billion in three districts in Aceh.

Based on the description above, the researcher believes that this aspiration fund should be stated in the Decision of the Constitutional Court Number 106/PUU-VIII/2015 contrary to the 1945 Constitution and has no binding legal force. There are so many potential problems that arise in its use, one of which is being used as a vehicle for members of the DPR to carry out corrupt practices (Sudarto, 2007: 102). In accordance with the opinion of Romli Atma Sasmita, who stated that corruption is an extraordinary crime (extra ordinary crime), according to the researcher, corruption is an act that is extremely detrimental to the state and society and is always carried out by government officials in high-ranking positions. Corruption has become a menace to the people of Indonesia and must be combated immediately (Sasmita, 2004: 48).

Looking back at 2013, the Constitutional Court's decision number 35/PUU-XI/2013 forbade the House of Representatives from further debating unit 3 of the Draft State Revenue and

Expenditure Budget. This means that during the discussion of the RAPBN, the DPR cannot discuss budget documents containing a description (image) of the program and specifics of the budget ceiling allocation. The Constitutional Court has ruled that Article 15 Paragraph (5) of Law Number 17 of 2003 on State Finances and Article 157 Paragraph (1) Letter C and Article 159 Paragraph (5) of Law Number 29 of 2009 on the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council violate the Constitution of 1945 and have no legal force. Article 15 subsection (5), Article 157 subsection (1) letter C, and Article 159 subsection (5) The Court removed "Activities and Kinds of Expenditures," so removing the DPR's jurisdiction to discuss unit 3 (activities and types of expenditures) in the National Budget in greater depth.

Why did the Constitutional Court reject the ambition fund of Article 80 Letter J of Law 17 of 2014? While Article 80 Letter J preserves the House's jurisdiction over Unit 3 (activities and expenditures) in the RAPBN. House Regulation 4 of 2015 outlines the electoral district development program's actions and programs. This is clearly regulated in the third chapter of the House of Representatives Regulation Number 4 of 2015 regarding program criteria, and members of the DPR propose a fund of Rp. 20 Billion per member. According to the researcher, the aspiration fund of the House of Representatives should be declared unconstitutional and without binding legal force by the Constitutional Court, and it cannot be implemented because of the Constitutional Court's decision number 35/PUU-XI/2013, which states that the House of Representatives cannot discuss the RAPBN in terms of spending activities and categories.

Aspiration funds erode the government's position as an executive institution, causing inequity, injustice, and corruption in development. Based on the 1945 Constitution, Indonesia is a state of law, hence no conduct should go outside the law. The rule of law divides authority. According to Montesquieu, the three sorts of power must be separate in function (duties) and

equipment. Legislative power, wielded by a representative body. Government's executive power. Judiciary's power. In Indonesia, the Government/President holds the executive role, the DPR holds the legislature, and the Supreme Court and Constitutional Court hold the judiciary.

According to the researcher, the practice of aspiration funds as outlined in Article 80 Letter J of Law Number 17 of 2014 concerning the Representative Consultative Assembly, the People's Representative Council, the Regional Representatives Council, and the Regional People's Council is not consistent with the legal state characteristics of Indonesia, namely the separation of executive, legislative, and judicial powers. This aspiration fund violates Article 12 Paragraphs (1) and (2) of Law No. 17 of 2003 pertaining to State Finances. Article 12 indicates:

Article 12 Paragraph (1) "The State Budget is prepared in accordance with the needs of the state government and its ability to collect state revenues". Article 12 Paragraph (2) "The preparation of the Draft State Budget as referred to in Paragraph (1) is guided by the Government's work plan in the context of realizing the achievement of state goals."

Article 12 states that the APBN is prepared in accordance with the needs of government administration and is guided by the government's work plan. However, in this aspiration fund, the DPR is the one who organizes and at the same time makes guidelines regarding the criteria for the development program. Based on this, the researcher is of the view that if the aspiration fund is contrary to Article 12 of Law Number 17 of 2003 and this is also a lack of harmonization of the existing legislation. According to Rudolf Stammler, "A Just Law seeks to harmonize individual and societal interests." Indonesia is a state of law; therefore, there must be a harmonization of various laws so that the planning system carried out by members of the DPR in the use of these ambition money does not conflict with government management or undermine the government's position as an executive agency.

Many individuals are against the DPR's ambition funds, as one of the issues that occur is the erosion of the government's executive function. The DPR argues, however, that if the aspiration funds do not conflict with the DPR's role as a legislature with the executive, because the aspiration funds are not taken over by the DPR, then the DPR is merely an intermediary to absorb development aspirations that will be submitted to the government. Nonetheless, the researcher is of the opinion that if the purpose of this ambition fund is to absorb people's development aspirations, it is a mistake, as the absorption of national development aspirations is governed by Law No. 25 of 2004, specifically the Development Planning Deliberation (Musrenbang). Musrenbang is a forum where the community can express their aspirations in the development process that will be carried out in the context of preparing national development plans and regional development plans. Should the DPR argue that it is the absorption of aspirations, why not go through the proper process based on the law, namely through the musrenbang.

Based on Article 3 of Law Number 25 of 2004 concerning the National Development Planning System, the national development planning is prepared in an integrated manner by the Ministries/Agencies and development planning by the Regional Government. National development planning produces long-term development plans, medium-term development plans and annual development plans. Furthermore, the planning will be discussed through the Development Planning Deliberation which is tiered from the village, sub-district, district/city, provincial and national level. Article 11 and Article 16 Paragraph (2) of Law 25 of 2004 explain that the implementation of the Musrenbang is followed by elements of state administrators and involving the community. According to the researcher's view, with clear rules regarding the Musrenbang which is followed by state officials, the DPR here should have played an effective role in absorbing aspirations in the Musrenbang regarding the development of its electoral district.

On this basis, the researcher is of the view that if the use of aspiration funds is maintained, it can undermine the government's role as an executive institution. The separation of powers should also run in accordance with Checks and Balances, because the existence of Checks and Balances makes the administration of power mutually control between branches of power to avoid arbitrariness between power institutions (Rahmatullah, 2017: 15). In line with Jimly Asshiddiqie's opinion, the existence of a Checks and Balances system results in state power being regulated and even controlled as well as possible so that abuse of power in state institutions can be prevented and handled as well as possible (Asshiddiqie, 2006: 74).

In the view of the researcher, the problem with the use of aspiration funds is that apart from causing inequality in development, there is the potential for corrupt practices and the erosion of the role of the government executive, namely the larger the budget in the state budget. Because the aspiration funds will later be included in the state budget, so that the required budget is getting bigger. We know that the DPR proposed a fund of Rp. 20 Billion per member which adds up to 11.2 Trillion for all DPR members.

In APBN, the regional budget and revenue are regulated. The budget balances regional and village budgets. Based on Law 33 of 2004 on Central and Regional Financial Balance. Balancing funds are APBN revenues provided to regions for decentralization needs. APBN-regulated regions receive transfer funds. Revenue Sharing Fund, General Allocation Fund, and Special Allocation Fund make up the balancing fund (DAK). This fund balances government money between the center and regions and between regions.

According to the researcher, this is the basis why the use of aspiration funds will make the budget issued in the APBN even bigger. APBN transfers to regions and village funds from year to year have increased in the amount of their budget. In the 2015 APBN, budget transfers and village funds issued a budget of Rp. 623.1 Trillion. Then in the following year in the 2016

APBN, the increase in the budget reached 14%, which was Rp. 710.3 Trillion. In the 2017 APBN, it again experienced an increase of 6.4%, which was Rp. 755.9 Trillion. In the 2018 State Budget, it increased by 1.4%, which was Rp. 766.2 Trillion, and in the 2019 APBN the budget for transfers to regions and village funds rose 8.3%, namely Rp. 826.8 Trillion.

Looking at the development of the APBN budget from 2015 to 2019 it always increases with an already very large amount, reaching Rp. 826.8 Trillion in the 2019 APBN. In addition, in the APBN there is also a budget that discusses infrastructure which has increased from 2015 – 2019, in the 2019 APBN the infrastructure budget is Rp. 415.0 Trillion. On that basis, the researcher is of the view that the aspiration funds will make the budget in the state budget bigger.

2. Considerations of Judges of the Constitutional Court Number 106/PUU-XIII/2015

The Petitioners are 6 (six) people who come from the Papua Province who feel that they have been constitutionally disadvantaged by the provisions of Article 80 Letter J of Law Number 17 of 2014 concerning the Representative Consultative Assembly, the People's Representative Council, the Regional Representatives Council and the Regional People's Representative Council. The article submitted by the applicant contains the rights possessed by members of the DPR to propose and fight for the electoral district development program. According to the plaintiffs, Article 80 Letter J violates their constitutional rights since it will result in an unfair administration of public funds and will mainly benefit the residents of regions with the maximum number of DPR seats in their electoral districts (dapils).

The constitutional control mechanism is triggered by a petition filed by a person with legal standing whose interests are deemed to be affected by the passage of a law. A violation or excess of the constitutional authority of one state institution by another state entity (Sihaan, 2012: 60). The petition for

constitutional review from the applicant regarding Article 80 Letter J of Law Number 17 of 2014 concerning the Consultative Assembly of Representatives, the People's Representative Council, the Regional Representatives Council, and the Regional People's Representative Council with Article 23 Paragraph (1) of the 1945 Constitution due to the rights of members of the Council People's Representatives who have the right to propose and campaign for the electorate. The Panel of Judges of the Constitutional Court carefully reviewed the petitions of the petitioners, the written evidence, and the petitioners' written conclusions, which were included in the sit-in part of the Constitutional Court's 2015 ruling number 106/PUU-XIII.

Judges of the Constitutional Court in legal considerations are of the opinion, firstly that the House of Representatives (DPR) is a state institution that holds legislative power as stated in Article 20 Paragraph (1) of the 1945 Constitution, namely "The House of Representatives holds the power to form laws". The functions of the DPR are regulated in Article 20A of the 1945 Constitution, namely the legislative function, the budget function and the supervisory function. The function of legislation emphasizes the position of the DPR as a legislative body that exercises the power to form laws. The budget function emphasizes the position of the DPR to discuss the Draft State Revenue and Expenditure Budget (RAPBN) and determine the State Revenue and Expenditure Budget (APBN) aimed at the welfare of the people. The function of supervising government policies and implementation and development by the government.

Affirming the DPR's stance in discussing the Draft State Revenue and Expenditure Budget and determining the State Revenue and Expenditure Budget, as determined by the judges, is the DPR's budget function. According to the researcher, the aspiration fund in this case is not an affirmation of the DPR's budget function, as there are development programs in the form of funds that are discussed through the RAPBN and APBN, such as regional transfer funds or balancing funds governed by Act

No. 33 of 2004 on the Balance of State Finances between the Central Government and Regional Governments. The balancing fund should be able to accentuate the position of the DPR's budget function because the balancing fund is stipulated in the APBN, and the role of the DPR as a budget function should be even more effective because the proposal contains electoral district aspirations and aims to provide funding certainty for regions that are sourced from the center (Yuswanto, 2012: 171).

In addition, the panel of judges is of the opinion that the DPR has a supervisory role in overseeing the government's policies, implementation, and development. According to the researcher, the right of DPR members to propose and fight for electoral district development programs, also known as aspiration funds, can eliminate and weaken the DPR's supervisory function, because they participate in fighting for these funds, which should be based on the DPR's supervisory function to oversee government policies and their implementation and development. According to Jimly Asshiddiqie's book, the DPR's supervision jurisdiction includes monitoring policy implementation, overseeing government performance, and overseeing state budgeting and spending. The DPR is directly involved in the practice of aspiration money as the implementer of policies and budgeting of state expenditures. How therefore can the DPR's oversight function operate efficiently if the supervision conducted conflicts with the thing it oversees, such as aspiration funds?

Second, the Panel of Judges is of the opinion that the DPR, as one of the representative institutions other than the DPD, is chosen exclusively through general elections conducted by political parties, i.e., on the basis of an individual representative system (people representative). Therefore, the percentage of DPR members from each region to the entire population is proportional. Conceptually, the representation of DPR members in institutions focuses on advocating for the national interest without neglecting the regions they represent. To provide a place for regional representatives in national level representative

institutions to accommodate and fight for the interests of their regions, DPD serves as a representative institution to house them. Thus, the DPD representative system is regionally representative, and DPD members are essentially represented at the national level by a regional representative. The membership of the DPR is a proportional representation of all Indonesians through political parties (political representatives), whereas the DPD is a representation of Indonesia's regions (regional representatives) with the same number of members for each province. In light of this, representative institutions are not only able to reflect the sociopolitical forces of the community, but also to channel the desires of the people and translate them into policies that benefit the community.

Representation is an essential feature of modern democratic systems. It is in this representative body that people's representatives are organized to take part in representing the people's sovereignty. For this reason, the DPR as a representative institution has the task of absorbing the aspirations of the people. Members of the DPR who are elected by voters in an electoral district have political closeness and responsibility to the voters in their electoral district. Through political proximity, members of the DPR have known and comprehended the concerns and wants of their constituents, and their political responsibilities have direct and indirect linkages to the voters in their electoral districts who have supported them.

According to the judge's ruling, "Conceptually the representation of DPR members in institutions focuses on voicing the national interest by not ignoring the regions they represent, while to provide a place for regional representatives in national level representative institutions to accommodate and fight for the interests of their regions, there is DPD as representative agency to accommodate it." Members of the DPD are effectively represented by regional representatives at the national level, as the DPD's representative system is based on regional representation. Article 80 Letter J of Law Number 17 of 2014 concerning the Consultative Assembly, the House of

Representatives states that each representative shall "propose and fight for the development program for its electoral district." The author argues that the panel of judges' opinion is inconsistent with this provision. Both the Regional Representative Council and the Regional People's Representative Council serve their respective regions. According to the panel of judges' decision, the DPR has the duty to absorb the desires of the people because it is a representational institution with political affinity and responsibility for its electoral area. Members of the DPR who are elected by voters in an electoral district have political closeness and responsibility to the voters in their electoral district. Through political closeness, members of the DPR have known and understood the problems and needs in their constituencies, while the political responsibilities of members of the DPR have direct and indirect attachments and relationships to voters who have voted for them in their electoral districts.

Researchers claim that the Panel of Judges makes arbitrary and capricious decisions on which institution gets to campaign for a given electoral district. The Judicial Panel also noted that there is a DPD institution that can ostensibly advocate for the wishes of the electoral district; nevertheless, the DPD does not have the same purpose as the DPR, such as the nature of its representation in lawmaking. If the DPD wants to pass a legislation, all it can do is draft one and send it to the DPR for approval. Article 174 of Law Number 17 of 2014 governs the relationship between the DPR and DPD as they prepare the APBN. This article requires the DPR to receive and act on the DPD's written considerations of the APBN draft law and the tax, education, and religion draft laws before they can be discussed with the President (Susanto, 2016: 194).

One of the DPD's supplements is a working committee responsible for discussing and gathering DPD's concerns regarding the proposed APBN law, and these considerations are provided in writing to the DPR as required by Article 265 of Law Number 17 of 2014. According to Article 71 of Law 17 of 2014,

the DPR is tasked with considering the DPD's feedback on the proposed APBN law. Based on this description, the researcher concludes that the DPD has a less prominent role than the DPR in drafting the APBN Law, and that the DPD's position as a regional representative precludes him or her from actively contributing to the drafting of the APBN, including the process of allocating aspiration funds.

For this development fund, the DPR asks for a budget of 20 million per seat and when all members of the DPR add up, the aspiration budget will reach 11.2 trillion rupiah. This is the root of the problem, even more so when the Panel of Judges is of the opinion that members of the DPR cannot be separated from the moral responsibility of the electoral district that has carried them. Based on the theory of representative mandate proposed by George Jellinek, namely a mandate given to representatives to join a representative institution (e.g., parliament), the researcher concludes that this is where the DPR's standing as a political representative is severely damaged. Representatives are not accountable to the people they claim to serve because they are elected and given a mandate by the representative institution (parliament). For the good of the populace, this democratic assembly (parliament) will serve as the ultimate arbiter of policy (Busroh, 2010: 69). The Panel of Judges argues that the DPR is a political representative of the entire Indonesian people and must consider the concerns of the entire society, not just the voting district. The researcher found that the Panel of Judges' indirect explanation of the distance between *Das Sein* and *Das Sollen* undermined the decentralized or equitable development aspect of our current strategy (Effendi, 2002: 2).

Third, the applicant argues that the relationship between members of representative institutions and the constituents they represent lacks explicit rules regulating the process for the absorption of aspirations, but the Court determines that this lack of norms cannot be deemed unconstitutional. One example of a downward political construction that occurs during elections is the description of the bond formed between voters and their

chosen DPR representatives as a "political contract" that binds those voters directly or indirectly to those DPR representatives. There should never be a conflict between the interests of the electoral district and the national interest, because electoral districts throughout Indonesia are part of the national interest itself. According to the Court, that members of the DPR have an obligation to fight for the interests of the people in their constituencies, but that does not mean that members of the DPR are merely fighting for the interests of their constituencies because the essence of members of the DPR is to represent the Indonesian people as a whole.

In this study, the researcher shares the applicant's view that the interaction between representatives and their constituents is characterized by a lack of regulations regarding the method for the absorption of desires. For the reason that it is stated in DPR Regulation No. 4 of 2015, which addresses the methods for submitting proposals for Electoral District Development Programs. There is no guidance on how to take in hopes and dreams in voting districts; the DPR regulation simply details the process for proposing projects and discussing development programs. Since the mechanism is unregulated, the Panel of Judges should take a broader approach in considering the legal basis for the conduct of this ambition fund. Researchers have found that this will cause members of the DPR to act arbitrarily when absorbing hopes and dreams. One aspect of the rule of law, according to Albert Venn Dicey, is the lack of arbitrary behavior in place of established norms ([Kusomo, 2007: 28](#)).

Fourth, the Panel of Judges believes that the issue at the heart of the a quo petition, the ambition fund, is an implementation difficulty with the norm of Article 80 Letter J of Law 17/2014, and not a constitutional matter within the Court's purview to resolve. Because DPR seats are not allocated to each province according to the principle of equal representation and the size of the electoral district is not uniform, the implementation of the right to propose and fight for electoral

district development programs should also consider justice for all Indonesian people and should not sharpen regional development gaps. multi-member constituencies are more common than single-member ones (one electoral district for several seats). Legislators need to make these sorts of things policy if we're ever going to achieve the goals for the country set out in the Constitution of 1945.

According to the findings of the researcher, the opinion of the Assembly stated that it had rejected the case on the grounds that it was only an error in implementation, and that it did not take into account the juridical implications of Article 80 Letter J of Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council, and the People's Representative Council, which had become effective. This was stated in the opinion as the reason for the rejection of the case. It has the potential to cause losses in eastern regions such as Papua and West Papua, and does not rule out the chance that it will also occur in other locations. Papua and West Papua Departing from the way of thinking of Roscoe Pond, namely his concept of law as a tool for social engineering or law as a tool for social engineering (Fuadi, 2013: 248). The researcher believes that the Panel of Judges need to annul Article 80 Letter J of Law Number 17 of 2014 since members of the DPR have erred on the legal foundation and because, in the future, members of the DPR will refrain from erring for fear of losing the juridical basis. And this is the basis for efforts not to sharpen the gap in development and uphold the equitable distribution of decentralized development because according to Yusril Ihza Mahendra, when we justify a centralized system, we will kill a more participatory system. As a result, this is the basis for efforts to not sharpen the gap in development and uphold the equitable distribution of decentralized development.

In this particular instance, the Panel of Judges should not have a limited point of view. The reason for the Panel of Judges' refusal makes it difficult to determine which one of the

institutions is actually representative of the center to the regions as an absorber of aspirations for development programs. One of the various methods that can be used to apply for cash from the center to the regions is the village fund, which has been allotted Rp. 70 Trillion in the 2019 APBN. The researcher claims that there are many other ways to apply for funds. A fundamental allocation, an affirmative allocation, and a formula allocation are used to distribute the specifics of the village finances in the APBN in a manner that is both equitable and fair to each district or municipal region. The allocation of village funds is in accordance with Minister of Finance Regulation (PMK) Number 199/PMK.07/2017 concerning Procedures for Allocating Village Funds to Each Regency/City and Calculation of Details of Village Funds for Each Village. Supposedly with the existence of village funds, there is no need to create new village funds, namely the aspiration fund in Article 80 Letter J of Law Number 17 of 2014, the DPR can absorb the aspirations of the community to the maximum by fighting for village funds in the RAPBN.

D. CONCLUSION

The allocation of the aspiration funds of the House of Representatives does not reflect the principle of people's justice in the allocation of funds, in the aspiration funds it can cause injustice in development because the allocation of these funds is based on electoral districts where the number of seats in the electoral districts in legislative elections is not the same. Aspiration funds are allocated based on the number of seats in the electoral district, Java Province will get the largest aspiration fund compared to other provinces, which is Rp. 5,100,000,000,000,000 (five trillion one hundred billion rupiah). Sumatra Province received aspiration funds of Rp. 1,220,000,000,000 (one trillion twenty-two billion rupiah). Sulawesi Province received an aspiration fund of Rp. 780,000,000,000,000 (seven hundred and eighty billion rupiah). Kalimantan Province received aspiration funds of Rp. 700,000,000,000,000 (seven hundred billion rupiah). DKI Jakarta

received aspiration funds of Rp. 420,000,000,000 (four hundred and twenty billion rupiah). Banten Province received aspiration funds of Rp. 440.000.000.000 (four hundred and forty billion rupiah). Lampung received aspiration funds of Rp. 360,000,000,000,000 (three hundred and sixty billion rupiah) And the Provinces of Papua and West Papua receive aspiration funds of Rp. 260,000,000,000 (two hundred and sixty billion).

The consideration of the judges of the Constitutional Court in Decision Number 106/PUU-XIII/2015 contained inconsistencies. The Panel of Judges was inconsistent in determining which institution should fight for votes for the constituency. When the Panel of Judges also stated that there is a DPD institution that can essentially fight for the aspirations of the electoral district, but the DPD does not have the same function as the DPR. The DPR and DPD in the process of preparing the APBN are regulated in Article 174 of Law Number 17 of 2014 which states that the DPR receives and follows up on written considerations regarding the draft law on the APBN and draft laws relating to taxes, education and religion submitted by the DPD before entering the stage of discussion between the DPR and the President.

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