



ISSN Print: 2541-5298
ISSN Online: 2541-6464

SRIWIJAYA Law Review

Editorial Office: Faculty of Law, Sriwijaya University
Jalan Sriwijaya Negara, Palembang, South Sumatra 30139, Indonesia.
Phone: +62711-580063 Fax: +62711-581179
E-mail: sriwijalayalawreview@unsri.ac.id| sriwijalayalawreview@gmail.com
Website: <http://journal.fh.unsri.ac.id/index.php/sriwijalayalawreview>

The Standing of the Regional People's Representative Council Secretariat in Indonesia

Febrian^a

a. Faculty of Law, Universitas Sriwijaya, Indonesia. Corresponding Author Febrian, e-mail: febrian_zen@yahoo.com.sg

Article	Abstract
<p>Keywords:</p> <p>Governor; Regional Representative Secretariat; Regent; People's Council;</p> <p>Article History Received: Mar 20, 2022; Reviewed: Jun 30, 2022; Accepted: Jul 14, 2022; Published: Jul 31, 2022.</p> <p>DOI: 10.28946/slrev.Vol6.Iss2.1869.pp367-381</p>	<p>Indonesia's constitutional system has a clear separation between the judiciary, the legislature and the executive. Likewise, its functions have clear boundaries regulated in the legislation. However, in practice, there is an institution that has two institutional responsibilities simultaneously, namely the Regional People's Representative Council (DPRD) Secretariat. Legally, the DPRD Secretariat led by the DPRD secretary has responsibilities to the executive, in this case, the governor or regent on the one hand and the DPRD chairman as the legislative body on the other hand. This generally occurs in Indonesia, where the DPRD Secretariat institutional system is regulated through regulations issued by the executive. This study uses a statute approach with a normative juridical method examining legal products related to the secretariat of the DPRD in Indonesia. As a result, it is believed that the DPRD Secretariat institutional system, which is regulated through executive products, violates the higher regulation. Therefore, a fundamental change to the executive legal product is crucial to maintaining the DPRD Secretariat's impartiality in carrying out its duties and authorities.</p>

©2022; This is an Open Access Research distributed under the term of the Creative Commons Attribution-ShareAlike 4.0 International License (<https://creativecommons.org/licenses/by-sa/4.0/>), which permits unrestricted use, distribution, and reproduction in any medium, provided the original works are properly cited.

INTRODUCTION

The existence of people's representative institutions in the state administration system in Indonesia cannot be separated from the general election. It is a logical consequence of the adoption of the principle of people's sovereignty, where the philosophical basis of this democratic process is the active role of every citizen in the political process following the constitutional mandate to form representative institutions such as the People's Consultative

Assembly (MPR), House of Representatives (DPR), and the Regional People's Representative Council (DPRD).¹ As regulated in the legislation, the legislative body in Indonesia has a two-chamber system or what is called a bicameral system. This system applies when the legislative council has two separate institutions: the House of Representatives and the Regional Representatives Council (DPD).² Unlike in the United States, the senate is a representative of the states whose each state is represented by two senators,³ in Indonesia, the senate changed its name to the Regional Representatives Council, whose members are representatives of all elements of society in the region. Of the thirty-four provinces in Indonesia, each province is represented by four DPD members regardless of the province's size.⁴ Currently, with the expansion in Papua, the number of provinces in Indonesia has increased to thirty-seven (37) provinces.⁵

Basically, there are some basic differences between the DPR and DPD in Indonesia and the House of Representatives and the Senate in the United States context. In the United States, the power to pass laws belongs to the senate. Meanwhile, the House of Representatives only makes the draft.⁶ This is certainly different from Indonesia, where the authority of the DPR (House of Representatives) is greater than the Regional Representative Council. In Indonesia, the DPR has full authority to pass laws. So that the principle of checks and balances where DPR members should represent the interests of the people in general in the concept of 'political representation and the DPD as a place for regional aspirations, which is reflected in the principle of "regional representation", does not work as it should.⁷

At the regional level, the DPR is transformed into the Regional People's Representative Council at the provincial, district, or city levels. It is regulated in Law no. 23 of 2014 concerning Regional Government⁸ which states that the DPRD is a regional people's representative institution that is domiciled as an element of regional government administration that has legislative, budgetary and supervisory functions within the framework to represent the people in their regions where in order to carry out their functions, the Regency/Municipal

¹ Dahlan Thaib, "DPRD Dan Otonomi Daerah (Kajian Dari Sudut Pandang HTN)," *Millah* 1, no. 1 (2001): 80–85.

² L. M. Barlin, *House of Representatives Practice* (Canberra: Australian Government Publishing Service, 1997).

³ "Popular Election of Senators," Seventeenth Amendment, 2019, <https://www.congress.gov/content/conan/pdf/GPO-CONAN-2017-10-18.pdf>.

⁴ Miki Pirmansyah, "Eksistensi Dewan Perwakilan Daerah Dalam Sistem Bikameral Di Indonesia," *Jurnal Cita Hukum* 2, no. 1 (2014): 176.

⁵ Fitria Chusna Farisa, "RUU Pemekaran Papua Disahkan, Indonesia Punya 37 Provinsi," *Kompas.com*, 2022.

⁶ R. Guntir Prakoso Dewandaru, Untung Sri Hardjanyo, and Ratna Herawati, "Perbandingan Badan Perwakilan Rakyat Pada Sistem Ketatanegaraan Indonesia Dan Amerika Serikat," *Diponegoro Law Journal* 5, no. 3 (2016): 20.

⁷ Jamaludin Ghafur, "Penguatan Lembaga DPD Melalui Amandemen Ulang Lembaga MPR," *Jurnal Hukum IUS QUIA IUSTUM* 14, no. 3 (2007): 366–412, <https://doi.org/10.20885/iustum.vol14.iss3.art2>.

⁸ This Law has been amended several times, most recently by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014. However, the nature of the amendment to this law is an *addendum*.

DPRD captures the aspirations of the community.⁹ The legislative function is manifested in the formation of regional regulations with the regional head, the budget function is manifested in the discussion and approval of the draft Regional Revenue and Expenditure Budget (APBD), and the supervisory function is realised in supervising the implementation of regional regulations and APBD.¹⁰

Meanwhile, other laws also stipulate provisions concerning the Secretariat of the DPRD, both the Provincial DPRD and the Regency/Municipal DPRD, namely in Law Number 17 of 2014, concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council (the Law of MD3). Although this Law has been amended three times, namely through Law Number 42 of 2014, Law Number 2 of 2018 and Law Number 13 of 2019, these changes are addendum; that is, it is only carried out in a patchwork of particular articles, while articles that have not been amended remain in effect. The Law states that to support the smooth implementation of the authorities and duties of the Regency/Municipal DPRD, a Regency/Municipal DPRD secretariat is formed whose Regency/Municipal Regional Regulations stipulate organisational structure and working procedures.¹¹

The derivative of these provisions was then formed Government Regulation Number 18 of 2016 concerning Regional Apparatus, which organizationally states that the DPRD secretariat is part of the existing regional apparatus at the provincial and district/city levels. In addition to the DPRD secretariat, as mentioned above, there are also regional secretariats, inspectors, offices, agencies, and sub-districts. The DPRD Secretariat, in this case, is an element of administrative services and provides support for the duties and functions of the DPRD. The DPRD secretariat at the regency/city level is led by a secretary who is responsible for two institutions at once, namely the regent/mayor and the head of the regency/city DPRD. Technically, the DPRD secretary is under and responsible to the DPRD leadership, and administratively the DPRD secretary is responsible to the regent/mayor through the regional secretary.

The position of the DPRD secretary is not only under the leadership of the DPRD but also the executive. This makes the DPRD secretary stand on two different legs. This issue seems to have been resolved in the realm of theory, but in practice, is it like that? As is the case in Law of MD3, regional regulations determine the organisational structure and working procedures of the DPRD secretariat. However, in practical terms, it is not uncommon to find this organisational structure made by the regent or mayor. For example, in Banyuasin Regency,

⁹ Article 149, Law Number 23 of 2014 concerning Local Government *jo.* Article 365 Law Number 17 of 2014, concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council (Law of MD3).

¹⁰ Bryan Rizky Immanuel Rindengan, Femmy Tulusan, and Joorie Ruru, "Peranan Sekretariat DPRD Dalam Mendukung Fungsi DPRD (Studi Di Sekretariat DPRD Kota Tomohon)," *Jurnal Adminisrtras Publik* 4, no. 32 (2015).

¹¹ Article 420, the Law of MD3.

South Sumatra, Banyuasin Regent Regulation Number 167 of 2016 concerning Organisational Structure and Description of Duties and Functions of the Secretariat of the Regional House of Representatives of the Banyuasin Regency Government. In fact, things that should be regulated in regional regulations will be regulated through executive regulations.

After the author conducted a literature review related to the position of the DPRD secretariat, the author found several articles that had been published, such as the article written by Maharidiawan Putra with the title DPRD Secretariat Adhesive Working Relations of Regional Heads and DPRD in Central Kalimantan Province.¹² This article discusses the role of the regional secretariat in becoming the glue of the working relationship between the regional head and the DPRD in Central Kalimantan Province. In this article, the focus of the research is on the role of the DPRD secretariat, which is the glue between the relationship between the regional head on the one hand and the DPRD on the other. However, this article does not discuss how the obstacles are caused by the position of the DPRD secretariat under two institutions at once, namely the executive and the regional legislature.

In addition, Rika Ramadhanti's article entitled The Role of the Secretariat of the Regional People's Representative Council in Supporting the Performance of Members of the Regional People's Representative Council of Kuantan Singingi Regency discusses the issue of how the secretariat administration system, financial administration, implementation of tasks and functions, as well as the provision and coordination of the necessary experts by the DPRD in Kuantan Singingi Regency. This article also states that the role of the DPRD secretariat in the area has been carried out effectively with the benchmark that the implementation of activities has been realised and the meeting or plenary meeting is carried out according to the specified schedule.¹³ However, this article does not discuss the issue of conflict of interest that occurs due to the position of the DPRD secretariat under the regional legislative body and the regional executive body. Then also, the benchmark used in assessing the success of the regional secretariat is that the implementation of the secretariat program is too superficial because it does not touch on the discussion of conflicts of interest between institutions.

After conducting a literature review on the mentioned papers, the author realises that there are still unresolved gaps which are also the main issue in this study. What is the position of the DPRD secretariat, which is regulated through executive products such as the governor's and the regent's regulations, is the correct action and what solutions are needed to address these problems in the wider context of Indonesia? This article will focus on the two issues mentioned above, which simultaneously become the differentiator and novelty of this research with previous research.

¹² Maharidiawan Putra, "Sekretariat DPRD Perekat Hubungan Kerja Kepala Daerah Dan DPRD Di Provinsi Kalimantan Tengah," *Morality: Jurnal Ilmu Hukum* 5, no. 1 (2019): 73–77.

¹³ Rika Ramadhanti, "Peran Sekretariat Dewan Perwakilan Rakyat Daerah Dalam Menunjang Kinerja Anggota Dewan Perwakilan Rakyat Daerah Kabupaten Kuantan Singingi," *Jurnal Trias Politika* 2, no. 2 (2018): 248–66, <https://doi.org/10.33373/jtp.v2i2.1472>.

RESEARCH METHODS

The approach used in this study is a statute approach with a normative-juridical¹⁴ or doctrinal¹⁵ method. The legal material that is the source of this research is primary legal material which examines the laws and regulations related to the position of regional secretariats in Indonesia, starting from the highest regulations to regional level regulations. These laws and regulations include Law no. 23 of 2014 concerning Regional Government, 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 (Law of MD3) in conjunction with Law Number 42 of 2014 and Law Number 2 In 2018, Government Regulation Number 18 of 2016 concerning Regional Apparatus and Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 104 of 2016 concerning Guidelines for the Nomenclature of the Secretariat of the Provincial and Regency/City Regional House of Representatives, East Java Governor Regulation Number 66 of 2016 concerning Position, Organisational Structure, Description of Duties and Functions and Work Procedures for the Secretariat of the Regional People's Representative Council of East Java Province, and Yogyakarta Mayor Regulation Number 94 of 2021 concerning Position, Organisational Structure, Duties, Functions, and Work Procedures of the Secretariat of the Regional People's Representative Council. Then the secondary legal materials of this research are written papers in the form of scientific research and articles that discuss the position of the DPRD secretariat in Indonesia. In addition, tertiary legal materials are also used to complement the reference sources in this study in the form of news from newspapers with a trusted reputation, dictionaries and encyclopedias.

ANALYSIS AND DISCUSSION

Organisational Structure of the DPRD Secretariat in Indonesia

The organisational structure generally describes the framework of relationships between functions, sections, or positions. In addition, the most important thing in this organisational structure is a forum for carrying out the authority, responsibility, and reporting system that provides stability and continuity that allows the organisation to continue running. Therefore, this organisational structure directly shows the organisational hierarchy.¹⁶

Osborne and Plastrik argue that government reform is a fundamental transformation of government systems and organisations to create effectiveness, efficiency, and the ability of Human Resources to innovate. Effectiveness and efficiency are crucial due to the increasing

¹⁴ Soerjono Soekanto, *Penelitian Hukum Normatif* (Jakarta: Rajawali Press, 2013).

¹⁵ Bambang Sunggono, *Metode Penelitian Hukum* (Jakarta: Rajawali Pers, 1997).

¹⁶ Engkus and DKK, "Analisis Struktur Organisasi Sekretariat DPRD Provinsi Jawa Barat, Bandung: Fakultas Ilmu Sosial Dan Ilmu Politik, Universitas Islam Gunung Djati," 2016, http://digilib.uinsgd.ac.id/4047/1/ANALISIS_SOTK_BARU_SETWAN_PROV_JABAR17.pdf.

dynamics, aspirations, and demands of the community in the context of the Unitary State of the Republic of Indonesia (NKRI) towards the decentralisation of government. Meanwhile, in carrying out any action, the government must follow the philosophical goals of the Indonesian nation as stated in the preamble of the 1945 Constitution.¹⁷ In addition, effectiveness is closely related to achieving the goals of the Indonesian state, including becoming a welfare state, namely to create a just, prosperous and prosperous society, as mandated in the Regional Autonomy Law and Government Regulation Number 18 of 2016 concerning Regional Apparatus.¹⁸

The regional government at the provincial level is the governor. At the district or municipal level, it is the regent or mayor, and the regional apparatus is the element of the regional administration. The Regional People's Representative Council is a regional people's representative institution and is domiciled as an element of regional government administration. In this case, the regional administration consists of the regional government and the DPRD.¹⁹

Regarding the philosophical foundation and vision of the Regional Government Law, development and services are more oriented by and for the Regions with central government regulation and control. In addition, globalisation demands increasingly real competitiveness, so optimisation, effectiveness, and efficiency are needed in all fields supported by bureaucratic flexibility that is lean in structure but rich in functions.²⁰

In principle, in the organisational context, the secretariat of the DPRD in the scope of the province or district/city is formed to support the implementation of the main functions and tasks of the provincial or district/city DPRD in order to improve the quality, productivity and performance of regional people's representative institutions, taking into account the guidelines for the preparation of regional organisation.²¹ In this case, the authority to organise the organisational structure and working procedures of the DPRD secretariat should be carried out in the form of regulations issued by the legislative body, which in this case are Provincial Regulations and Regency/City Regional Regulations.

A secretary leads the DPRD secretariat with the status of a Civil Servant who is appointed and dismissed by the decision of the regent or mayor with the approval of the chairman of the Regency/City DPRD.²² This is where the role of the regional apparatus will be tested, where the regulation of the organisation of the DPRD secretariat becomes the authority of the region

¹⁷ Nurhidayatulloh, "Dilema Pengujian Undang-Undang Ratifikasi Oleh Mahkamah Konstitusi Dalam Konteks Ketatanegaraan RI," *Jurnal Konstitusi* 9, no. 1 (2012): 113–35.

¹⁸ Engkus and DKK, "Analisis Struktur Organisasi Sekretariat DPRD Provinsi Jawa Barat, Bandung: Fakultas Ilmu Sosial Dan Ilmu Politik, Universitas Islam Gunung Djati."

¹⁹ Asmawi, "Dewan Perwakilan Rakyat Daerah Dalam Perundang-Undangan Pemerintahan Daerah dan Lembaga Legislatif Daerah," *Jurnal Cita Hukum* 2, no. 1 (2014): 1–18.

²⁰ Engkus and DKK, "Analisis Struktur Organisasi Sekretariat DPRD Provinsi Jawa Barat, Bandung: Fakultas Ilmu Sosial Dan Ilmu Politik, Universitas Islam Gunung Djati."

²¹ Elucidation Article 420 (1) the Law of MD3.

²² Article 205, Law Number 23 of 2014 concerning Local Government.

itself. Whether or not the optimisation, effectiveness, efficiency, and flexibility of the bureaucracy, which is rich in these functions, will be carried out as well as possible.

The Practice of Regulating the Organizational Structure of the DPRD Secretariat in Indonesia

The legal rules that make up the organisational structure of the DPRD secretariat in Indonesia have almost uniform characteristics and forms of regulation, starting from the structure to the duties and functions of the DPRD secretariat. This custom turns out to have the same legal basis, namely the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 104 of 2016 concerning Guidelines for the Nomenclature of the Secretariat of the Provincial and Regency/City Regional House of Representatives (Regulation of the Minister of Home Affairs No. 104). The thing that distinguishes the organisational structure of the DPRD secretariat is the classification of the secretariat into several types: A, B and C. This classification is solely based on the secretarial workload, where type A has a large workload, type B has a moderate workload, and type C has a small workload. In practice, this type will affect the number of sections in the secretariat.²³

In Regulation of the Minister of Home Affairs No. 104, no provision requires that the form of regulation governing the DPRD secretariat must be an executive product. However, the facts reveal that the existing regulations regarding the secretariat of the DPRD are in the form of a governor's regulation at the provincial level and a regent/mayor regulation at the district/city level. This can be seen in the regulations in several regions in Indonesia, such as in the provinces of East Java, South Sumatra, Central Java and several regencies/cities spread throughout Indonesia. This can be seen in table 1 below:

Table 1: *Position, Organisational Structure, Functions and Work Procedures of the DPRD Secretariat*

Region	Form of Regulation	Regulation Number
Province of East Java	Governor's Regulation	East Java Governor Regulation Number 66 of 2016 concerning Position, Organisational Structure, Description of Duties and Functions and Work Procedures for the Secretariat of the Regional People's Representative Council of East Java Province
Province of Central Java	Governor's Regulation	Central Java Governor Regulation Number 56 of 2016 concerning the Organization and Work Procedure of the Secretariat of the Regional People's Representative Council of Central Java Province
Province of South Sumatra	Governor's Regulation	South Sumatra Governor Regulation Number 50 of 2016 concerning Organisational Structure, Description of Duties and Functions of the Secretariat of the Regional House of Representatives of South Sumatra Province
Buton District	Regent's Regulation	Buton Regent Regulation Number 17 of 2016 concerning Position, Organisational Structure, Duties and Functions, and Work Procedure of the Secretariat of the Buton Regency Regional People's Representative Council

²³ Article 32, Government Regulation Number 18 of 2016 concerning Regional Apparatus.

Yogyakarta City	Regulation of Mayor	Yogyakarta Mayor Regulation Number 94 of 2021 concerning Position, Organisational Structure, Duties, Functions, and Work Procedures of the Secretariat of the Regional People's Representative Council
Cirebon District	Regent's Regulation	Cirebon Regent Regulation Number 3 of 2022 concerning Duties, Functions, and Work Procedures of the Secretariat of the Regional People's Representative Council
Banyuasin District	Regent's Regulation	Banyuasin Regent Regulation Number 262 of 2020 concerning Nomenclature of Organisational Structure, Duties and Functions of the Secretariat of the Banyuasin Regional People's Representative Council

Source: *Analysed from the primary source*

In table 1, it can be seen that, in general, the forms of rules governing the organisation and working procedures of the secretariat of the council in Indonesia are the product of the executive, both governors and regents or mayors. In fact, these regulations also regulate the position of the secretary of the board, who is under and responsible for two institutions at once. On the one hand, the DPRD secretary is under and responsible to the legislative body. In this case, is the chairman of the DPRD. On the other hand, the DPRD secretary is also administratively responsible to the Governor or Regent/Mayor. This can also be seen in the articles as stated in Article 2 of the Regulation of the Governor of East Java Number 66 of 2016 concerning the Position, Organisational Structure, Description of Duties and Functions, as well as the Work Procedure of the Secretariat of the Regional People's Representative Council of East Java Province which states that:

“(1) The DPRD Secretariat is an element of service to the DPRD and provides support for the duties and functions of the Provincial DPRD. (2) The DPRD Secretariat is led by a technically operational secretary under and responsible to the DPRD leadership and administratively responsible to the governor through the Provincial Secretary.”

A similar position is also found in other regions' regulations, which explicitly state that the DPRD secretary is under two institutions simultaneously.

As mandated in the Law of MD3, organizationally, the organisational structure and working procedures of the DPRD secretariat both at the provincial and district/city levels are determined based on regional regulations under the provisions of laws and regulations.²⁴ At the provincial level, the DPRD secretariat apparatus is regulated in Article 418, which states that:

“(1) To support the smooth implementation of the powers and duties of the provincial DPRD, a provincial DPRD secretariat is formed whose organisational structure and working procedures are determined by provincial and regional regulations under the provisions of laws and regulations; (2) The secretariat of the provincial DPRD as referred to in paragraph (1) is led by a secretary of the provincial DPRD who is appointed and dismissed by a governor's decision with the approval of the leadership of the provincial DPRD; (3) The secretary of the provincial DPRD and the secretariat staff of the provincial DPRD shall come from civil servants.”

²⁴ Articles 418 and 420 Law of MD3.

Then for the district/city level, the DPRD secretariat apparatus is regulated in Article 420 of the Law of MD3, which states that:

“(1) To support the smooth implementation of the authorities and duties of the Regency/Municipal DPRD, a secretariat of the Regency/Municipal DPRD is formed whose Regency/Municipal Regional Regulations stipulate organisational structure and working procedures under the provisions of laws and regulations; (2) The secretariat of the Regency/Municipal DPRD as referred to in paragraph (1) is led by a secretary of the Regency/Municipal DPRD who is appointed and dismissed by the decision of the Regent/Mayor with the approval of the leadership of the Regency/Municipal DPRD; (3) The secretariat of the regency/municipal DPRD and the secretariat staff of the regency/city DPRD shall come from civil servants.”

Basically, it is clearly stated in the regulation that in order to maintain the impartiality of the DPRD secretariat, the DPRD support system must be regulated using regional regulations, which incidentally are legislative products, not a governor or regent/mayor regulations which incidentally are executive products. However, in practice, this turns out to be different where the executive at the regional level determines the organisational structure and working procedures of the DPRD secretariat. For example, in Banyuasin Regency, this provision is regulated in Banyuasin Regent Regulation No. 262 of 2020 concerning Nomenclature of Organisational Structure, Duties and Functions of the Secretariat of the Banyuasin Regency House of Representatives. This regulation was stipulated and promulgated on Dec 11, 2020, which was signed by the Regent of Banyuasin and has been recorded in the Banyuasin District Gazette of 2020 Number 262.

The DPRD Secretariat is an element of administrative services and provides support for the duties and functions of the Regency DPRD. In carrying out its functions, organizationally, the secretariat of the DPRD of the Banyuasin Regency Government consists of the DPRD secretary, the general and staffing section, the finance and budget section, and the legislation section, and the court, public relations and documentation section.²⁵ Each section has also been equipped with its sub-section and is headed by the head of the sub-section in each section. Overall, the Banyuasin DPRD secretariat is led by a secretary where the secretary leads all sections and subsections within the DPRD secretariat mentioned above.

Authority, Duties and Functions of the Secretariat of the Council

According to Mintzberg, authority, duties, and functions can be divided into 5 (five) categories: strategic apex, operating core, middle line, technostructure, and support staff. The first category of the strategic apex is carried out by top-level leaders or managers in a government organisation, who are given responsibility for that organisation.²⁶ The second category is the operating core, which directly carries out the organisation's main tasks. The third category is the middle line, where this function is generally a liaison function between the strategic apex

²⁵ Article 3, Banyuasin Regent Regulation Number 262 of 2020 concerning Nomenclature of Organisational Structure, Duties and Functions of the Secretariat of the Banyuasin Regional People's Representative Council.

²⁶ Engkus and DKK, “Analisis Struktur Organisasi Sekretariat DPRD Provinsi Jawa Barat, Bandung: Fakultas Ilmu Sosial Dan Ilmu Politik, Universitas Islam Gunung Djati.”

and the operating core. The fourth category is technostructure, which is to formulate and make standardisations or certain policies that must be implemented. The last category is support staff, where this function is to support other organisational units to achieve organisational goals.²⁷

If you look at the division of categories according to Minzberg's theory when applied to the organisational structure contained in Government Regulation Number 18 of 2016 concerning Regional Apparatuses, especially concerning the organisation contained in the DPRD secretariat, the design of the function is grouped vertically as follows: 1) secretary is a strategic apex function. 2) The Head of the Section is a function of the middle line, technostructure, and support staff. 3) The subsection is the operating core.

As stated above, the DPRD secretary, as a strategic apex function within the scope of the DPRD secretariat, has the responsibility and position as a top-level leader or manager in a government organisation called the DPRD secretariat. To become a leader at the level of DPRD secretary is not easy and not for practical political reasons, but this is due to purely professional reasons. Therefore, in the legislation, it is also clearly limited that issues of capacity, competence and experience must be considered by the regent or mayor when proposing a DPRD secretary. In addition, this position is only closed for Civil Servants. This is under the provisions contained in the Law of MD3. At the district or city level:

“Regency/city DPRD secretary is a civil servant career position so that in proposing his appointment and dismissal, he follows the provisions of the legislation in the field of personnel. In proposing his appointment, the regent/mayor proposes 3 (three) candidates to the leadership of the regency/city DPRD for approval by taking into account the level of rank, ability, and experience.”²⁸

Judging from the position, duties and functions of the DPRD as stipulated in the regulation above, it is known that the DPRD secretariat has a very important role in terms of the effectiveness of the implementation of DPRD functions. Therefore, the role of the secretary as the spearhead of the running of this organisation is the key to the success of the DPRD secretariat, which will directly have implications for the running of the DPRD in carrying out its legislative, budgetary and supervisory functions.

In general, the grouping of DPRD secretariat tasks based on function is divided into several parts, namely: 1) The section that provides administrative support for the DPRD secretariat (General Section); 2) the Section that provides administrative support for DPRD planning and finance (Program and Finance Section); 3) The Division that carries out the Function of Support for the Implementation of the Duties and Functions of the DPRD in the field of legislation (Section for Hearing and Legislation); 4) The section that carries out the Function of Supporting the Implementation of the Duties and Functions of the DPRD in the field of budgeting and supervision (Budgeting and Supervision Facilitation Section).²⁹

²⁷ Engkus and DKK.

²⁸ Elucidation Article 420 (2) the Law of MD3.

²⁹ Attachment to the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 104 of 2016 concerning Guidelines for the Nomenclature of the Secretariat of the Provincial and Regency/City Regional People's Representative Council.

Based on the sections above, it can be seen that the secretariat function of the DPRD has a very crucial role, especially in terms of Support for the Implementation of the Duties and Functions of the DPRD in the field of legislation (Section of Trials and Legislation). This can be interpreted that all legal products that will or are being processed by the DPRD are known directly by the DPRD secretariat. There is no boundary between the DPRD secretariat and the DPRD leadership. Therefore, it would be very unethical when the accountability (administratively) of the DPRD secretariat is still linked to the executive, in this case, the governor or regent/mayor. In these regulations, it is not explained further what is meant by administrative responsibility.

Even more interesting is the Yogyakarta Mayor's Regulation Number 94 of 2021 concerning the Position, Organisational Structure, Duties, Functions, and Work Procedures of the Secretariat of the Regional People's Representative Council. In Article 2, it is expressly stated that: "(1) The DPRD Secretariat is located under and is responsible to the Mayor through the Regional Secretary; (2) The DPRD Secretariat as referred to in paragraph (1) is led by the DPRD Secretary." In the context of this mayoral regulation, there is no longer any separation, whether "technically operational" or "administratively." Therefore, it will be very difficult to maintain the impartiality of the DPRD secretariat simultaneously. Their position is still directly bound by the executive. There may be violations of the Law committed by certain elements within the scope of the DPRD secretariat.³⁰

Secretariat of the Council in Synergizing between the Legislative and Executive Councils in the Regions

As mentioned above, the DPRD secretary is under and responsible to the DPRD chairman technically and operationally. At the same time, they are administratively responsible to the regent/mayor. This position, on the one hand, is a difficult thing, but on the other hand, it can also be seen as an opportunity and a challenge. It becomes a challenge because a DPRD secretary must be able to carry out his duties and functions as a regional apparatus in mediating two institutions at once, namely the legislature and the executive. This is an opportunity because the position of DPRD secretary is very strategic, especially concerning being a mediator between the government and the council. Therefore, the consequence that a secretary of the council must face is the quality of a secretary the council. So, the secretary must be held by a truly appropriate person who has good abilities in carrying out administrative and financial secretariats in supporting the duties and functions of the DPRD and administrative responsibility to the government.³¹

³⁰ Arli Fauzi, "Telaah Yuridis Tentang Tindak Pidana Korupsi Dalam Pengadaan Barang Dan Jasa Pada Sekretariat DPRD Kabupaten Sidoarjo," *DIH: Jurnal Ilmu Hukum* 9, no. 17 (2013), <https://doi.org/doi:https://doi.org/10.30996/dih.v9i17.250>.

³¹ "Asosiasi Sekretaris DPRD Mantapkan Peran Mediasi Legislatif Dan Eksekutif Mediasi," *tribunnews*, 2016, <http://pontianak.tribunnews.com/2016/04/08/asosiasi-sekretaris-dprd-mantapkan-peran-mediasi-legislatif-dan-eksekutif>.

Practically, the relationship between the legislature (DPRD) and the executive (local government) will be in direct contact with the implementation of their respective duties and authorities, especially in the areas of tasks that are a common concern in making local regulations and issuing local regulations,³² which cannot be separated from the existence of the DPRD secretariat facilitation. Where the drafting of the Draft Regional Regulation (Raperda) The DPRD Secretariat facilitates the process of making the Draft Regional Regulation through budgeting and the preparation of the Academic Paper (NA).³³

In theory, the two institutions should build a mutually supportive working relationship, not make each other competitors or opponents. However, in the factual realm in the field, this often goes the other way. In practice, there is often a conflict between the executive and the legislature in making local regulations. This is none other because there is a tug of war of interest in the process of discussing and enacting regional regulations,³⁴ so that it will result in less effective time efficiency and regulations that are slow to enact.

One thing that should not escape the attention of a DPRD secretary is to analyse several factors that have the potential for a conflict of interest between the regional government and the DPRD, especially regarding making regional regulations. This is important because the potential for conflict between the two institutions is very large in this authority area. In this case, the skills of a secretary in dealing with problems are at stake. Like it or not, the position of the secretary is between these two institutions, not only functionally but also administratively personnel, because this has become a mandate in the legislation. To address this, several factors are often the key to the relationship between the legislature and the executive, and this must be the main concern of a secretary of the council in becoming a mediator between the two institutions, including:³⁵ (1) The capacity and capability of human resources owned by DPRD and local government. The role of the executive and the legislature also demands quality human resources. One indicator of quality human resources is the level of education. Qualified human resources with high education will be able to assist in completing tasks, especially in preparing and making regional regulations. The quality of human resources is also determined by experience and tenure. With a longer tenure, the executive and the legislature must have experience dealing with and solving government problems, especially in making regional regulations. The theory that exists in college will not function optimally if it is not accompanied by qualified experience in the field. (2) Communication between the Regional Government and DPRD in the government system. Every government apparatus understands communication, but they often ignore how to communicate effectively, especially in making

³² Adithia Anbar Perkasa, Rabina Yunus, and Andi M. Rusli, “Analisis Hubungan Eksekutif Dan Legislatif Dalam Pembuatan Peraturan Daerah Di Kota Palopo,” *Government: Jurnal Ilmu Pemerintahan* 6, no. 1 (2013): 21–32.

³³ “Sekretariat DPRD Mendukung Tugas Dan Fungsi Legislatif,” Tangerang Online, 2016.

³⁴ Perkasa, Yunus, and Rusli, “Analisis Hubungan Eksekutif Dan Legislatif Dalam Pembuatan Peraturan Daerah Di Kota Palopo.”

³⁵ Perkasa, Yunus, and Rusli.

local regulations. For example, a statement is generally trivial, but when it is done, it will often cause problems and even conflicts between individuals, groups and institutions.

To synergise between the legislative and executive institutions at the same time is not an easy thing for a council secretary. The poor quality of human resources and communication skills between the two institutions will directly affect the performance of the DPRD. The secretary's duty to provide facilities to DPRD will be hampered if the quality of human resources owned is not in line with the complexity of the problems that will be faced in the current era of technology, transparency and efficiency.

CONCLUSION

The DPRD Secretariat has an urgent role in the functions of the council and executive institutions. In order for the government to run effectively, the two institutions must be able to synergise well. However, the problems in the field are sometimes more complex than the theory that can only be obtained in education. Therefore, two things must be considered when dealing with situations like this. First, the legal basis owned by the board's secretariat must be consistent with the applicable laws and regulations. As mandated in the Law of MD3, organizationally, the organisational structure and working procedures of the DPRD secretariat must be regulated through regional regulations, which incidentally are legislative products. This is to maintain the independence of the council secretary in carrying out his duties to serve all the interests of the legislative body in the region. In addition, DPRD products in the form of regional regulations have a stronger position than executive products in the form of Regent or Mayor regulations. Regional regulations are directly contained in Article 7 of Law Number 12 of 2011 concerning the Formation of Legislations, where provincial and regional regulations are directly under presidential regulations, while district or city regional regulations are under provincial and regional regulations. With a strong legal basis, the functions and roles of the council's secretariat will be maximal and clear than other legal products. This is crucial because the position of the council's secretariat, which is actually an element of the legislative body, directly intersects with the executive. In this case, the principle of checks and balances between the legislature and the executive must be properly maintained for an effective and efficient legal order and state administration in the region.

REFERENCES

- Asmawi. "Dewan Perwakilan Rakyat Daerah Dalam Perundang-Undangan Pemerintahan Daerah Dan Lembaga Legislatif Daerah." *Jurnal Cita Hukum* 2, no. 1 (2014): 1–18.
- Bambang Sunggono. *Metode Peneitian Hukum*. Jakarta: Rajawali Pers, 1997.
- Barlin, L. M. *House of Representatives Practice*. Canberra: Australian Government Publishing Service, 1997.

- Dewandaru, R. Guntir Prakoso, Untung Sri Hardjanyo, and Ratna Herawati. "Perbandingan Badan Perwakilan Rakyat Pada Sistem Ketatanegaraan Indonesia Dan Amerika Serikat." *Diponegoro Law Journal* 5, no. 3 (2016): 20.
- Engkus, and DKK. "Analisis Struktur Organisasi Sekretariat DPRD Provinsi Jawa Barat, Bandung: Fakultas Ilmu Sosial Dan Ilmu Politik, Universitas Islam Gunung Djati," 2016. http://digilib.uinsgd.ac.id/4047/1/ANALISIS_SOTK_BARU_SETWAN_PROV_JABAR17.pdf.
- Farisa, Fitria Chusna. "RUU Pemekaran Papua Disahkan, Indonesia Punya 37 Provinsi." *Kompas.com*, 2022.
- Fauzi, Arli. "Telaah Yuridis Tentang Tindak Pidana Korupsi Dalam Pengadaan Barang Dan Jasa Pada Sekretariat DPRD Kabupaten Sidoarjo." *DIH: Jurnal Ilmu Hukum* 9, no. 17 (2013). <https://doi.org/doi:https://doi.org/10.30996/dih.v9i17.250>.
- Ghafur, Jamaludin. "Penguatan Lembaga DPD Melalui Amandemen Ulang Lembaga MPR." *Jurnal Hukum IUS QUIA IUSTUM* 14, no. 3 (2007): 366–412. <https://doi.org/10.20885/iustum.vol14.iss3.art2>.
- Nurhidayatulloh. "Dilema Pengujian Undang-Undang Ratifikasi Oleh Mahkamah Konstitusi Dalam Konteks Ketatanegaraan RI." *Jurnal Konstitusi* 9, no. 1 (2012): 113–35.
- Perkasa, Adithia Anbar, Rabina Yunus, and Andi M. Rusli. "Analisis Hubungan Eksekutif Dan Legislatif Dalam Pembuatan Peraturan Daerah Di Kota Palopo." *Government: Jurnal Ilmu Pemerintahan* 6, no. 1 (2013): 21–32.
- Pirmansyah, Miki. "Eksistensi Dewan Perwakilan Daerah Dalam Sistem Bikameral Di Indonesia." *Jurnal Cita Hukum* 2, no. 1 (2014): 176.
- Seventeenth Amendment. "Popular Election of Senators," 2019. <https://www.congress.gov/content/conan/pdf/GPO-CONAN-2017-10-18.pdf>.
- Soekanto, Soerjono. *Penelitian Hukum Normatif*. Jakarta: Rajawali Press, 2013.
- Putra, Maharidiawan. "Sekretariat DPRD Perikat Hubungan Kerja Kepala Daerah Dan DPRD Di Provinsi Kalimantan Tengah." *Morality: Jurnal Ilmu Hukum* 5, no. 1 (2019): 73–77.
- Ramadhanti, Rika. "Peran Sekretariat Dewan Perwakilan Rakyat Daerah Dalam Menunjang Kinerja Anggota Dewan Perwakilan Rakyat Daerah Kabupaten Kuantan Singingi." *Jurnal Trias Politika* 2, no. 2 (2018): 248–66. <https://doi.org/10.33373/jtp.v2i2.1472>.
- Rindengan, Bryan Rizky Immanuel, Femmy Tulusan, and Joorie Ruru. "Peranan Sekretariat DPRD Dalam Mendukung Fungsi DPRD (Studi Di Skretariat DPRD Kota Tomohon)." *Jurnal Adminisrtras Publik* 4, no. 32 (2015).
- Tangerang Online. "Sekretariat DPRD Mendukung Tugas Dan Fungsi Legislatif," 2016.

Thaib, Dahlan. "DPRD Dan Otonomi Daerah (Kajian Dari Sudut Pandang HTN)." *Millah* 1, no. 1 (2001): 80–85.

Tribunnews. "Asosiasi Sekretaris DPRD Mantapkan Peran Mediasi Legislatif Dan Eksekutif Mediasi," 2016. <http://pontianak.tribunnews.com/2016/04/08/asosiasi-sekretaris-dprd-mantapkan-peran-mediati-legislatif-dan-eksekutif>.