

Rethinking of position of members of the Regional House of Representative as regional officers

Reconsideración del cargo de los miembros de la Cámara de Representantes Regional como funcionarios regionales

Repensar a posição dos membros da Câmara dos Representantes regionais como funcionários regionais

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Abstract

The purpose of this study is to analyze the position of Regional House of Representatives members as regional officials under Law No. 23 of 2014 and to propose a fair reformulation of this position. This study employs a legal approach that is both statutory and conceptual.

The results indicate that, based on Article 95, paragraph (2), and Article 148, paragraph (2) of Law No. 23 of 2014, members of the Regional House of Representatives are classified as regional officials rather than state officials. This classification is problematic, as the Regional House of Representatives is a state institution established in accordance with Article 18, paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Furthermore, designating Regional House of Representatives members as regional officials leads to discriminatory treatment when compared to the positions of the Regional Head and Deputy Regional Head, despite the fact that all three roles share similar responsibilities and functions as regional government administrators.

Consequently, Regional House of Representatives members do not enjoy the same status, financial rights, or administrative rights as the Regional Head and Deputy Regional Head. Therefore, it is essential to reformulate the position of Regional House of

Representatives members ensure equitable treatment by recognizing them as state officials, similar to the Regional Head and Deputy Regional Head, and by granting them the respective protocol, financial, and administrative rights afforded to state officials.

Keywords:

Position, Regional House of Representative, Regional Officer, State Officials

Resumen

El propósito de este estudio es analizar la posición de los miembros de las Cámaras Regionales de Representantes como funcionarios regionales en la Ley N.º 23 de 2014 y encontrar una reformulación justa de dicha posición. El presente estudio es un análisis jurídico con un enfoque estatutario y conceptual. Los resultados del estudio indican que, con base en el artículo 95, párrafo (2), y el artículo 148, párrafo (2), de la Ley N.º 23 de 2014, los miembros de la Cámara de Representantes Regional son considerados funcionarios regionales, no funcionarios estatales.

Esta disposición resulta inapropiada, ya que la Cámara de Representantes Regional es una institución estatal creada conforme a las disposiciones del artículo 18, párrafo (3), de la Constitución de la República de Indonesia de 1945. Además, el cargo de los miembros de la Cámara Regional de Representantes como funcionarios regionales genera un trato discriminatorio en comparación con el cargo de Jefe Regional y Jefe Regional Adjunto, a pesar de que todos ellos comparten el mismo cargo y función como administradores del gobierno regional. Esto provoca que los miembros de la Cámara de Representantes Regional no tengan la misma posición ni los mismos derechos financieros y administrativos que el Jefe Regional y el Jefe Regional Adjunto.

Por esta razón, es necesario reformular la posición de los miembros de la Cámara Regional de Representantes como funcionarios regionales, con el fin de brindar justicia, convirtiendo a dichos miembros en funcionarios estatales, al igual que el Jefe Regional y el Jefe Regional Adjunto, y otorgando derechos protocolares, derechos financieros y derechos administrativos equivalentes a los de los funcionarios estatales.

Palabras clave:

Cargo, Cámara Regional de Representantes, Oficial Regional, Funcionarios Estatales

Resumo

O objetivo deste estudo é analisar a posição dos membros das Câmaras Regionais de Representantes como funcionários regionais na Lei n.º 23 de 2014 e encontrar uma reformulação justa dessa posição. O presente estudo é uma análise jurídica com enfoque estatutário e conceitual. Os resultados do estudo indicam que, com base no artigo 95, parágrafo (2), e no artigo 148, parágrafo (2), da Lei n.º 23 de 2014, os membros da Câmara dos Representantes Regionais são considerados funcionários regionais, e não funcionários estaduais.

Essa disposição é inadequada, uma vez que a Câmara dos Representantes Regionais é uma instituição estadual criada de acordo com as disposições do artigo 18, parágrafo (3), da Constituição da República da Indonésia de 1945. Além disso, o cargo dos membros da Câmara Regional de Representantes como funcionários regionais gera um tratamento discriminatório em comparação com o cargo de Chefe Regional e Chefe Regional Adjunto, apesar de todos eles compartilharem o mesmo cargo e função como administradores do governo regional. Isso faz com que os membros da Câmara Regional de Representantes não tenham a mesma posição nem os mesmos direitos financeiros e administrativos que o Chefe Regional e o Chefe Regional Adjunto.

Por esse motivo, é necessário reformular a posição dos membros da Câmara Regional de Representantes como funcionários regionais, a fim de garantir a justiça, convertendo esses membros em funcionários estaduais, assim como o Chefe Regional e o Chefe Regional Adjunto, e concedendo-lhes direitos protocolares, financeiros e administrativos equivalentes aos dos funcionários estaduais.

Palavras-chave:

Cargo, Câmara Regional de Representantes, Funcionário Regional, Funcionários Estaduais

Introducción

The principle of a unitary state posits that the state is a single arrangement, whereby the highest sovereignty in a country is exercised solely by the central government. Sovereignty is not an object that can be divided; thus, the state is characterized by a more centralistic approach. Although a unitary state may have a division of territory, this does not grant the regions the authority to be sovereign in the sense of managing and organizing their own affairs. Regional authority in a centralized unitary state exists only in the form of assigned tasks and decentralized responsibilities. All norms, standards, procedures, and provisions are established and fall under the jurisdiction of the central government; the regions merely function to implement what is assigned and decentralized by the central government. This framework is grounded in the law, reflecting Indonesia's commitment to a legal state (Sukardi & Wardana, 2024, p. 269).

This centralized system results in the central government playing a very dominant role in both regulation and management (Hadi, 2013, p. 171). However, the facts indicate that Law Number 5 of 1974 concerning Regional Government, which is centralistic, causes injustice and misery for regional communities, even threatening national and state unity. Furthermore, the centralistic system adopted in the law contributes to the lack of development of local democracy in the regions, which, both directly and indirectly, hinders the empowerment of local communities in all aspects of development (Blanco, 2013; Blanco, 2019; Castillo y Vargas, 2021).

Realizing this, the amendment to the 1945 Constitution of the Republic of Indonesia transformed the state from a centralistic model to a decentralized one. This change aligns with the provisions of Article 18 of the 1945 Constitution. According to Article 18, regions are granted autonomy. Regional autonomy, as explained in Article 1, number 6 of Law Number 23 of 2014, is defined as the rights, authorities, and obligations of autonomous regions to manage regional affairs that fall under their jurisdiction.

Even with the existence of autonomy, this does not mean that autonomous regions possess sovereignty. The highest sovereignty remains the domain of the central government. However, with this autonomy,

the region also has independent authority to regulate and manage all matters that fall under its jurisdiction. Therefore, according to Philipus M. Hadjon, regional autonomy encompasses elements of freedom and independence to act and regulate, but not full independence (Hadjon, 1999, p. 6). The principle of autonomy, or decentralization, is interpreted as the transfer of responsibilities from the central government to the regions, allowing them to manage their own affairs. The goal is to prevent the concentration of power and finances, promote democratization of government, and involve the people in taking responsibility for the implementation of governance in the regions (Gadjong, 2007, p.86).

Furthermore, Article 18, paragraph (3) of the 1945 Constitution of the Republic of Indonesia stipulates that each autonomous region has a Regional House of Representatives whose members are elected through general elections. This is further regulated in Article 57 of Law Number 23 of 2014 concerning Regional Government (Law No. 23 of 2014), which stipulates that the Regional House of Representatives is an implementing element of regional government, together with the Regional Head (Hidayatullah, 2020, p. 1072).

This indicates that the Regional House of Representatives is a representative institution that holds an equal position with the Regional Head. Even though the functions of the Regional House of Representatives are regulated in Article 96, paragraph (1), in conjunction with Article 146, paragraph (1) of Law No. 23 of 2014, the Regional House of Representatives plays a very vital role in the implementation of regional government. The implementation of regional government cannot run effectively if the Regional House of Representatives does not function properly.

However, the main issue related to the Regional House of Representatives is the position of members. Although Article 95, paragraph (2), in conjunction with Article 148, paragraph (2), of Law No. 23 of 2014 explicitly states that members of the Regional House of Representatives are regional officials, the concept of regional officials has given rise to multiple interpretations because there is no explanation or elaboration regarding this matter. For this reason, several fundamental legal issues have emerged that must be ad-

dressed thoroughly. These legal issues are as follows: (a) What is the concept of regional officials? (b) Is the concept of regional officials the same as that of state officials? (c) Are the rights held by regional officials the same as those of state officials? (d) Other issues.

This research is a legal study employing a statutory and conceptual approach (Marzuki, 2021, p. 47). The legal materials utilized include both primary and secondary sources. Primary legal materials are collected using the inventory and categorization method, while secondary legal materials are gathered through the literature search method. The collected primary and secondary legal materials are then identified, classified, and systematized according to their sources and hierarchies. Subsequently, the legal materials are reviewed and analyzed using legal reasoning with deductive methods to address the legal issues under investigation, based on legal theories and principles proposed by experts. The analysis employed is normative/prescriptive, aimed at deriving answers to the legal issues presented in this study.

Result and discussion

Concept of state officials and regional officials

The implementation of local democracy with people's sovereignty is clearly seen in the filling of regional government positions (López Osorio, 2023, p. 73). Article 18 paragraph (3) of the 1945 Constitution of the Republic of Indonesia stipulates that the Regional House of Representatives is elected through elections, while Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia also stipulates that the Regional Head is elected democratically (Hadi, 2023, p. 62).

From the two provisions above, it is clear that the legal policy of changing Article 18 of the 1945 Constitution of the Republic of Indonesia requires democratization in regional government, which indirectly upholds the sovereignty of the people. With the people being given the right to elect Regional House of Representatives members and the Regional Head who are the organizers of regional government, the people are directly given the opportunity to participate

in regional development. With this participation, it indicates that regional democracy can be guaranteed (Benítez, Manrique and Hernández, 2023).

With this concept, one of the organizers of regional government, as stipulated in Article 18, paragraph (3) of the 1945 Constitution of the Republic of Indonesia in conjunction with Law No. 23 of 2014, is the Regional House of Representatives. As an element of the organizer of regional government, the Regional House of Representatives has a very strategic role in realizing and developing democracy at the local level. This is underscored by the fact that with the election of Regional House of Representatives members through the General Election, it is clear that the Regional House of Representatives is a democratic institution. Therefore, the provisions of Article 1, number 4 of Law No. 23 of 2014 clearly determine that the Regional House of Representatives is a regional people's representative institution. As a representative institution, the members of the Regional House of Representatives are representatives of the interests of the people who elect them.

When traced through various laws and regulations, the concept of state officials can be found in multiple legal texts. However, this concept has never been defined consistently, making it difficult to determine who qualifies as a state official. In fact, the term is often equated with concepts such as state administrators and government officials. This lack of clarity is exemplified in Article 2 of Law Number 28 of 1999 concerning the Implementation of a Clean State Free from Corruption, Collusion, and Nepotism.

A stable formulation or definition of state officials was only established in Article 1, number 9 of Law Number 9 of 2010 concerning Protocol. This article stipulates that "State Officials are leaders and members of state institutions as referred to in the 1945 Constitution of the Republic of Indonesia and State Officials who are expressly determined in the Law". In relation to state officials, Article 122, paragraph (1) of Law Number 5 of 2014 concerning State Civil Apparatus stipulates that state officials include:

1. President and Vice President;
2. Chairman, deputy chairman, and members of the People's Consultative Assembly;

3. Chairman, deputy chairman, and members of the People's Representative Council;
4. Chairman, deputy chairman, and members of the Regional Representative Council;
5. Chairman, deputy chairman, junior chairman and chief justice of the Supreme Court and chairman, deputy chairman, and judges of all judicial bodies except ad hoc judges;
6. Chairman, deputy chairman, and members of the Constitutional Court;
7. Chairman, deputy chairman, and members of the Audit Board;
8. Chairman, deputy chairman, and members of the Judicial Commission;
9. Chairman and deputy chairman of the Corruption Eradication Commission;
10. Ministers and ministerial-level positions;
11. Head of the Republic of Indonesia's representative abroad who holds the position of Ambassador Extraordinary and Plenipotentiary;
12. Governor and deputy governor;
13. Regent/mayor and deputy regent/deputy mayor; and
14. Other state officials determined by law.

In line with these provisions, Article 1, number 4, of Government Regulation Number 19 of 2018 concerning the Provision of Eid Allowances in the 2018 Fiscal Year to Civil Servants, Indonesian National Army Soldiers, Members of the Indonesian National Police, State Officials, Pensioners, and Allowance Recipients stipulates that state officials are:

1. President and Vice President;
2. Chairman, Deputy Chairman, and Members of the People's Consultative Assembly;
3. Chairman, Deputy Chairman, and Members of the People's Representative Council;
4. Chairman, Deputy Chairman, and Members of the Regional Representative Council;
5. Chairman, Deputy Chairman, Deputy Chairman and Chief Justice of the Supreme Court and Chairman, Deputy Chairman, and Judges of all judicial bodies except Ad hoc Judges;
6. Chairman, Deputy Chairman, and Members of the Constitutional Court;
7. Chairman, Deputy Chairman, and Members of the Audit Board;

8. Chairman, Deputy Chairman, and Members of the Judicial Commission;
9. Chairman and Deputy Chairman of the Corruption Eradication Commission;
10. Ministers and ministerial-level positions;
11. Head of the Republic of Indonesia's representative abroad who holds the position of Ambassador Extraordinary and Plenipotentiary;
12. Governor and Deputy Governor;
13. Regent/Mayor and Deputy Regent/Deputy Mayor; and
14. Other State Officials determined by Law.

From the descriptions above, state officials are determined based on two criteria: (1) leaders or members of state institutions as defined in the 1945 Constitution of the Republic of Indonesia, and (2) state officials who are explicitly designated in law. This means that the individuals referred to as state officials have been identified in a limited manner across various laws and regulations.

The concept of regional officials was introduced in Law No. 23 of 2014, specifically in Article 95, paragraph (2); Article 134, paragraph (1), letter a; Article 148, paragraph (2); Article 188, paragraph (1), letter a; and General Explanation Number 9. In all these provisions, there is no consistent definition of regional officials, which makes it impossible to determine the scope of regional officials in a limitative manner. Therefore, in general, regional officials are defined as all elements of regional government administrators who are assigned tasks, authorities, and obligations to carry out all regional responsibilities.

From the understanding of the two concepts, several similarities and differences between state officials and regional officials can be stated, namely:

1. State officials and regional officials are state administrators who are given tasks and authorities.
2. State officials have been given an understanding and scope, while regional officials do not have a fixed understanding so that their scope cannot be determined.
3. The difference in concept causes various things, including protocol and different financial rights positions between state officials and regional officials.

Position of regional house of representative members

Democracy is a concept of governance that is always open to discussion. This interest stems from the belief that democracy is a means to overcome various socio-political challenges faced by society today. This belief is reasonable and rational because democracy essentially involves broad public participation in shaping state policy. In this context, Mahfud MD stated that “democracy is important for its adherents, because democracy guarantees the people’s right to determine the organization of the state (Mahmodin, 1993, p. 8). Therefore, almost all definitions of democracy emphasize the importance of the position of the people, although the practical implications may differ across countries. This underlines how the people are placed at the center of democratic principles.

From an etymological perspective, the term “democracy” originates from Latin, consisting of the words “demos,” meaning “people,” and “kratia,” meaning “government.” When combined, these form “demokratia,” which translates to “government by the people.” Based on this understanding, Arend Lijphart defines democracy as “government by the majority of the people” (Fajar, 2005, p. 40). According to Henry B. Mayo, a democratic political system is a system where public policy is primarily determined by majority vote by representatives who are subject to effective public control through periodic elections, held according to the principles of political equality and political freedom (Firdaus, 2007, p. 27).

Democracy, as the basis of the state, provides an opportunity for the people to participate in various important issues that affect their lives, including the assessment of government policies. This means that a democratic state operates according to the wishes and desires of its citizens (Borbón Torres, 2019, p. 107). From an organizational perspective, democracy refers to a state structure formed by the people themselves, with their consent, because sovereignty lies in the hands of the people. According to I. Gde Panca Astawa, “the essence of democracy is the active participation of the people, which is carried out through representative bodies that oversee government actions to ensure that they are in accordance with the constitution, laws, and the sovereignty of the people, as

well as the principle of accountability, which involves responsibility for the implementation of the mandate to those who give it” (Astawa, 2000, p. 84).

When examining the method of implementation, democracy can be categorized into two types: direct democracy and indirect democracy, commonly referred to as representative democracy. Direct democracy allows citizens to participate directly in the decision-making process, often through referendums or public assemblies. Representative democracy, on the other hand, involves electing officials to make decisions on behalf of the people, which represents an evolution of the direct democracy practiced in ancient Greece. This development reflects the need for a more structured approach to governance as societies became larger and more complex, making it impractical for all citizens to be involved in every decision. Representative democracy thus serves as a mechanism to facilitate public participation while ensuring that the interests of the people are represented in a manageable and effective manner.

Direct democracy is a method that involves the active participation of citizens in the decision-making process of the state. This involvement occurs without regard to the status or position of the individual, instead focusing on the inherent human qualities of each person as a divine creature, with the right to self-determination, free from external pressure or interference. Generally considered the classical form of democracy, direct democracy is often associated with its practice in Athena (ancient Greece), where the population was relatively small and the geographical area was limited, making its application more feasible.

As democracy developed, the implementation of direct democracy became increasingly challenging due to the complexity of societal problems. This led to the emergence of representative democracy, which allows the exercise of popular sovereignty indirectly through representative institutions. This system is generally practiced in modern democracies because it is easier to manage and more practical. In a representative democracy, citizens elect representatives who sit in parliament, and these representatives then make decisions on behalf of the people they represent in the governmental process.

In essence, direct democracy and representative democracy share the same basic principles, but they differ in how they realize these principles. According to Tutik Triwulan, representative democracy is not a true democracy because it often prioritizes the interests of a handful of individuals in legislative institutions rather than reflecting the general wishes of the populace (Tutik, 2008, p. 78). However, in contemporary societies, the expression of the general will is primarily facilitated through representation. Thus, the essence of representative democracy lies in the public's participation and consent regarding state policies, which are determined by their elected representatives. These representatives are chosen through elections. Therefore, it is clear that representative democracy is an integral part of the democratic framework itself.

The principles of democracy mentioned above do not only apply to the central government; they also apply to regional governments because of regional autonomy (Echeverri Uruburu, 2016, p. 52). Community empowerment at the regional level is realized through public participation in all aspects of regional development. Therefore, regional autonomy must be implemented democratically by adhering to the principle of people's sovereignty.

The implementation of local democracy that upholds the sovereignty of the people is clearly visible in the appointment of regional government officials. Article 18, paragraph (3), of the 1945 Constitution of the Republic of Indonesia states that members of the Regional House of Representatives are elected through general elections, while Article 18, paragraph (4), states that regional heads are elected democratically. These provisions indicate that the legal framework for the amendment to Article 18 of the 1945 Constitution of the Republic of Indonesia aims to encourage democratization in the implementation of regional government, thereby upholding the principle of popular sovereignty. By granting citizens the right to vote for electing members of the Regional House of Representatives and regional heads, the community is provided with the opportunity to actively participate in regional development. This participation indicates that local democracy can indeed be realized.

With this concept, one of the regional government organizers, as referred to in Article 18, paragraph (3)

of the 1945 Constitution of the Republic of Indonesia in conjunction with Law Number 23 of 2014, is the Regional House of Representatives. As a component of the regional government organizer, the Regional House of Representatives plays an important role in realizing and fostering democracy at the regional level. This is evidenced by the election of Regional House of Representatives members through general elections; which clearly demonstrates that the Regional House of Representatives is a democratic institution. Thus, Law Number 23 of 2014 explicitly states that the Regional House of Representatives is a regional representative institution. As a representative institution, members of the Regional House of Representatives act as representatives of the interests of the people who have elected them.

Jimly Asshiddiqie stated that public opinion in a representative democracy can be conveyed effectively if the interests, values, aspirations, and views of the citizens they represent are genuinely advocated for and successfully expressed in the policies determined by the relevant representative institution (Asshiddiqie, 2019, p. 305). At the very least, the aspirations of the people must be earnestly championed to influence the formulation of the policies that are established. Therefore, the essence of representation is a deliberative function. Consequently, the Regional House of Representatives functions as a forum for debate on various aspirations in the context of making regulations, formulating public policies, and implementing those policies.

The representative function carried out by the Regional House of Representatives essentially connects the people with the principles of people's sovereignty and democracy. In a country that adheres to these principles, every process of making regulations, formulating public policies, and implementing public policies must involve the participation of the community. The state must open channels as wide as possible to absorb the aspirations of the community in every decision-making process. There must be no regulation-making, public policy formulation, or implementation of public policies without involving the community. Community participation is essential because the community itself must make and implement the decisions.

The essence of the representative democracy of the Regional House of Representatives lies in the absorption of community aspirations and community participation in every decision-making process. Therefore, in representative democracy, community participation is the fundamental right of the community to be involved in all aspects of development, while the Regional House of Representatives is obliged to facilitate this participation by opening up space for community involvement. This condition fosters a reciprocal relationship between the community represented and the Regional House of Representatives as its representative. Thus, in this reciprocal relationship, the type of representative democracy implemented by the Regional House of Representatives is participatory democracy.

Participatory democracy is centered on transparency in every public policy decision-making process. In this framework, the public has numerous opportunities to provide input during the formulation of regulations, public policy-making, and public policy implementation. Thanks to this openness, the processes of creating regulations and public policies can be adjusted to meet the needs of the community. As a result, the developed policies can be responsive, characterized by a participatory approach that invites broad participation from all segments of society, including both individuals and community groups. Additionally, these policies must be aspirational, originating from the desires or needs of the community; this means that the policies must not only reflect the aspirations of those in power who seek to legitimize their authority.

From the perspective of the principle of people's sovereignty and democracy, the representative function carried out by the Regional House of Representatives plays an important role in the implementation of regional autonomy. Regional government becomes more democratic with the existence of the Regional House of Representatives as a representative of the people. As a representative of the people, the Regional House of Representatives can contribute to the creation of laws and regulations, the formulation of public policies, and the implementation of public policies. Thus, both the 1945 Constitution of the Republic of Indonesia, Law Number 23 of 2004, and other laws and regulations position the Regional House of

Representatives as an equal partner with the regional government.

The Regional House of Representatives is not superior to the regional government, and vice versa; the Regional House of Representatives does not determine the actions of the regional government, nor does the regional government dictate the actions of the Regional House of Representatives. This relationship allows the Regional House of Representatives, as a representative of the regional populace, to play an important role in realizing people's sovereignty, especially in the creation of laws, regulations, and public policies. Without the involvement of the Regional House of Representatives in this matter, there is a risk of abuse in the creation of laws, regulations, and public policies at the regional level. Therefore, the Regional House of Representatives is present as a representative of the community to ensure that the rights of the local populace are protected in every decision-making process.

Criticism of the position of regional house of representative members as regional officials

Viewed from the principles of people's sovereignty and democracy, the representative function carried out by the Regional House of Representatives has a very strategic role in the implementation of regional autonomy. Regional government becomes more democratic with the Regional House of Representatives acting as a representative of the community. As such, the Regional House of Representatives can play a crucial role in rule-making, public policy formulation, and public policy execution. Therefore, both the 1945 Constitution of the Republic of Indonesia and Law No. 23 of 2014, along with other regulations, position the Regional House of Representatives as an equal partner to the regional government. The Regional House of Representatives is not superior to the regional government, nor is it the case that the Regional House of Representatives determines the actions of the regional government; rather, both entities share a collaborative relationship.

With this relationship, the Regional House of Representatives, as a representative of the regional com-

munity, plays an important role in realizing the sovereignty of the people, particularly in rule-making and public policy-making. Without the involvement of the Regional House of Representatives in these matters, both rule-making and public policy-making in the regions could potentially be misused. Therefore, the Regional House of Representatives was established as a representative of the community to ensure that the rights of the regional community are protected in every policy-making process (Calabretta, 2011, p. 2).

After discussing the concept of state officials and regional officials, the question then arises: Are members of the Regional House of Representatives state officials or regional officials? If we refer to the provisions of Article 122, paragraph (1) of Law No. 23 of 2014, then members of the Regional House of Representatives are not considered state officials. However, in accordance with Article 95, paragraph (2) in conjunction with Article 148, paragraph (2) of Law No. 23 of 2014, members of the Regional House of Representatives are classified as regional officials. This classification is further supported by the provisions of Article 134, paragraph (1), letter a, and Article 188, paragraph (1), letter a, which stipulate that members of the Regional House of Representatives are prohibited from becoming state officials or other regional officials.

Regarding this regulation, there are several fundamental criticisms, namely:

1. If referring to the provisions of Article 1, number 9 of Law Number 9 of 2010 concerning Protocol, then members of the Regional House of Representatives are state officials, not regional officials. This is because the Regional House of Representatives is an institution established by Article 18, paragraph (3) of the Constitution of the Republic of Indonesia. Therefore, the members of the Regional House of Representatives should be considered state officials. In various constitutional law literatures, the meaning of state institutions regulated in the constitution is not limited solely to high state institutions such as legislative, executive, and judicial powers; it also includes all state institutions men-

tioned and granted authority by the 1945 Constitution of the Republic of Indonesia.

The legal question that can help clarify the meaning of state institutions referred to in the 1945 Constitution, according to the provisions of Article 1, number 9 of Law Number 9 of 2010, is: "Does the Regional House of Representatives have legal standing as a state institution that can file a petition for constitutional authority disputes between state institutions to the Constitutional Court?" Based on the provisions of Article 2 of the Constitutional Court Regulation Number 08/PMK/2006 concerning Guidelines for Proceedings in Disputes over the Constitutional Authority of State Institutions, it is expressly stated that the Regional House of Representatives, as part of the Regional Government, is a state institution that can be the applicant or respondent in cases of constitutional authority disputes between state institutions at the Constitutional Court (Saifulloh y Riska Answendy, 2023, p. 382).

In other words, the Regional House of Representatives is a state institution as regulated in Article 1, number 9 of Law Number 9 of 2010, which means that the leadership and members of the Regional House of Representatives are state officials. So that the leadership and members of the Regional House of Representatives are state officials.

2. Placing members of the Regional House of Representatives as regional officials is a discriminatory act because the Regional House of Representatives is the organizer of regional government, together with the Regional Head, and they form a unity that cannot be separated as the organizers of regional government. However, there is a difference in treatment between the Regional Head, who is appointed as a state official, and the members of the Regional House of Representatives, who are only qualified as regional officials.
3. As regional officials, members of the Regional House of Representatives do not possess the same position, financial, and administrative rights as the Regional Head, despite the fact that the Regional House of Representatives is a regional institution that holds an equivalent status to that of the Regional Head, even though

the Regional House of Representatives is a regional institution that has the same position as the Regional Head.

Reformulation of the position of regional house of representative members as regional officials

After the 1945 Constitution of the Republic of Indonesia was amended, two articles, Article 18A and Article 18B, were added to regulate regional government. The contents of Article 18 expanded to seven paragraphs, while Article 18A consists of only two paragraphs (Suparto, 2021, p. 146). This change indicates that Indonesia no longer adheres to a centralized system; instead, both central and regional governments are given greater priority. Regional governments, which consist of provinces, regencies, and cities, possess autonomy and specific assistance tasks. They also have the authority to regulate their own governmental affairs. Additionally, Article 18, paragraph 5, states that “Regional governments exercise the broadest possible autonomy, except for government affairs stipulated by law as the affairs of the Central Government.”

As explained above, placing members of the Regional House of Representatives in positions as regional officials is a mistake. Therefore, in the future, it is necessary to reform the position of members of the Regional House of Representatives through:

1. Placing members of the Regional House of Representatives as state officials is justified by the fact that the Regional House of Representatives is a state institution established by Article 18, paragraph (3) of the 1945 Constitution of the Republic of Indonesia.
2. Granting protocol rights to members of the Regional House of Representatives in accordance with the protocol rights held by other state officials is essential. For example, this includes seating arrangements at every official event, both at the provincial and district/city levels. If members of the Regional House of Representatives are considered state officials, their seating should be prioritized over that of regional secre-

taries and others (see Article 10 and Article 11 of Law Number 9 of 2010 concerning Protocol).

Furthermore, to date, the government has not established a Government Regulation to implement the protocol rights of members of the Regional House of Representatives. It is important to note that since the enactment of Government Regulation Number 18 of 2017 concerning Financial and Administrative Rights of the Leadership and Members of the Regional People's Representative Council, the provisions regarding protocol rights have been revoked.

3. Grant financial and administrative rights to members of the Regional House of Representatives in accordance with the financial and administrative rights designated for state officials. The provisions in Government Regulation Number 17 of 2018 concerning the financial and administrative rights of the leadership and members of the Regional People's Representative Council need to be revised to align with the standards of financial and administrative rights applicable to state officials. These revisions are as follows:
 - a. Regional House of Representatives members need to be given the 13th salary in accordance with the standards set for other state officials, as stipulated in Government Regulation Number 19 of 2006 and its amendments.
 - b. Regional House of Representative members need to be given holiday allowance in accordance with that received by state officials as stipulated in Government Regulation Number 19 of 2018.
 - c. Former Regional House of Representative members and their widows/widowers need to be given financial/administrative rights as stipulated in Law Number 12 of 1980.

Conclusion

In accordance with Article 95, paragraph (2), in conjunction with Article 148, paragraph (2) of Law No. 23 of 2014, members of the Regional House of Representatives are regional officials. However, members of the Regional House of Representatives are not state officials.

The concept of a regional official in Law No. 23 of 2014 cannot be defined in a limitative manner. Therefore, in general, regional officials encompass all elements of regional government administration who are entrusted with the task, authority, and obligation to implement all regional authorities. Regarding the similarities and differences between state officials and regional officials, the following points can be noted:

1. Both state officials and regional officials are state administrators who are assigned tasks and authority;
2. State officials possess a defined understanding and scope, while regional officials do not have a fixed understanding, which leads to an indeterminate scope;
3. The conceptual differences result in various implications, including differing protocols and financial rights between state officials and regional officials. Positioning members of the Regional House of Representatives as regional officials is a mistake, as these members should be classified as state officials.

The Regional House of Representatives was established by Article 18, paragraph (3) of the 1945 Constitution of the Republic of Indonesia and is expressly recognized as a state institution based on Constitutional Court Regulation Number 08/PMK/2006. Furthermore, the classification of Regional House of Representatives members as regional officials creates discriminatory treatment when compared to the positions of the Regional Head and Deputy Regional Head, even though they share the same role and function as regional government administrators.

This results in Regional House of Representatives members lacking the same position, financial rights, and administrative rights as the Regional Head and Deputy Regional Head. For this reason, the status of Regional House of Representatives members as regional officials needs to be reformulated to ensure justice by (1) classifying Regional House of Representatives members as state officials, given that the Regional House of Representatives is a state institution established by the 1945 Constitution of the Republic of Indonesia, specifically Article 18, paragraph (3); (2) granting protocol rights to Regional House of Representatives members in accordance with the protocol

rights afforded to other state officials; and (3) providing financial and administrative rights to Regional House of Representatives members that align with the financial and administrative rights of state officials.

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