

**ON THE EFFECTIVENESS OF THE PERIODEZATION OF
MEMBERS OF THE PEOPLE'S REPRESENTATIVE COUNCIL IN
TERMS OF JURIDICAL**

**EFEKTIVITAS PERIODESASI ANGGOTA DEWAN PERWAKILAN
RAKYAT DALAM HUKUM**

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ABSTRACT

Indonesian Legislative Assembly is the high institutions and public representatives with the authority to design, discuss and establish a law that the state requires. As in Article 7 Verse (4) Act number 13 in 2019 on MD3 that the term of parliament was five (5) years and ended when new members of the parliament were taking an oath. There is a legal vacuum to the effectiveness of the legislative regulatory management, which needs to be examined for whether or not there is a fight on the principle of certainty of law and democracy. To find answers to questions of formulated problems treated using normative law research with a descriptive approach with secondary data. The result of this study has been decided that the effectiveness of the regional autonomy and policy on micro finance as well as law.

Keywords: Effectiveness; Certainty; Law; Limitation

ABSTRAK

Indonesian Legislative Assembly is the high institutions and public representatives with the authority to design, discuss and establish a law that the state requires. As in Article 7 Verse (4) Act number 13 in 2019 on MD3 that the term of parliament was five (5) years and ended when new members of the parliament were taking an oath. There is a legal vacuum to the effectiveness of the legislative regulatory management, which needs to be examined for whether or not there is a fight on the principle of certainty of law and democracy. To find answers to questions of formulated problems treated using normative law research with a descriptive approach with secondary data. The

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I. INTRODUCTION

From its etymology, the triumas of politica was a triumistic political triad in the Greek language. Where, according to the baron montesquieu, the trias politica means that each government has three branches of power, legislative, executive and judicial power that each should be observed separately.¹

The legislature is the body assigned to make or formulate any legal product that the state needs. In the power distribution concept, the legislature is called the parliament as the legislature producing the product of the law. Just as the parliament elections are carried out through self-imposed voting mechanisms by citizens, it is governed under article 19 of the verse (1) constitution of 1945. Moreover, the parliament had legislative powers in its mandate and in its power. In accordance with Article 20 verses (1) The 1945 Constitution, Article 76 verses (4) Act Number 13 in 2019 on MD3 that a member of the house of congress is 5 (five) and will then continue when it is elected and appointed by an oath or appointment of office.

Looking at executive powers in the concept of political trias is power in both planning and implementing legislation that holds and directs oleg to enforce the law. In this case the President is the head of state and the head of state government. The President and his representatives were elected by the people by direct elections for the appointed five-year term of the constitution. As this is confirmed by the constitution, the President, along with the wkil, held the power for five years, after which they can only be re-elected once by citizens.

Just as power is one of the independent powers in the judicial arrangement for the establishment of legal justice. Thus, it is confirmed in Article 24 verse 1 and reaffirmed in verse 2 The 1945 Constitution that the judicial jurisdiction was carried out only by the Supreme Court and the judiciary, religious justice, military justice, ptun and constitutional court. Justice or judicial action is one of those powers whose duty it is to uphold the law and the right to bring about justice for society. As part of the division of power, the judiciary has the power to decide cases while passing penalties for breaking the law to every violation of the law. In accordance with Article 11 letter B of the 2009 Supreme Court act, the chairman along with the vice President and chief justice, can be honorably terminated by the President by the age of 70. Article 15(2)(D) the Act Number 7 Year Law 2020 on the 3rd change to the Act Number 24 Year Law 2003 no. 24 states that the minimum age for a constitutional court judge is 55 years. Those then honorably discharged can be discharge at the age of 70.

¹ Efi Yulistyowati, Endah Pujiastuti, Tri Mulyani. *Penerapan Konsep Trias Politica Pada Sistem Pemerintahan Indonesia: Studi Komparatif Atas Undang-Undang Dasar Tahun 1945 Sebelum Dan Sesudah Amandemen*”Jurnal Dinamika Sosial Budaya, Volume 18, Nomor 2, Desember 2016, hlm. 329

As to the foregoing exposure, from the above institutions, executive and judicial institutions have periods of both periodical and term. Whereas for the legislature it does not set about the limitation of office. For example like the congressmen of Tahir Darmawan (4 periods) of the Golkar Party, Daryatmo Mardiyanto (4 periods) of PDI-P, Edi Ramli Sitbaking (3 periods) of the Democratic Party. The situation of the state of Indonesia continues to be divided against *sollen* and *das sein*. Which one of them deals with the legal vacuum of the legislative assembly and then not regulated by the law. This phase of regional autonomy is not a problem for micro businessmen, he said. It cannot be denied if power is not confined it tends to be abused.

II. METHOD

This study uses an empirical normative approach, research that focuses on the application of a rule or norm in positive law. An approach that uses empirical, or positivist, normative legislative concepts. Concepts that are considered by law are the same as norms made and promulgated by authorized institutions or officials.

III. ANALYSIS AND DISCUSSION

a. Indonesian Legislative Assembly Periodical in The Regulatory Regulations

In The 1945 Constitution, Article 19 to Article 22B Chapter VII that Indonesian Legislative Assembly there is no discussion of increased oscillating. This is found in the 2017 elections law that does not set a limit to the requirements of the city's house. In the Act Number 2 Year Law 2011, the 2008 bill on changes to the 2008 rule number 2 on the 2008 political party, the 27-year 2009 bill on md3, 2014 law number 17 on mm3, article 18-year 2018 of a second change to the 2014 2014 no. 13 bill on md3, and finally the md3 2019 article on md3 does not set up for the parliament period. In 76 verses (4) the term for the speaker was 5 (5) years and ended at the time of the new Congressman's taking an oath. There are 4 (four) times the amendment of the MD3 law, not discussing the parliament period.

b. Indonesian Legislative Assembly in an Era of Reformation

In 1998, the development of the reforms made the state council, including the Indonesian Legislative Assembly, carry out its duties and authority on the principle of check and balance as a democratic and accountability implement. With democracy and accountability, it will bring the role of parliament and its parliamentary function back into the corridor, which will run the joint legislative function with the executive and also perform the budgeting function, as well as the monitoring and enforcement of laws and budgets in government administration.

In the performance of his duties and authority, parliament has not yet implemented legislation. Even though it is still a matter of time, it is still a matter of time. This function is important, because the parliament could reach all sectors of the country through legislative function. As The 1945 Constitution stipulated that the function and position of the parliament had a vital role to the lives of the democratic state. Where this is the aspiration of Indonesia's founding fathers that Indonesia must have a democratic state

apparatus as this has been formulated at the PPKI meeting and also the Investigation Agency for Preparation for Independence (BPUPKI) in 1945. This has been articulated concretely in Pancasila and in the work of the BPUPK and PPKI as formulated from the various steps for realizing the independence of the Republic of Indonesia which were carried out democratically through voting.²

On the lack of productivity of the house of parliament in running the role of legislation. The assessment of the performance assessment of the bill is not on the quantity side that becomes essential to the product assessment of a bill. But it needs to be seen that there are some fundamental factors to disregard quality and that the quantity in performance achievement becomes very poor compared with the plan already made.

c. Performance of Indonesian Legislative Assembly

As it is written in Act Number 17 Year Law 2014 about Indonesian Legislative Assembly House of Representatives, and Province Legislative Council in Article 68 explain that the position of Indonesian Legislative Assembly as separate representative body of the citizen. Article 70, Indonesian Legislative Assembly has the functions:

- 1) The legislation's function that characterizes today's expanding democracy is the introduction of legislative institutions or the name of the legislature. As a result of the recent increase in the prices of goods, he said.
- 2) The supervising function is that of the establishment of policy and legislation. The executive and judicial branches of power that play a role in being enforcers must consider the decisions that are made whether they are worthy of execution. As a mandator, the deputy is accountable to the mandator for the performance of the mandate. Oversight by the agency of representatives is a political oversight.³

Regarding the DPR, based on the results of a polling survey that was randomly selected based on 14 major cities in Indonesia conducted by Kompas on 26-28. Based the opinion of the respondents, it is one of trust patterns between voters and representatives an Indonesian Legislative Assembly. Its writings explain that it reflects the members' ethical values Indonesian Legiltive Assembly can be seen from its integrity in conveying people's aspirations through poor performance, which is why the current image of the Indonesian Legislative Assembly is also bad, with as many as 71.3%. For example, 75% are dissatisfied with the DPR in terms of legislative performance. The results of Kompas show that since 2000 or 17 years ago, voters still feel that members of the Indonesian Legiltive Assembly do not represent their interests. Kompas' findings are also confirmed by the findings of the National Planning and Development Agency (Bappenas). Only 22% of people seemed to feel represented by members of the Indonesian Legislative Assembly. Then Kompas recently released the results of the Political Indicators poll. According to him, public trust in the Indonesian Legislative

² B.N. Marbun (1992). *DPR RI- Reformasi Pertumbuhan dan Cara Kerjanya*, PT. Gramedia PustakaUtama, Jakarta, 3.

³ Siti Aisyah. (2009). *Evaluasi atas Kinerja Badan Perwakilan Lokal pada Era Reformasi*. Jurnal Organisasi dan Manajemen, Volume 5, Nomor 2, 66.

Assembly is very low, ranking 9th among other government institutions with 46.1%. The Indonesian Legislative Assembly in the 2014-2019 period was hit by a 'wet' scandal, and this 'dry' photo certainly contributed to the decline in public confidence in the DPR and political parties during the reign of Jokowi Youssouf Kalla. India's Barometer Survey (published on 22 March 2017), public distrust of the Indonesian Legislative Assembly is 58.7%, while distrust of political parties is 48.8% (Koran Tempo 2017).⁴

Table 1. The Performance of Indonesia Legislative Assembly since 1999 until 2019

No.	Period	Performance
1	House of Representatives Period 1999-2004	a. amendments to the 1945 Constitution b. Pass 175 Draft Laws into Law
2	House of Representatives Period 2004-2009	Of the 284 draft laws, only 175 were passed into law
3	House of Representatives Period 2009-2014	Of the 247 draft laws, only 126 were passed into law
4	House of Representatives Period 2014-2019	Of the 160 draft laws, only 91 were passed into law

Table 2. The Names of Members of Indonesia Legislative Assembly Who Served Over Two Periods

No.	Name	Party	Information
1	Adi Putra Darmawan Tahir	Golkar	4 Periods
2	Agun Gunandjar Sudarsa	Golkar	3 Periods
3	Ahmadi Noor Supit	Golkar	3 Periods
4	Chairun Nisa	Golkar	3 Periods
5	Ferdiansyah	Golkar	3 Periods
6	Hardisoesilo	Golkar	4 Periods
7	Idrus Marham	Golkar	3 Periods
8	Melchias Marcus Mekeng	Golkar	3 Periods
9	Robert Joppy Kardinal	Golkar	3 Periods
10	Syamsul Bachri	Golkar	3 Periods
11	Alexander Litaay	PDI-P	3 Periods
12	Aria Bima	PDI-P	3 Periods
13	Daryatmo Mardiyanto	PDI-P	4 Periods
14	Herman Hery	PDI-P	3 Periods
15	I Made Urip	PDI-P	3 Periods
16	Imam Suroso	PDI-P	3 Periods
17	Irmadi Lubis	PDI-P	3 Periods
18	Mindo Sianipar	PDI-P	3 Periods
19	Nursuhud	PDI-P	3 Periods
20	Ramson Siagian	PDI-P	3 Periods

⁴ *Ibid*, 46.

21	Tjahjo Kumolo	PDI-P	3 Periods
22	Anita Jacoba Gah	Demokrat	3 Periods
23	Edi Ramli Sitanggang	Demokrat	3 Periods
24	Ansory Siregar	PKS	3 Periods
25	Refrizal	PKS	3 Periods
26	Tamsil Linrung	PKS	3 Periods
27	Khofifah Indar Parawansa	PKB	3 Periods

d. Governmental Restriction

In the current implementation, many members of Indonesian Legislative Assembly, House of Representatives, and Province Legislative Council, etc. have served two terms. For this reason, based on Article 51 paragraph 1 of the Law on General Suffrage, the members of the House of Representatives, Regional Representatives Council, and Regional People's Representative Council Number 8 of 2012 have been previously elected twice. If you do, there is no requirement that you can re-register at the next election. Therefore, as long as the candidates for t Indonesian Legislative Assembly House of Representatives, and Province Legislative Council have fulfilled the existing requirements, they can be re-elected in the next election.⁵

The presence of the Indonesian Legislative Assembly seems necessary to limit their terms. Many considerations can be used as a pretext for this limitation. First, of course, it is related to the public interest. Since the whereabouts of Indonesian Legislative Assembly members were never known to the public, the frequent changes in Indonesian Legilative Assembly members did not have much impact. In fact, the members of the representative who have served are less loved by the people or put their interests first. What is also not visible is that the old Indonesian Legislative Assembly members care more about other people. In fact, what happened was ironic. A large number of members of the Old Council increasingly understand the complexities of using the budget for themselves and the party. It is often said that the longer you serve, the smarter you will be in dealing with KKN (corruption, collusion, and nepotism). Second, the term restriction actually has a good connotation because it provides new things. Limitations on the term of office have given equal rights to everyone. Even if it is understood that the opportunity is very limited. For this reason, the legislative sector can trigger the birth of state leaders in the future. Third, the limitation of the legislative term of office of the Indonesian Legislative Assembly makes the national political structure better. Apart from civil/military employees, fewer civil servants remain in their positions. On the one hand, this also limits their chances of finding space or loopholes for corruption.⁶

e. Constitutional rights of the state

⁵ Muhammad Al Kautsar (2019). *Pembatasan Perodesasi Masa Jabatan Anggota Legislatif*, Jurnal Hukum Kenegaraan: Volume. 3, Nomor.3, 362.

⁶ Arif Supriyono (2019). *Membatasi Masa Jabatan Legislatif* diakses dari <https://www.republika.co.id/berita/>

Constitutional rights are part of human rights regulated and protected by the constitution. Where within the constitution constitutional rights become a part and should be respected. Therefore, basic rights must be recognized and respected. It protects basic rights and enables citizens as bearers of the right to defend their rights. The protection of constitutional rights became the trademark of the state of law. Therefore, protection of basic rights here means restriction of state power.

In terms of power, from a constitutional standpoint, elections are a process of constitutional transfer of power. Elections are political activities that signal the beginning of community participation in the formulating process of recruiting leaders and legitimizing the implementation of power.⁷

Next, in relation to the concept of a legal state based on the Indonesian constitution and the protection of human rights in the national democratic principle, section 28d (1) section of The 1945 Constitution:

"Everyone has the right to recognition, assurances, protection, and certainty of a just law and equal treatment before the law."

In Article 28D Verse (3) section of The 1945 Constitution :

*"Every citizen deserves a similar opportunity in government.**"*

In Article 28H Verse (2) section of The 1945 Constitution:

*"Everyone has the right to special benefits and privileges to equal opportunities and benefits to achieve equality and justice**"*

In Article 28I Verse (2) The 1945 Constitution:

*"Everyone has the right to freedom from discriminatory treatment on any basis and has the right to protection against such discriminatory treatment **"*

In Article 28J verse (1) The 1945 Constitution:

*"Everyone has an obligation to respect the human rights of others in the order of social, national, and national life **"*

As for members of the parliament, there are no restrictions on tenure, the constitutional rights of all citizens may be affected. In article 51 verse 1 of the constitution on the parliament elections, DPD, DPRD number 8 in 2012 does not set the requirements of a candidate for the council, but the term of office does not rule on legislative membership to the executive branch. Limiting the parliamentary nominations of a similar position with restrictions on the presidency/vice President to prevent an absolute power position.

The constitutional rights that each person has have the potential to be harmed because of not the limitation of the congress period. As in article 51 verse (1) the 2012 act on the Indonesian Legislative Assembly, House of Representatives, and Province Legislative Council, that in terms of future candidates, the limitation of both Indonesian Legislative Assembly, House of Representatives, and Province Legislative Council. For that reason, for the restriction of congressmen, it needs to be established to prevent absolute power.

IV. CONCLUSION

Based on the results of the author's research and analysis in the discussion, the effectiveness of the periodization of members of the

⁷ Dahlan Thaib. (2000). *Kedaulatan Rakyat, Pada Negara Hukum, Dan Konstitusi*, (Yogyakarta: Liberty Pers, 61.

Indonesian Legislative Assembly needs to be formed a basic foundation, namely the regulation of the existence of a legal vacuum regarding the limitation of the periodization of members of the Indonesian Legislative Assembly Law Number 13 of 2019 concerning MD3 which does not mention the limitation on the periodization of Indonesian Legislative Assembly's members. The periodization of Indonesian Legislative Assembly members really needs to be limited because it is in accordance with the constitutional mandate that everyone has the same position both before the law and the government. In addition, there is a need for leadership regeneration in the Indonesian Legislative Assembly, in order to open up wider opportunities and space for the community to be able to become leaders.

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