Towards Balanced Bicameralism: Reconstruction of Law-making powers in Indonesian Representative Institutions

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ABSTRACT

This study intends to analyze the problems of parliamentary institutions in Indonesia, with a focus on the inequality of authority between the first chamber (DPR) and the second chamber (DPD) in the lawmaking process. It also offers normative-conceptual ideas on the reconstruction formula for balancing the roles of both houses in the law-making power, according to the concept of balanced or strong bicameralism. The study uses a doctrinal legal research model, through a literature study of primary and secondary legal materials. This study also combines constitutional, theoretical, and statutory/normative approaches. The analysis is presented descriptively-prescriptively with qualitative techniques. The findings indicate that the authority of both chambers (DPD & DPR) in the law-making power, as regulated in the 1945 Constitution of the Republic of Indonesia and in statutory regulations, is still not proportional. This is due to the DPD's limited authority, both to submit a draft law and to discuss a bill that has not reached the final approval stage. In comparison to the DPR's unlimited authority, the DPD is still identified as a co-legislator or an auxiliary authority in the law making process. As a result, the relationship between the two chambers as representative institutions must be reconstructed on the basis of balanced bicameralism or strong bicameralism. Reconstruction efforts must be carried out by altering some provisions in the Constitution, and making adjustments to other regulations at the statutory level. It is hoped that the two chambers can synergize with each other and accommodate national and local aspirations to produce higher quality legal products.

Keywords: Parliament; Law-making power; Reconstruction; Strong Bicameralism;

INTRODUCTION

The existence of the People's Consultative Assembly (MPR) as the highest institution in the 1945 Constitution is meant to symbolize the representation and sovereignty of all Indonesian people (Marzuki & Sitompul, 2020). However, as a consequence of the 1945 Constitution Amendment, the MPR's establishment has changed, and it is no longer positioned as an implementing agency for people's political power. The MPR is also no longer the highest state
entity, distributing power vertically to state organs beneath it (no rival authority), but rather a state entity equal to other public bodies.

In the context of implementing the rule of law, the MPR was designed with the intention of transforming the parliament from a "unicameral system" to a "bicameral system" distinguished by the presence of the House of Representatives (DPR), which represents the aspirations of political parties (political representation), and the Regional Representatives Council (DPD), which represents regional interests (regional representation). It is hoped that both constituents' aspirations in political parties and those emerging in regions will have a comprehensive channel of distribution in parliament. Even when the results of the 1945 Constitution amendment are considered, the presence of the MPR is classified as the third parliament (tricameral). (Ramadani, 2020) (Lord, 2017) Because each of the three legislative bodies has its own authority and leadership, they are not regarded as a joint session, but rather as an independent institution.

In broad sense, there are a number of reasons for Indonesia to move towards a two-chamber system (Jurd, 2016):

1. As stated by Montesquieu, the two-chamber parliamentary model is a mechanism of checking and balancing between the two houses in one representative body;
2. There is only one representative body at the central level, which consists of two elements, namely an element that directly represents all the people and an element that symbolize the region. No group envoy is needed. Group interests are represented and channeled through elements that directly represent all the people;
3. Regional representatives are part of the realization of parliamentary functions (forming laws, supervising the government, arrange the National Budget, and so on). Thus, all regional interests are integrated and can be carried out daily in parliamentary activities. This is one way to strengthen unity and avoid disintegration;
4. A two-room system will be more productive. All duties and authorities can be carried out by each element. There is no need to wait or rely on a single body as there is now.

According to this perspective, even though it isn't stated explicitly, it is preferred that there be an equal power between the two chambers of parliament—strong bicameralism as opposed to soft bicameralism, so that the two chambers can carry out their law making power effectively. This situation is evidenced in a large number of countries that have a strong bicameral system, such as the United States, where the House of Representatives and the Senate have equal powers to evaluate all draft laws before they are submitted to the Executive. (Arcioni, 2014) (Kullaa, 2016) The United States Constitution in Article 1 paragraph (7) explicitly states that each laws aimed at increasing revenue must come from the House of Representatives, but just like with other bills, the Senate is free to suggest or approve alterations. Prior to becoming law,
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every law that has been passed by the Senate and the House of Representatives must be submitted to the president of the United States.

However, if one considers the provisions of Article 22D Paragraphs (1) and (2) of the Constitution relating to the law making power, the DPD as the second chamber is not in the construction of strong bicameralism when contrasted to the DPR, as mandated in Article 20 Paragraphs (1) and (2), and Article 20A of the Constitution (Fatmawati, 2019). In this regard, the DPR is granted the power to form laws in conformance with its constitutional functions in the fields of legislation and budgeting, and each law must obtain the approval of the DPR with the President, despite the fact that the DPD is not included as the second chamber in parliament. The DPD's power is severely limited as a result of this design when compared to the DPR (Suryawan, 2018).

On the other hand, the law-making power attached to the DPD only uses the phrase “can propose to the DPR” draft laws relating to decentralization, national and county relations, formation, expansion, and amalgamation of regions, management of natural and economic resources, as well as those related to the balance of intergovernmental finance (fiscal desentralization) (Sori, 2019). Similarly, the Constitution only uses the phrase "participate in discussing" bills relating to decentralization, inter-governmental relations, region formation, expansion, and amalgamation, natural resources management, Other economic matters, including those relating to the inter-governmental financial affairs, while also provide reasoning to the DPR on the proposed law on the state budget and expense, and the proposed law on taxation, education, and religion, without being involved in the approval process.

This provision demonstrates the DPR's (legislative heavy) dominance over the DPD in the matter of law-making power. Even the diction used demonstrates that the DPD has no strong law-making power because the decisive law-making authority is only shared among the first chamber (DPR) and the Executive (Sherlock, n.d.) The implication is that the proposed bills that can be submitted by the second chamber are already limited, and it turns out that they are also not an authority in the true sense. Thus, the construction in the Constitution with the phrase DPD "may submit" a limited proposed bill (RUU) to the first chamber, the second chamber to be dysfunctional (Nurbaningsih, 2015).

The bicameral structure described above will have an impact on the adversity of channeling regional aspirations through the DPD. The DPD's duties and authority are also extremely narrow because Article 22D of the Constitution is formulated without obligatory norms, so the second chamber is interpreted only as an "auxiliary organ", rather than the primary state organ with justified functions (Rohmah, 2018). This has an impact on the constituents' perceptions of the accomplishment of both chambers. As of July 2022, the Indonesian Political Indicators Survey Institute noted that the level of public trust in the DPD was only 64.6 percent, while the DPR was at 62.3 percent. This figure is relatively lower than other public bodies like the Attorney General's Office (74.5%), the National Police (76.4%), the President (84.5%), and the Indonesian
National Army (93.3%). Even in the latest Political Research Consulting (PRC) survey along with the Indonesian Political Parameter (PPI), the representative institutions became the public bodies with the worst performance scores among 12 other state institutions.

Taking into account this reality, of course, it is vital to review and provide ideas in order to reconstruct the two chambers in the law-making power in Indonesia. Studies on representative institutions, especially regarding the relationship between the first chamber and the second chamber in the law-making power, have been commonly reviewed by several previous researchers. For example, Fajlurrahman Jurdi’s analysis concluded that the authority of the DPR and DPD was not formulated in a balanced way in the constitution, where the DPD was limited to being the “DPR Advisory Council”. Interestingly, he then considered that the concept of Indonesian representative bodies adheres to “deterministic tricameralism”, or often called "half-hearted bicameralism" which resulted in the concept of a weak and unbalanced parliament (weak bicameralism) (Jurdi, 2016). The same thing was concluded by Toding, who stated that the synergy between the two chambers in the Indonesian constitutional system needs to be strengthened through the purification of the parliamentary structure that reflects strong bicameralism so as to develop a harmonic and high quality law-making process (Toding, 2017) (Rubinelli, 2019). The same urgency was expressed by Tinambuan and Prasetio that the reconstruction of the two chambers as representative bodies needs to be done, so that there is equality of position and to make a clear division of tasks in the law-making power (Tinambunan & Prasetio, 2019).

Nevertheless, the studies mentioned above are mainly descriptive examinations of the parliamentary institutions in Indonesia. Unlike previous studies, this research aims not only to analyze issues with current parliamentary institutions, particularly the interaction between the first and second chambers in law-making power, but also to conceptualize normative reconstruction in terms of balancing the two chamber's roles in law-making power.

METHOD
In this research article, we used normative legal research methods (normative legal research). Normative legal research is research related to the discovery, development, and use of legal doctrines through the juridical and statutory examination (Ramadani & Mamonto, 2018). In this study, the normative research model is conducted through a library study of primary legal materials (statute and bills) and secondary legal materials (literature, journals and research reports). This study also combines a constitutional approach, a legislative approach, and a theoretical approach. The research findings are presented descriptively-prescriptively with qualitative techniques.
ANALYSIS AND DISCUSSION

A. Regulation on the Two Chambers in the Law-making Powers

The 1945 Constitution after The Third Amendment, has established a new format in the Indonesian parliament by establishing the Regional Representatives Council (DPD) as the second chamber alongside the DPR as first chamber, whose members are elected directly by individual (independent) candidates in general elections based on the district (provincial) system with many representatives, with the number of seats for the DPD members in each province set at four (four people). However, in the attributive authority granted by the Constitution, there is still insufficient space for the second chamber to carry out the various functions and powers attached to it. This reality can be observed from the content of Article 22D of the Constitution, which states the following:

Table 1. Comparison of the Law-making powers between DPD and DPR in the 1945 Constitution

<table>
<thead>
<tr>
<th>Regional Representative Council (DPD)</th>
<th>People Representative Council (DPR)</th>
</tr>
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<tbody>
<tr>
<td>Article 22D Paragraph (1): The second chamber (DPD) may submit a proposed bill to the first chamber (DPR) on decentralization, inter gvernmentnal relations, region formation, expansion, and merger, natural resource and other economic resource management, and inter-governmental financial balance.</td>
<td>Article 20 Paragraph (1): The first chamber (DPR) holds the power to make laws.</td>
</tr>
<tr>
<td>Article 22D Paragraph (2): The second chamber takes part in discussion about proposed bills on decentralization, inter gvernmentnal relations, region formation, expansion, and merger, natural resource and other economic resource management, and inter-governmental financial balance. While provide advice to the first chamber on the proposed bill concerning the state budget and expense and the proposed bill relating to taxation, education, and religion.</td>
<td>Article 20 Paragraph (2): Each proposed bill is discussed by the first chamber and the Executive for mutual approval.</td>
</tr>
<tr>
<td>Article 22D Paragraph (3): The second chamber may supervise the implementation of laws pertaining to decentralization, inter gvernmentnal relations, region formation, expansion, and merger, natural resource and other economic resource management, inter-governmental financial balance, the realization of the state budget and expense, taxation, education, and religion, and submit the outcome of their work to the first chamber for consideration for follow-up</td>
<td>Article 20A Paragraph (1): The first chamber has a law-making power, a budget and controlling function.</td>
</tr>
<tr>
<td>Article 21: Members of the first chamber have the right to submit proposed bills.</td>
<td>Article 21:</td>
</tr>
</tbody>
</table>
means that the authority is disproportionate. This is in contrast with the Article 20 Paragraph (1) which determines that the first chamber holds the power to make laws, as well as budgeting and controlling-supervisory power (Article 20A Paragraph (1))."

The construction of law-making power as stipulated in the constitution cannot be separated from the pattern of amendments to the 1945 Constitution which was carried out by addendum (Akbaruddin, 2013), namely, alteration to the constitution made while maintaining the original text. Thus, the amendment to the 1945 Constitution is attached to the original text (Yani, 2018). This method has regulated the various rights and authorities of the first chamber in the First and Second Amendments, along with the political will of the majority framer who do not wish to form strong bicameralism in the parliamentary structure, because the DPD is not intended to act as a second chamber, but rather to strengthen the local representation who included in the pre-amendment Constitution (Eny Susilowati, 2015). If we read the minutes of the debate on the amendments from 1999 to 2002, we could comprehend the dynamics of the thinking of each faction in the MPR at that time. There are factions who desire a balanced two chamber system with the second chamber (DPD) as a counterweight to the role of the first (DPR), but there are also factions who want the DPR to remain as an institution that dominates the law-making power. However, the majority of the factions in the PAH I MPR-RI period (1999–2004) were reluctant to provide a balanced power among the two chambers because they were worried that the second chambers would complicate and hinder the law making process by the first chamber (DPR) (Marzuki, 2008).

At the level of legislation, the weak authority of the second chamber as regulated in Law Number 22 of 2003, in the law-making power only fully follows the provisions of the Constitution, while in the discussion of a draft law is only at the conception of the Level I Discussion Stage, and can only provide views, opinions, and responses that will later be used as input or consideration for the first chamber and the government (Article 42 and Article 43 of Law No. 22 of 2003). While in Law no. 27 of 2009, there is a slight strengthening by involving the second chamber in the discussion of draft laws relating to the its authority until the end of the Level I Discussion and being able to provide mini opinions to be discussed later by the first chamber and the Executive at the Level II Discussion.

The same substance can also be found in Law No. 12 of 2011 on Lawmaking, where the second chamber's authority in discussing a proposed law is limited to Level I Discussions, and it can only give a mini opinion if the proposed law is attributed to its authority, so it is not binding on the first chamber and the Executive to proceed the discussion on the proposed law (Article 150 of Law No. 27 of 2009). As for the provisions of Law Number 2 of 2018 as the Second revision to Law Number 17 of 2014 regarding the representative bodies, the comparison of the power between two chambers in the law-making power can be seen in the following table.
Table 2. Comparison of Law-making powers between Two Chambers in Law No. 2 of 2018

<table>
<thead>
<tr>
<th>Dewan Perwakilan Daerah (DPD)</th>
<th>Dewan Perwakilan Rakyat (DPR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 249 Paragraph (1): DPD has the authority and duties:</td>
<td>Article 71: DPR has the authority to:</td>
</tr>
<tr>
<td>a. Submitting draft laws relating to decentralization, inter governmental relations, region formation, expansion, and merger, natural resource and other economic resource management, as well as inter-governmental financial balance to the first chamber;</td>
<td>a. form a law that is discussed with the Executive for mutual approval;</td>
</tr>
<tr>
<td>b. Takes Part in the discussion of proposed bill on to the matters referred to in letter a;</td>
<td>b. Giving approval or not giving approval to government regulations in lieu of laws proposed by the President to become law;</td>
</tr>
<tr>
<td>c. Compile and submit an inventory list of problems on draft laws originating from the first chamber or the Executive relating to matters as referred to in letter a;</td>
<td>c. Discussing draft laws submitted by the President or DPR;</td>
</tr>
<tr>
<td>d. Providing advice to the first chamber on the proposed bill on the State Budget and Expense (APBN) and the proposed bill relating to taxation, education, and religion;</td>
<td>d. Discussing the proposed bill submitted by the second chamber relating to decentralization, inter governmental relations, region formation, expansion, and merger, natural resource and other economic resource management, as well as inter-governmental financial balance;</td>
</tr>
</tbody>
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| Source: Primary legal materials |

The regulation of the two chambers in the law-making power, both in the construction of Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 on Lawmaking and Law No. 2 of 2018, is still not proportional. The existing laws and regulations, still place the second chamber as a co-legislator or an auxiliary agency for the first chamber as the main legislator, along with the President. This can be seen from the formulation of the second chamber law-making authority, which is limited by the type of bill content and does not reach the final approval of a bill. In fact, when viewed from the resulting performance, the second chamber is quite significant in producing various strategic policies. From its inception until 2015, for example, the second chamber has produced 518 decisions consisting of 57 proposed bills, 237 views and opinions, 18 considerations, 58 considerations related to the budget, 148 results of supervision, and six National Legislation program (Prolegnas) proposals. Specifically, in the field of legislation, of all the bills proposed by the DPD, as many as 25 bills have been passed into law by the first chamber and the executive. The DPD's performance in the fields of legislation and Prolegnas has also improved. Of the 160 bills included in the 2015-2019 National Legislation Program, 52 bills, or 32% of their substance and material, were in accordance with the DPD RI proposal (People’s Representative Council, 2015).

This number increased to 87 bills, 256 views and opinions, 80 considerations, 9 prolegnas, and 11 recommendations in 2018. Although it has shown performance improvements every year, the limited authority it has is a step that prevents the DPD from being able to become a locomotive for the aspirations of local people and balance the first chamber’s political influence, particularly in its law-making power. So far, the second chamber has only played a role of
representation in present, not an ideal representation in fighting for regional aspirations at the central level.

B. Balanced Bicameral Reconstruction in Law-making Power

The situation of Indonesia’s representative institutions demonstrates the pressing need for the two chambers to be reconstructed as institutions that carry out legislative duties so that the numerous powers that these two institutions possess can be used for the good of the community, the nation, and the state. Accordingly, the Constitutional Court is of the opinion that all public bodies are a subsystem of the overall system of administering state authority. This is based on the court Decision on Case Number 92/PUU-X/2012, which was declared on March 27, 2013. Therefore, the system of administering state power is concerned with the mechanisms and work procedures between state institutions as a unified whole to exercise state power. The system of administering state power fully describes the workings of public bodies that are given the power to achieve the goals of the nation.

As a public bodies regulated by the constitution, both chambers as representative bodies must be placed in line with the powers and authorities inherent in these institutions, because the system to be built in managing state institutions is within the framework of the checks and balances system, so that there is no single public bodies that is subordinate to others, but is an equal relationship. The power balance mechanism is very relevant, especially in the law-making power by parliament with a two chamber or bicameral structure. As stated by R. Hogue and Martin Harrop (Chidqi, 2020), that The primary reason for establishing dual chambers within an assembly ar first, to present distint interest within society and secondly to provide mechanism for checking and balancing between the legislative branch.”

Although the concept of strong bicameralism is usually adopted by countries in the form of a federation, it does not mean that a unitary state is not compatible with the bicameral system. The argument that a balanced bicameral system will erode the unitary state is a statement that is no longer relevant today. In fact, a balanced bicameral parliament is not only practiced by federated states, but also by several unitary states, such as Britain, France, the Netherlands, and Italy (Tinambunan & Prasetio, 2019). In the Netherlands, the parliament called “the states general” consists of two chambers, namely the Eeerste Kamer (High Assembly) and the Tweede Kamer (Lower Assembly), where the role of the Eeerste Kamer as a regional representative has similarities with the second chamber in Indonesia, whose members represent their respective regions/provinces (Ilham, 2008). The two parliaments’ capacities are comparable, with equal authority in terms of ratifying and deciding a bill into law; accepting or rejecting a bill proposed by the Prime Minister or the Cabinet Council; appointing and dismissing the Prime Minister; and appointing and dismissing the Chief Justice of the Supreme Court and Supreme Court Justices (Sulardi, 2012).
In the construction of Parliament in England, the House of Commons and the House of Lords have equal powers, mainly in the law-making power, as explained in “The Work of the House of Lords: Its Roles, Function and Power.” As a second chamber, the House of Lords has a strategic role in revising laws and overseeing the government by observing its every action and policy. The House of Lords functions similarly to the House of Commons in that it debates and questions every executive policy. (Ryan, 2020) In principle, all laws must pass through both chambers before becoming valid laws, and the submission process can be started from either house. Usually, the approval of the Lords is required before Acts of Parliament can be passed, and the Lords can amend all laws, with the exception of those that increase tax rates, which have long been considered the responsibility of the Commons. Amendments must be approved by both councils. The House of Lords is as active as the Commons in amending bills and spends two-thirds of its time revising laws (Mochtar, 2009).

Equality in carrying out the law-making power necessitates the reconstruction of the Indonesian parliament into a balanced bicameral system or a strong bicameral system. Reconstruction towards strong bicameralism is not merely a desire for an balanced position between the two parliamentary chambers, but, as stated by C.F. Strong, bicameralism can prevent hasty and unplanned ratification of laws by a single assembly. added by Jimly Asshididique, that strong bicameralism can create a more stable relation among the executive and the legislature. Thus, in general, a balanced bicameral system or strong bicameralism can prevent legislative errors committed by one chamber, and can create the principle of mutual control in parliament, so that policies or decisions made have the majority back up (supermajority) so that they are more acceptable and stable. (Badran, 2020) (Theodoro Luciano, 2020)

The aforementioned conditions are difficult to achieve in an unbalanced bicameral system or weak bicameralism. The main measure for determining this system in general, if the two chambers of parliament have unequal powers, then the bicameral parliamentary system is weak (Widayati, 2015) (Mughan, 2020). As stated in Article 22D, which clearly shows that the Indonesian constitution adheres to a soft bicameralism/weak bicameralism system in which one representative institution has stronger power than another. As a consequence, the DPD, as the second chamber, has a weak position with limited authority. With the construction of such an authority, the position of the second chamber is not in accordance with the dignity of the institution in the constitution (constitutional importance). In addition, it is also inconsistent with its position as a state institution in the legislative sector, with various consequences for its budget, protocol, facilities, and infrastructure, as well as various other facilities that are relatively not much different from the first chamber. Moreover, the construction of such a constitution does not match the challenges and difficulties of a person becoming a member of the DPD, which is far greater than that of becoming a member of the first chamber, even though the authority of the second chamber is far below that of the first chamber (Akbal et al., 2022).
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The need for a balanced bicameral parliament structure based on the principle of strong bicameralism is very contextual and relevant to parliamentary problems in Indonesia, where the DPD, which was originally designed as a regional representation in the parliamentary system after the amendment to the 1945 Constitution, must play a balanced role in accommodating and channeling regional aspirations and interests. In the law-making power, together with the DPR as a political representation. There are at least three main reasons for reconstructing the bicameral system in Indonesia: First, a balanced bicameral parliament can represent a wide variety of voters, so that it is more representative. Second, by creating a deliberation approach in the preparation of laws and regulations as the embodiment of the fourth principle of Pancasila Third, it is a preventive tool to improve the quality of parliament's legal products so that the legislative process becomes more effective and efficient and can minimize judicial review of laws by the Constitutional Court. Fourth, it is a means of better and effective supervision of executive institutions in the context of realizing clean government and good governance.

The Constitutional Court, in its decision Number 92/PUU-X/2012, has carried out responsive and progressive reforms by restoring the authority of the DPD, especially in the field of legislation. In its decision, the Court confirmed five things, namely: 1) DPD RI was involved in making the National Legislation Program (Prolegnas); 2) DPD RI has the right to submit the Bill as referred to in Article 22 D paragraph (1) of the 1945 Constitution as well as or together with the DPR and the President, including in the formation of the Bill on Revocation of Government Regulations in Lieu of Laws; 3) DPD RI has the right to fully discuss the Bill in the context of Article 22D paragraph (2) of the Constitution; 4) The discussion of the bill in the context of Article 22D paragraph (2) of the Constitution is three-party (tripatriate), namely between the DPR, DPD, and the Executive (Hidayat, 2015). Thus, it is hoped that there will be legal norms that provide reinforcement for the DPD to carry out legislative authority, both in planning, submitting, giving considerations, and in discussions, as long as it relates to the authorities regulated in Article 22D of the 1945 Constitution of the Republic of Indonesia, although on the other hand, there are those who think that the Constitutional Court's decision is still half-hearted, because the second chamber has not been given the authority to be involved in approving the bill into law.

In this regard, the Constitutional Court has at least enhanced the second chamber’s position, which until now has only been participating through the submission of a mini-opinion report, to participate in the discussion on the proposed bill in the plenary session of Level II (Article 69 letter a of Law No. 12 Year 2011). The Constitutional Court, on the other hand, views the approval of a bill into law from the perspective of the original intended aspect because Article 20 Paragraph (2) emphasizes that only the first chamber and the Executive have the power to approve all bills. Meanwhile, the authority of the second chamber based on Article 22D paragraph (2) of the Constitution only affirms that it participates in the discussion without participating in giving approval. Even though it has raised the level of the second chamber one level closer to the
first chamber, this, in the author’s opinion, is not enough to realize a balanced bicameral parliamentary structure as idealized in the strong bicameralism system. For this reason, further efforts are needed to formulate steps for a more strategic reconstruction.

To establish a balanced, harmonious, and democratic law-making process, it is inevitable to rearrange or reconstruct the two chambers into a balanced two-chamber representative institution (strong bicameralism). This can only be realized with a firm commitment and political will that is not half-hearted. Based on the results of the analysis of the existing condition of the parliament in Indonesia, a balanced bicameral reconstruction can be realized with the following provisions:

1) Give both chambers equal power in submitting draft laws. This is due to the problem of inequality, where in the law-making process, the first chamber is given unlimited authority to form laws. On the other hand, the second chamber can only submit bills that are limited to certain field and sector. The right to submit draft laws to the DPD ideally should not be limited to materials relating to autonomy and central-regional relations, because both the DPR and the DPD are institutions that have constitutional importance in the Constitution. In addition, the two chambers carry different aspirations and constituencies. The first chamber is a mirror of political representation, while the second reflects the territorial/regional representation. Their existence aims to better accommodate national and local aspirations in the political decision-making process for the nation and state. Thus, it is logical that both should have the equal portion of rights in proposing a draft law.

2) Although it has been affirmed as an authority/right in the statutory system, the constitutional basis in Article 22D paragraph (1) still uses the phrase "may" so that it does not provide an obligatory norm related to the second chamber’s right to submit a draft law. For this reason, reconstruction must still be carried out through changes to Article 22D paragraph (1). This is to avoid any arrangements in the law that are not in line with constitutional norms, while making the stronger legal standing for the second chamber. In this case, the editorial of the article can be revised to: “The Second chamber (DPD) has the right to submit a proposed bill to the first chamber (DPD).”

3) The presence of the second chamber in the Indonesian representative bodies is intended to strengthen regional ties within the unitary state and strengthen national unity throughout the region; increase aggregation; accommodate regional aspirations and interests in the formulation of national policies relating to the state and regions; and encourage the harmonic and balanced acceleration of democracy and regional progress (Akbal et al., 2022). At least in matters concerning regional autonomy and the balance of power among the national and the regional government, the second chamber must be given the same authority as the first chamber in the law-making power. In this case, reconstruction must be carried out by revising the provision of Article 22D paragraph (1) to: “The second chamber (DPD) has the power to
make laws with the first chamber (DPR) relating to decentralization, inter governmental relations, region formation, expansion, and merger, natural resource and other economic resource management, inter-governmental financial balance, the realization of the state budget and expense, taxation, education, and religion." This provision must also be reaffirmed in the statutory regulation under the constitution, such as Law No. 2 of 2018.

4) However, the role of the second chamber does not need to be limited only to the provisions of the law relating to local autonomy or the intergovernmental relation. Because in principle, all laws, because they are general in nature, must involve and affect the entire community in the region. On that basis, as the second chamber in a balanced bicameral system, the DPD must also be accommodated to participate in discussing laws in other fields. In this case, it is necessary to insert provisions both in Article 22D paragraph (1) and Law No. 2 of 2018 concerning: "The second chamber participates in discussion on a draft law."

With the reconstruction formula above, it is hoped that the two chambers can play a balanced role in the law-making power based on the principle of checks and balances. The formulation of the provisions above can also eliminate the stigma of the second chamber as an auxiliary agency or co-legislator who is under the shadow of the first one. As stated by Marzuki, to legitimize both chambers in a balanced and effective manner, there is no other way than to include the substantive formulation in the amendments of the constitution. Besides, changing the constitution is not impossible thing to achieve (Marzuki, 2008).

CONCLUSIONS

The legal arrangement of the DPD as the second chamber in the law-making power, both in the construction of the Constitution and statutory regulations is still not proportional due to the limited scope of the authority in submitting and discuss the proposed law, which is also not reached until the final approval. The progressive Decision by Constitutional Court has raised the political bargain of the second chamber, but not enough to fully balance the power of the DPR as the first chamber. Therefore, it is still necessary to reconstruct the two chambers’ relation in the law-making power based on balanced bicameralism or strong bicameralism. Reconstruction efforts must be carried out by revising the editorial provisions of Article 22D paragraph (1) in the Constitution and making adjustments to various other regulations at the statutory level. With the balanced bicameral reconstruction offered by the author, it is hoped that the second chamber will be positioned as a main state organ in balance with the first chamber, so that they can work together synergistically based on the principle of checks and balances.

Based on the analysis above, we propose that the state authorities reach a common understanding in order to expedite the reconstruction effort. This is because the issue has been around for a while and is frequently politicized. As a matter of fact, developing relevant
constitutional reforms necessitates the involvement of academics, local governments, and institutions, as well as political parties. This is believed to enhance the democratic system, particularly in accommodating national and local aspirations for higher-quality legal products.

REFERENCES


