

Reconstruction of Legal Arrangements Concerning the Influence of Political Parties on the Independence of Members of the Regional People's Representative Council in the Indonesian Constitutional System

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Abstract: *This study aims to analyze and reconstruct the legal regulations regarding the influence of political parties on the independence of DPRD members in the Indonesian constitutional system. Using normative juridical methods through legislative and conceptual approaches, this study found that although the principle of popular sovereignty in the 1945 Constitution of the Republic of Indonesia places the DPRD as an independent representation of the people, in practice there is dominance of political parties through the mechanisms of factions, party discipline, and Interim Replacement as regulated in Law Number 17 of 2014 concerning the MPR DPR DPD and DPRD and Law Number 2 of 2011 concerning Political Parties. This condition indicates a tendency for a hidden imperative mandate that weakens the independence of DPRD members and impacts the quality of regional democracy. Therefore, it is necessary to reconstruct legal regulations that emphasize the principle of a free mandate, limit political party intervention, and strengthen legal protection for the independence of DPRD members in order to realize substantive representative democracy.*

Keywords: *Independence of the Regional People's Representative Council, Political Parties, Legal Reconstruction*

Introduction

Within the framework of a democratic constitutional state, the principle of popular sovereignty, as affirmed in the 1945 Constitution of the Republic of Indonesia, especially Article 1 paragraph (2), places the people as the holders of the highest power, the implementation of which is carried out through a representative mechanism (Desmon 2018). The logical consequence of this principle is the existence of a people's representative institution in the region, namely the DPRD, which constitutionally obtains legitimacy as a representation of the people at the local level (Putra 2022). The position of the DPRD is emphasized in Article 18 of the 1945 Constitution, which regulates regional government, and is further elaborated in Law Number 23 of 2014 concerning Regional Government, which states that the DPRD is an element of regional government administration together with the regional head (Kurniawan 2025). Within this framework, the DPRD has legislative,

budgetary, and supervisory functions, which are further regulated in Article 149 of the Regional Government Law, so that normatively the DPRD should carry out the people's mandate independently (Santoso 2021). However, in practice, tensions arise between the representative function of the Regional People's Representative Council (DPRD) as representatives of the people and the political reality that demonstrates the dominance of political parties as the primary vehicle for nominating DPRD members.

In a modern representative democracy system, political parties play a strategic role as a means of political recruitment, political education, and the aggregation and articulation of public interests, as stipulated in Law Number 2 of 2011 concerning Political Parties, specifically Article 11. Political parties are also recognized as pillars of constitutional democracy, bridging the relationship between the people and state power (Hidayatuddin 2024). However, the structural and functional relationship between political parties and the DPRD often raises issues regarding the independence of legislative members. Normatively, DPRD members are representatives of the people, but in reality, they are bound to the party structure through faction mechanisms and party discipline (Sandy 2024). This is where the dichotomy arises between the concept of party control, which emphasizes loyalty to the party, and representative independence, which demands the freedom of legislative members to voice the interests of the people. This tension is further complicated in Indonesia's presidential system, which theoretically emphasizes the separation of powers but, in practice, actually demonstrates a strengthening of the role of political parties in controlling the legislature.

The independence of Regional People's Representative Council (DPRD) members, from a constitutional law perspective, is fundamentally related to the concept of a free mandate, in which representatives are not bound by the will of any particular party, including political parties. It contrasts with the concept of an imperative mandate, which binds representatives to the instructions of the party granting the mandate (Indartini 2019). In the Indonesian context, there is no explicit regulation in the constitution governing this form of mandate, but the principle of popular sovereignty indicates a tendency toward a free mandate. Independence is part of the principle of representation, requiring legislators to act based on the public interest, not the narrow interests of specific groups. However, in Indonesian constitutional practice, this independence is often diminished by the strong party system, in which DPRD members rely on parties for re-election, political positions, and the continuation of their political careers. It demonstrates a discrepancy between normative principles and the empirical reality of the prevailing legal system (Anam 2020).

Practical reality shows that political parties exert dominant influence over the Regional People's Representative Council (DPRD), particularly through the faction mechanism stipulated in Law Number 17 of 2014 concerning the People's Consultative Assembly (MPR), the House of Representatives (DPR), the Regional Representative Council (DPD), and the Regional People's Representative Council (DPRD) and its amendments. Factions serve as the primary instrument for political parties in consolidating and controlling the political stances of DPRD members, including in legislative, budgetary, and oversight decision-making (Fariaty 2022). Party instructions and faction discipline are often binding, even in some cases determining the direction of DPRD members' voting without considering constituent aspirations. Furthermore, the Interim Replacement (PAW)

mechanism, as stipulated in Article 239 of the MD3 Law, serves as an effective control tool for political parties to replace members deemed disloyal (Kartiko 2017). This practice demonstrates significant political pressure on DPRD members, which ultimately impacts the quality of regional legislation, as decisions made reflect party interests rather than the public interest.

From a legal perspective, several weaknesses exist that open the door to political party intervention in the independence of Regional People's Representative Council (DPRD) members. Although various laws regulate the relationship between political parties and the legislative body, there are no clear norms that limit party intervention in the freedom of DPRD members to carry out their representative functions (Amalia 2018). In fact, several provisions actually reinforce party dominance, such as party authority in the nomination and dismissal of legislative members, as well as binding internal party regulations. This creates a conflict between party interests and the interests of the people, and has the potential to lead to abuse of power by party elites. Furthermore, weak oversight mechanisms and the lack of adequate legal protection for independent DPRD members further exacerbate this situation, thereby reducing public accountability (Rifa'i 2017).

From a comparative perspective, several democratic countries have developed regulatory models that balance the role of political parties and legislative independence, both through limiting party discipline and strengthening legal protection for legislators. The differences between parliamentary and presidential systems also demonstrate variations in the organization of these relationships, with parliamentary systems tending to provide greater room for party control, while presidential systems demand stronger legislative independence. Therefore, in the Indonesian context, a reconstruction of the legal system is needed to balance these two interests. The urgency of this legal reform is based on philosophical arguments about popular sovereignty, legal arguments regarding inconsistencies and the absence of norms, and sociological arguments that indicate a discrepancy between law and practice. Without a comprehensive reconstruction, political party dominance over the Regional People's Representative Council (DPRD) will continue, potentially weakening the quality of regional democracy and diminishing public trust in representative institutions.

Methodology

This research employs a normative juridical method that focuses on the analysis of legal norms as a system of rules that apply in the positive legal system, by placing law as a normative structure that is studied through primary, secondary, and tertiary legal materials. The approaches used include a statute approach and a conceptual approach. The statutory approach is carried out by examining various relevant regulations, especially the 1945 Constitution of the Republic of Indonesia, Law Number 23 of 2014 concerning Regional Government, Law Number 17 of 2014 concerning the MPR, DPR, DPD, and DPRD, and Law Number 2 of 2011 concerning Political Parties and its amendments, to identify the structure of norms, synchronization, and potential disharmony in the regulation of the relationship between political parties and the independence of DPRD members. The statutory approach was used to examine and compare relevant legislation in order to identify normative structures, synchronization issues, and potential disharmony, while the conceptual

approach was employed to analyze and develop legal concepts related to legislative independence and party control. These analytical processes provide a systematic basis for evaluating existing norms and formulating recommendations for reconstructing legal arrangements that better balance the role of political parties and the independence of DPRD members. Meanwhile, a conceptual approach is used to study and develop relevant legal concepts, such as legislative independence, free mandate, and imperative mandate, as well as the relationship between party control and representative independence in a representative democracy system. The analysis is carried out prescriptively using legal interpretation techniques, legal argumentation, and legal construction to find solutions to the problems studied, resulting in recommendations for the reconstruction of legal arrangements that better guarantee a balance between the role of political parties and the independence of DPRD members in the Indonesian constitutional system.

Result and Discussion

Normative Construction of the Relationship between Political Parties and the Independence of DPRD Members in the Indonesian Constitutional System

The normative construction of the relationship between political parties and the independence of DPRD members in the Indonesian constitutional system is rooted in the principle of popular sovereignty as affirmed in the 1945 Constitution of the Republic of Indonesia, specifically Article 1 paragraph (2), which states that sovereignty rests with the people and is exercised according to the Constitution. This principle implies that every representative institution, including the DPRD, must carry out its representative function freely and responsibly to the people, not to other entities such as political parties. Furthermore, Article 18 of the 1945 Constitution affirms the existence of regional governments that have DPRD members as elements of regional government administration. Thus, constitutionally, the DPRD has direct legitimacy as a representation of the regional people, which should guarantee independence in carrying out its legislative, budgetary, and oversight functions. However, this constitutional norm does not explicitly regulate the relationship between political parties and DPRD members, thus opening up space for diverse interpretations in state practice (Arif 2025).

Further regulations regarding the position and function of the Regional People's Representative Council (DPRD) are stipulated in Law Number 23 of 2014 concerning Regional Government, specifically Article 149, which states that the DPRD has three main functions: the formation of regional regulations, the budgeting function, and the oversight function. Furthermore, Articles 96 and 101 of the Regional Government Law affirm the DPRD's position as a regional people's representative institution with a strategic legislative function in the implementation of regional government. However, the Regional Government Law does not provide explicit regulations regarding the limits of political party intervention in the implementation of these functions by DPRD members. This situation indicates a lack of norms regarding the protection of the independence of DPRD members, so that, normatively, there is no strong guarantee that DPRD members can carry out their duties free from political party pressure (Hutabarat 2025).

On the other hand, regulations regarding the DPRD's institutional structure, including factions and membership mechanisms, are regulated in Law Number 17 of 2014 concerning the MPR, DPR, DPD, and DPRD, along with its amendments. Articles 80 and 82 of the MD3 Law stipulate that Regional People's Representative Council (DPRD) members gather in factions, which represent political parties in the legislative body. Factions play a strategic role in coordinating DPRD member activities and determining the direction of political policy within the body. Furthermore, Article 239 of the MD3 Law regulates the Interim Replacement (PAW) mechanism, which allows political parties to propose the dismissal of DPRD members under certain circumstances. Although PAW is formally regulated for specific reasons, in practice, this mechanism is often used as a means of party control over legislative members. This demonstrates that, normatively, the MD3 Law provides considerable leeway for political parties to influence and even control the political positions and attitudes of DPRD members (Nabela 2025).

The role and authority of political parties in the Indonesian legal system are regulated in Law Number 2 of 2011 concerning Political Parties, specifically Article 11, which states that political parties function as a means of political recruitment, political education, and channeling public aspirations. Furthermore, Articles 12 and 13 regulate the rights and obligations of political parties, including in determining legislative candidates. In this context, political parties have significant authority in determining who can become members of the Regional People's Representative Council (DPRD), thus creating a structural dependency of DPRD members on the parties. This dependency is reinforced by the candidate list system in general elections, which places parties as the primary actors in the candidacy process. Consequently, there has been a normative shift in the orientation of representation from the people to political parties (Sholehuddin 2026).

When analyzed from the perspective of mandate theory, the existing legal structure shows a tendency toward the practice of a veiled imperative mandate, even though Indonesia formally adheres to the principle of a free mandate. It is evident in the obligation of Regional People's Representative Council (DPRD) members to submit to faction and party decisions, as well as the political sanctions that can be imposed if members do not align with party policies. However, under the principle of a free mandate, legislative members should have the freedom to act based on their conscience and the interests of the people. This discrepancy between normative principles and practice indicates a disharmony in the legal system, where existing norms have not been able to effectively guarantee the independence of DPRD members. In fact, in some cases, these norms actually strengthen the position of political parties as dominant actors in the regional legislative process (Saputra 2022).

It can be concluded that the normative structure of the relationship between political parties and DPRD members in the Indonesian constitutional system still shows significant weaknesses. The absence of clear regulations regarding the limits of political party intervention, the existence of legal mechanisms such as factions and replacement parties that tend to strengthen party control, and the lack of adequate legal protection for the independence of DPRD members indicate an urgent need for legal reconstruction. The

reconstruction must be directed at creating a balance between the strategic role of political parties as pillars of democracy and the principle of legislative independence as a manifestation of people's sovereignty, so that the Indonesian state system can run in a more democratic, accountable, and just manner.

Empirical and Theoretical Problems of the Influence of Political Parties on the Independence of DPRD Members

The empirical and theoretical issues regarding the influence of political parties on the independence of Regional People's Representative Council (DPRD) members fundamentally stem from the gap between *das sollen* (what should be according to law) and *das sein* (what happens in practice). Normatively, DPRD members are positioned as representatives of the people who carry out their representative function independently, as derived from the principle of popular sovereignty in the 1945 Constitution of the Republic of Indonesia. However, in practice, this independence is often diminished by the political power of the parties that serve as the primary vehicle for nominating legislative members. This situation indicates that, despite strong democratic legitimacy normatively, in empirical reality, DPRD members are actually subordinating to the interests of political parties.

Empirically, the dominance of factions within the DPRD structure is a key indicator of the strong influence of political parties. Factions function not only as a forum for coordination but also as an effective instrument of political control in determining the attitudes and decisions of DPRD members. Party instructions channeled through factions are often binding, even in strategic decision-making such as the formation of regional regulations or budget approval. The practice of party-controlled voting indicates that the preferences of individual DPRD members often reflect not the aspirations of their constituents, but rather the interests of their parties. It is reinforced by the Interim Replacement (PAW) mechanism in Law Number 17 of 2014 concerning the People's Consultative Assembly (MPR), the House of Representatives (DPR), the Regional Representative Council (DPD), and the Regional People's Representative Council (DPRD), particularly Article 239. In practice, this situation is often used as a tool to pressure DPRD members to remain loyal to party policy.

From a theoretical perspective, this situation can be analyzed through the concept of party control versus representative independence. Within the party control framework, political parties have the legitimacy to direct and control the political behavior of their members to maintain the consistency of their party's ideology and platform. However, under the concept of representative independence, legislators are viewed as representatives of the people, free to act based on the public interest. The tension between these two concepts is further complicated in the Indonesian context, where a strong party system meets the principle of representative democracy that demands accountability to the people. Consequently, there is ambiguity regarding the position of DPRD members, as to whether they are more representative of the party or of the people.

Mandate theory provides a relevant analytical framework for understanding this phenomenon. Under the free mandate theory, legislators are not bound by the imperatives of specific parties, including political parties, and thus have the freedom to carry out their

representative function. In contrast, under an imperative mandate, legislative members are bound by the will of the mandate-giver and can be dismissed if they fail to comply with those instructions. In Indonesian constitutional practice, although not explicitly regulated, mechanisms such as party discipline and replacement candidates (PAW) demonstrate a tendency to covertly implement the imperative mandate. This indicates that the existing legal system is not yet fully consistent with the principle of a free mandate, which should be the foundation of representative democracy.

Another problem lies in the conflict of interest faced by DPRD members between loyalty to their party and responsibility to their constituents. The dependence of DPRD members' political careers on their political parties, both in the nomination process and in their continued tenure, creates significant structural pressure. Under these conditions, DPRD members tend to prioritize party interests to maintain their political positions, even if this conflicts with public aspirations. Furthermore, the lack of adequate legal protection for independent DPRD members further reinforces party dominance. As a result, the space for freedom of expression and objective decision-making is severely limited.

The implications of this situation are significant for the quality of regional democracy. Political party dominance in the DPRD has the potential to undermine the quality of regional legislation, as the resulting laws reflect party interests rather than the needs of the community. The oversight function also becomes less effective, as the Regional People's Representative Council (DPRD) tends not to be critical of policies that align with party interests. Furthermore, public accountability is weakened, as DPRD members are more accountable to their parties than to their constituents. Thus, it can be concluded that the dominance of political parties over the independence of DPRD members is not only a political issue, but also a structural problem in the legal system that requires fundamental improvement through the reconstruction of clearer and more just legal regulations.

Reconstruction of Legal Arrangements to Guarantee the Independence of DPRD Members in a Representative Democracy System

Reconstruction of legal arrangements to guarantee the independence of DPRD members must begin with a philosophical foundation that reaffirms the principle of popular sovereignty as stipulated in the 1945 Constitution of the Republic of Indonesia, particularly Article 1 paragraph (2). From this perspective, DPRD members are direct representatives of the people and should not be reduced to mere extensions of political parties. Therefore, normative affirmation is needed through limited amendments or constitutional interpretations that emphasize that DPRD members' mandates are free (free mandates), not imperative ones. Concrete actions that can be taken include encouraging the establishment of explicit norms in laws stating that DPRD members, in performing their legislative, budgetary, and oversight roles, are not absolutely bound by political party instructions but must prioritize the public interest as a manifestation of popular sovereignty.

Legally, reconstruction needs to be directed at revising the substance of Law Number 17 of 2014 concerning the MPR, DPR, DPD, and DPRD, particularly regarding the regulation of factions. Fractions, which have historically served as instruments of party control, need to be reformulated to function as coordination forums, rather than binding the political

decisions of DPRD members. Concrete actions that can be taken include adding provisions prohibiting factions from issuing absolutely binding instructions in decision-making and providing a legally protected space for dissenting opinions. Furthermore, a mechanism for officially recording dissenting opinions among DPRD members in every legislative process must be established as a form of transparency and public accountability.

Reconstruction should also target the Interim Replacement (PAW) mechanism currently regulated in Law Number 17 of 2014 concerning the MPR, DPR, DPD, and DPRD, specifically Article 239, which tends to be used as a tool of political control by political parties. Concrete actions that can be taken include tightening the requirements for dismissing DPRD members by limiting the grounds for PAW to objective legal violations, such as criminal acts or serious ethical violations, determined by an independent institution. Furthermore, a judicial or quasi-judicial review mechanism for PAW proposals should be established through a judicial institution or independent ethics body, so that dismissal decisions are not entirely in the hands of political parties. Under Law Number 2 of 2011 concerning Political Parties, legal reform needs to be directed at limiting the authority of political parties to control legislative members. A concrete action that can be taken is the addition of a norm prohibiting political parties from imposing political sanctions on Regional People's Representative Council (DPRD) members who exercise their constitutional right to dissent, as long as such actions do not violate the law. Furthermore, it is necessary to regulate the obligation of political parties to respect the independence of legislative members as part of the principle of internal party democracy. This reform can also be strengthened by requiring political parties to have transparent and accountable internal dispute resolution mechanisms.

From a sociological and comparative perspective, legal reform also needs to adopt best practices from other countries that have successfully maintained a balance between party discipline and legislative independence. A concrete action that can be taken is adopting a limited party discipline model, in which parties can only bind legislative members on certain strategic issues, such as ideological policies or main party programs, while members are given freedom on other issues. Furthermore, a national code of ethics for DPRD members that emphasizes the obligation to prioritize the public interest is needed, as well as an independent oversight body that can assess violations of this principle of independence.

This legal reform must produce a model that is not only normative but also implementable. Concrete actions that can be taken include harmonizing all laws and regulations related to the Regional People's Representative Council (DPRD) and political parties, establishing an independent oversight body to protect the independence of legislative members, and strengthening public participation in the regional legislative process. Furthermore, political education is needed for the public and party cadres to instill substantive democratic values. With these concrete steps, it is hoped that a legal system can be created that can truly guarantee the independence of DPRD members, thereby improving the quality of regional democracy and strengthening public trust in representative institutions.

Conclusion

The conclusion of this study shows that the construction of the legal relationship between political parties and members of the Regional People's Representative Council (DPRD) in the Indonesian constitutional system is still dominated by the power of political parties, resulting in a reduction in the independence of regional legislative members. Although normatively, the principle of popular sovereignty in the 1945 Constitution of the Republic of Indonesia places DPRD members as representatives of the people who should be free to carry out legislative, budgetary, and oversight functions, in practice, there has been a shift towards a relationship pattern that resembles a hidden imperative mandate. This is reinforced by the provisions in Law Number 17 of 2014 concerning the MPR, DPR, DPD, and DPRD, and Law Number 2 of 2011 concerning Political Parties, which provide ample room for political parties to control DPRD members through factions, Inter-Term Replacement mechanisms, and political recruitment processes. As a result, there is a mismatch between *das sollen* and *das sein*, where DPRD members tend to be more loyal to their parties than to their constituents, which has an impact on the decline in the quality of regional legislation, weak oversight functions, and low public accountability. Thus, the issue of the independence of DPRD members is not only a political issue, but also a structural issue within the legal system that requires comprehensive reform.

Based on this, the recommendation is the need for a comprehensive reconstruction of legal regulations to guarantee the independence of DPRD members within a representative democratic system. This reconstruction must be done through revisions to laws and regulations, particularly by clarifying the limits of political party intervention, reformulating the function of factions so that they are not absolutely binding, and restructuring the interim replacement mechanism to prevent it from becoming a tool of political control. Furthermore, a strong legal protection mechanism must be established for DPRD members who carry out their representative functions independently, including strengthening the role of independent ethics and oversight bodies. Furthermore, political parties must also be encouraged to undertake internal reforms that prioritize democratic principles and respect for the freedom of legislative members. These efforts need to be supported by increasing public political awareness and strengthening public participation in the regional legislative process, thus creating a balance between the strategic role of political parties and the independence of DPRD members as representatives of the people's sovereignty.

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