

# OBSERVING THE INDONESIAN HOUSE OF REPRESENTATIVES' PERFORMANCE

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## Article Info

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## Abstract

*DPR fulfilled mandate of the people, one of its way is through legislation function, namely formed Act with an agreement with the President. Expectations of the people filled with less than optimal by DPR caused by the performance of the parliament in the field of legislation which was less than satisfactory because did not fulfill the Prolegnas target which they had made themself. This condition caused the functions of DPR as parliament not fully carried out in encouraging people prosperity and developing the country. Hence, it is important to do a series of policy and concrete steps to minimize problems that involve parliament as well as to promote better performance legislation function in the House of Representatives.*

**Keywords:** *legislation, the House of Representatives, the performance.*

## Abstrak

*DPR melaksanakan amanat rakyat antara lain melalui fungsi legislasi, yakni membentuk UU dengan kesepakatan bersama Presiden. Harapan rakyat kurang dipenuhi secara optimal oleh DPR disebabkan kinerja parlemen di bidang legislasi yang kurang memuaskan karena tidak memenuhi target Prolegnas yang dibuatnya sendiri. Kondisi ini menyebabkan fungsi-fungsi DPR sebagai parlemen kurang maksimal dalam mendorong kesejahteraan rakyat dan kemajuan negara. Untuk itu penting dilakukan serangkaian kebijakan dan langkah konkret guna meminimalisir permasalahan yang membelit parlemen sekaligus mendorong peningkatan kinerja DPR dalam fungsi legislasi.*

**Kata kunci:** *legislasi, DPR, kinerja.*

## I. Introduction

Parliament or representatives body -- by various names in many countries in the world -- is one of the democratic fundamentals. The pattern of recruitment and selection of its members and whether the parliament is effective or not become some indicators for quality of democracy in a country. Parliament as a formal people's representative which is functioned to fight for the aspirations, interests, and the people's rights connected with the obligation and responsibility of the state and government to the people. On the other hand, the parliament is expected to be able balancing and controlling of executive power - king/queen, the president, prime minister or with other names -- so that it will not grow up to high and mighty, violating the rights of people, and shutting the democracy down.

Jimly Asshiddiqie said that in general, representative body is viewed as an absolute

of citizens' representative in an effort to establish the way of government's work and determine what had been decided by parliament, those are what is known as people's decision. This is where the doctrine of parliament's supremacy was born, where product of parliament in the form of Law is untenable.<sup>1</sup> In its development, this doctrine experienced a shift, which in some countries this doctrine are no longer used and replaced with the doctrine of constitution's supremacy. Thus, products of parliament (Law) can be tested of its constitutionalism by the constitutional court or with other names. If the court said that the Law violated or against the constitution, that product of parliament will be canceled.

Branches of legislative power or parliamentary power is the first branch that reflects people's sovereignty. First activities as a country is to set a collective living which is realized in forming a regulations or law. Hence, the authority of set such regulations or law should be given first to the parliament. Three crucial things that should be governed by parliamentary, namely: (i) regulation that can reduce rights and freedoms of citizens; (ii) regulation that can impose on wealth of citizens; and (iii) regulation on expenses by public officers. These three important things could only be regulated after obtaining approval from the citizen through its representatives whom sit in the parliament.<sup>2</sup>

Based on that statement, Jimly Asshiddiqie then said that is commonly called as the first legislative assembly legislation or regulation function. Regulating Function (*regelende functie*) is relating with the authority to determine regulation that binds the country with a binding law. Because of that, this authority can only be done as long as people themselves agreed to be tied up with or by the law. Because the parliament is a branch of state's power that are deemed to have a right to regulate as that, then regulation that most was under the Constitution must be made and arranged by the parliament with an agreement with executive power branches.<sup>3</sup>

There are four types of activities in legislation function that will be done by parliament, namely:

1. Initiative of making Law (*legislative initiation*).
2. The draft discussion (*law making process*).
3. The acceptance of ratification of Law's draft (*law enactment approval*).
4. For approval binding or the ratification of the covenant or the international agreement and other legally binding documents (*binding decision making on international agreement and treaties or other legal binding documents*).<sup>4</sup>

On that basis, from ancient days the parliament has already considered to be a very important institution in the structure of a state. Its existence is considered as important as the existence of executive leadership in the country (king/queen or with other names). The world's thinkers since the dawn of time gave an honor place to the parliament, which can be seen in the thoughts of Montesquieu and John Locke which initiate the importance of separation of powers in state so that can be prevented the emergence of king or queen absolute power at that time, among others will be done through the establishment of parliament as the legislative power's holder.

John Locke strongly criticized kings' absolute power at that time. According to Locke,

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<sup>1</sup> Jimly Asshiddiqie, *Pokok-Pokok Hukum Tata Negara Pasca Reformasi (Basic of Constitutional Law in Post-Reformation)*, Jakarta: Bhuana Ilmu Populer, 2008, p. 153

<sup>2</sup> *Ibid.*, p. 160-161.

<sup>3</sup> *Ibid.*, p. 161.

<sup>4</sup> *Loc.cit.*

to achieve their balance in a country, the power in the country must be sorted into three parts: the legislative power, executive power, and shift federative power.<sup>5</sup> In its development, thought of Locke was modified by Montesquieu who formulated the three branches of power, each of which have self-rule areas and separate from one another. The three branches of power is the country's legislative power, executive power, and judicial power. The teaching of this separation of power known with the term *Trias Politica*.<sup>6</sup>

From this thought, especially legislative power or law making power as understanding that was put forward by Locke and Montesquieu has developed and the latest implementation is parliament or legislative assembly. It can be argued that the format and members of parliament now has been much different from the early idea of the two philosophers because of the occurrence of adjustments and changes in the institutions that caused by some developments and global changes and the need for mankind.

## II. The Performance of Legislation Function in DPR

In the context of Indonesia, the establishment of representative institution received great support from people through the figures of people who sit in the *Badan Penyelidik Usaha-Usaha Persiapan Kemerdekaan Indonesia* (Investigation Organization for Efforts of Indonesia's Independence Preparation or "BPUPKI") which was followed by *Panitia Persiapan Kemerdekaan Indonesia* (Indonesia's Independence Preparation Committee or "PPKI") to discuss and ratify the Constitution of Indonesia in 1945 as basic law that will be used as a reference for the country that will be independent in the Archipelago. In the constitution, which was later named as *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* (Constitution of the Republic of Indonesia 1945 or "UUD 1945"), there were a formulation about the people's representatives in the name of House of Representatives ("DPR" in the Indonesian constitutional structure) as stipulated in the Article 20 of The 1945 Constitution.

In its development, the reformation era marked by resignation of President Soeharto in May 21, 1998, DPR has changed fundamentally. When the 1945 Constitution before the amendment only given the authority for DPR to submit a Draft of Law (RUU), through the amendment of the 1945 Constitution, there will be an extraordinary shift legislation function. Constitutional amendment result stated that DPR now has power to form Laws and President given the authority to submit the draft. Hence, the discussion can only be done if both sides are involved, and only with the approval on both sidess so a draft of Law can be passed to become a Law.<sup>7</sup>

The shift of legislation function from the President to DPR is supporting Jimly Asshiddiqie's

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<sup>5</sup> Legislative power is power that has the authority to make laws, another power must be subject to this power. Executive power includes the power to execute or to maintain laws, including the power to judge. Federative power is rule on all those which do not include legislative and executive power, including power to security in the country, war and peace business in relation to our international relation. From that rthree of authority, executive power and federative power must be on the same hand, and there must be a supremacy legislative power over others. See Jazim Hamidy et al, *Teori dan Politik Hukum Tata Negara* (The Theory and Politics Constitutional Law), Yogyakarta: Total Media, 2009, p. 47

<sup>6</sup> Legislative power is a law making, executive power is law execute the laws power, and judicial power is authority that runs judicial system, to sentence for the crimes, and to give the verdict if there is disagreement among people. Ismail Suny in Jazim at. Hamidy al, *ibid* ., p. 47-48.

<sup>7</sup> The material of UUD 1945 regarding the shift of legislation function can be read in the Article 5 paragraph (1) and Article 20 in amended UUD 1945. Long and detailed description about the transfer of legislation function from President to the DPR can be read in Saldi Isra, *Pergeseran Fungsi Legislati (A Shift of Legislation Function)*, Jakarta: Rajawali Press, 2010.

opinion who mentioned that in the practice in Indonesia, legislation function is considered to be main, while the two other functions, the supervision and budgeting function, is second and third functions which is in accordance with the sequence in its mention in laws. All three, in fact, should be equally crucial. Even in various countries today nowadays, monitoring and auditing functions is more determining than legislation function. This is because the legal systems of the various developed countries have seen enough to be guideline of country's management, thus not much more legal product (in law) is needed.<sup>8</sup>

The shift of legislation function as a result of constitution amendment was a huge opportunities for DPR to progress in determining a nation and state's direction in the future, including propose the draft of Law and play a major role in the forming of the Law, also fill and determine the contents of a Law. However, hopes of the people and the opportunity that is given by the constitution is not able to run in an optimal manner by DPR.

This can be seen that DPR in period of 2009-2014 as result of General Election 2009 at least had a big problem in this legislation function, namely performance of Law-forming on a low level. This was marked with least number of Law that is produced by per year compared with the target the forming of the Law as stipulated in the National Legislation Program (Prolegnas) that were drawn up by DPR itself.

Before highlighting the legislation performance of DPR in this periode that cause for concern, it is important to trace the DPR in the past in the field legislation briefly as a comparison.

Central Indonesian National Committee (*Komite Nasional Indonesia Pusat* or "KNIP") which functions as Indonesia's parliament at the beginning of independence succesfully ratificate and enacted 133 Laws in four years (1945-1949).<sup>9</sup> This performance of KNIP surely got an appreciation since the midst because to limitations as a newly independent country, this institution still able to show a better and adequate performance.

In the validity of Constitutional RIS (KRIS) in 1949 which was only for one year (1949-1950), there are three state institutions that occurs to have power of legislation, that was the government, the DPR, and the Senate. During that very short period, there are seven Laws, which is confirmed and enacted. Along with that, the government itself managed to establish 30 Emergency laws. Emergency Law is similar to Perppu as stated in the 1945, but Emergency Law does not need to put forward to the DPR to get the approval.<sup>10</sup>

In the validity of UUDS 1950 which was held for nine years (1950-1959), the power to forming Laws is on DPR's hand which is divided into two periods, to the Temporal House of Representatives (*Dewan Perwakilan Rakyat Sementara* or "DPRS") which was established by the President Soekarno and to the DPR from result of the General Election 1955. DPRS for six years working time (1950-1956) has managed to legalize 167 Laws. But the DPR from result of the General Election 1955 during the three-year period of its devotion succesfully confirms 113 Laws.<sup>11</sup>

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<sup>8</sup> More detailed information about this can be read in Jimly Asshiddiqie, *Pergumulan Peran Pemerintah dan Parlemen dalam Sejarah (Struggle of the role of Government and Parliament in History)*, Jakarta: UI Press, 1996.

<sup>9</sup> Ahmad Yani, *Pasang Surut Kinerja Legislasi (Tides of Legislation Performance)*, Jakarta: An eagle Press, 2011, p. 10.

<sup>10</sup> *ibid.*, p. 12.

<sup>11</sup> *ibid.*, p. 17.

Through a Presidential Decree of Soekarno in July 5, 1959, the UUD 1945 is valid and applied again, and the President dissolved the DPR from result of the General Election 1955. As a replacement, he forms the *Dewan Perwakilan Rakyat-Gotong Royong* (DPR-GR) with appointed members. For seven years period of Bung Karno's leadership (1959-1966), the number of Law that is produced is very low, only 10 Laws.<sup>12</sup> Such lack productivity of DPR GR at that time among others is because the DPR-GR is busy with competition of authority, the commotion at politics, and the diversity of political views in the DPR-GR, and also the political competition at state/government level.

Same leadership of President Soekarno shifted to Soeharto's leadership period in 1966 that was marked by the *Surat Perintah* of 11 March (Supersemar). In the same length of the Soeharto presidency for around 32 years (1966-1998), performance of DPR can be explained as follows.

1. Period 1966-1971, the DPR-GR from the era of Soekarno remains established as DPR-GR New Order with changes of membership that is no longer include the members who came from Communist Party of Indonesia (Partai Komunis Indonesia or "PKI"). During the past five years, the DPR-GR New Order successfully confirms 85 Drafts into Laws.
2. Period 1971-1977, in this period the DPR is composed from the Election Results 1971 even though not all members of the DPR at that time is chosen directly by the people. there are 75 members of the DPR who came from the Faction ABRI (now the armed forces have been changed to the Indonesian Armed Forces and no longer include Police Department in it). In this period successfully ratified 43 Drafts into Laws.
3. Period 1977-1982, the DPR as result of the General Election 1977 successfully confirms 55 the Drafts into Laws.
4. Period 1982-1987, in this period the DPR is composed of the Election Results 1982 and successfully confirms 46 Drafts into Laws.
5. Period 1987-1992, in this period the DPR which is composed of the Election Results 1987 successfully confirms 55 Drafts into Laws.
6. Period 1992-1997, in this period the DPR which is composed of the Election Results 1992 successfully confirms 70 Drafts into Laws.
7. Period 1997-1999, at this range of time it should be same DPR result of the general election 1997 during the past five years. But because the reformation waves and the people's demand of the needs of legitimate leader of the country then agreed to held new general election in 1999. Thus the DPR in this period lasted only two years. However, even though time frame work only lasted for two years, the DPR as result of the General Election 1997 successfully confirms 103 Drafts into Laws.<sup>13</sup>
8. Period 1999-2004, the DPR in this period is the first parliament in the reformation era as a result of the General Election 1999 as the first general election in reformation era that is considered as a democratic general election. Spirit of reformation and the high needs for a new Laws or Law on a replacement of past Law that would become the basis for the formation of a new life in Indonesia as

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<sup>12</sup> *ibid* ., p. 21. Some Laws that stands out the work of DPR GR such as Law Number 5 Year 1960 regarding Laws to Basic Agrarian, Law Number 14 Year 1965 about Cooperation, and Law Number 18-Year 1965 regarding Regional Governments.

<sup>13</sup> *ibid* ., p. 19-35.

democratic country, and to uphold human rights as implementation demands for reformation, resulting in the period of 1999-2004 successfully confirmed as much as 189 Drafts into Laws.<sup>14</sup>

- 9. Period 2004-2009, the DPR in this period as results of the General Election 2004, the second elections in the reformation era. During the period of 2004-2009 successfully ratified 194 Drafts into Laws.<sup>15</sup> Other data showed the number of Drafts, which successfully ratified by the national parliament during the period of 2005-2009 to be Laws is 186 Laws.<sup>16</sup>

Performance of DPR period 2004-2009, in the forming of the Law can be concluded not achieving a success. This is because the parliament was only succeeded in completing 186 Drafts to Laws from 335 Drafts which is designed in Prolegnas 2005-2009 or around 56 percent over the last five years.<sup>17</sup> Other data says that from Prolegnas 2005-2009 as many as 130 Drafts, can be realized as much as 76 Draft to Laws or as much as 58.5 percent.<sup>18</sup>

Other Data released by *Pusat Studi Hukum dan Kebijakan* (PSHK) Indonesia mentioned that the House of Representatives 2004-2009 period only confirms 193 Laws of the target Prolegnas 284 Drafts or by 67.9 percent. PSHK showed data of DPR period 2004-2009 could not fulfill each target halved in priority of Prolegnas. In detail, it can be read in the table below: <sup>19</sup>

Table 1. Realization of Law Making in the House of Representatives 2004-2009 period <sup>20</sup>

NO.	IN	TARGET PROLEGNAS	REALIZATION	PERCENT.
1.	2005	55 Draft Laws	14 Laws	25.4 %
2.	2006	76 Draft Laws	39 Laws	51.3 %
3.	2007	78 Draft Laws	40 Laws	51.2 %
4.	2008	81 Draft Laws	61 Laws	75.3 %
5.	2009	76 Draft Laws	39 Laws	51.3 %
	Number of	366 Draft Laws	193 Laws	50.9 %

<sup>14</sup> [www.setneg.go.id](http://www.setneg.go.id) , accessed at Monday, August 27th, 2012.

<sup>15</sup> Ibid .

<sup>16</sup> Ahmad Hanafi, Coordinator of Indonesian Parliamentary Center (IPC) in Waspada Online, [www.waspada.co.id](http://www.waspada.co.id), Sunday edition, November 8th, 2009, accessed at Tuesday, August 28th, 2012.

<sup>17</sup> Ibid .

<sup>18</sup> Legislation Body within DPR, Program Legislasi Nasional 2005-2009 (Indonesian National Legislation Program 2005-2009) in Richo Wahyudi, *Pembaruan Hukum (Legal Reforms)*, Depok: FH UI, 2011, [www.lontar.ac.id](http://www.lontar.ac.id) , accessed at Tuesday, August 28th, 2012. The difference of data is likely due most evident method of counting since when the counting of Law which produced by DPR, would begin since January 1, 2004 or from the DPR ongoing for 2004-2009 period in October 1, 2004. This condition should be able to settle down in the future, especially by the DPR to divide the productivity of DPR based on working period.

<sup>19</sup> Andi Basso, "Kinerja Legislasi DPR Buruk" ("The Bad Performance of Legislation in DPR"), in [www.mimbar-opini.com](http://www.mimbar-opini.com) , accessed at Tuesday, August 28th, 2012.

<sup>20</sup> Specific data from the year 2009 includes two periods of DPR, the DPR period 2004-2009 that ended in September 30, 2009 and the DPR 2009-2014 period which began October 1, 2009. It is difficult to find data for each period of DPR at the end of 2009. In the future, DPR should be able to present this data will be better to distinguish performance per period DPR as general election results so that it was more appropriate. Other notes, the Law that was confirmed not all came from Prolegnas, because some of them is the Drafts Cumulative as the Draft of the establishment of new autonomous regions, the Draft on ratification or international agreements, and the Draft of the budget.

The House of Representatives period of 2009-2014 from 2009 General Election results, until the time when text was written (December 10, 2013), confirms 95 Drafts into Laws. In the detail per year as stipulated in the table below.

Table 2. Number of Law that was produced by DPR period of 2009-2014 at 2009-2013<sup>21</sup>

NO.	YEAR	NUMBER OF LAWS
1.	2009	13
2.	2010	13
3.	2011	24
4.	2012	30
5.	2013*)	15
	Total	95

\*) Until December 10, 2013.

And so, the average performance per year of DPR, with the record counted for 4 years, confirms 24 Laws. This Number was still very far in comparison to the fixation target as stipulated in the Prolegnas DPR last year at once. Comprehensively, the percentage of DPR in forming Laws compared to target as stipulated in Prolegnas are listed in the table below.

Table 3. The percentage of DPR performance in a law At the end of 2010-2013\*)<sup>22</sup>

NO.	IN	TARGET PROLEGNAS	REALIZATION	PERCENT.
1.	2009	76 Draft Laws	39 Laws	51,3%
2.	2010	70 Draft Laws	18 Laws	25,7%
3.	2011	91 Draft Laws	22 Laws	24,2%
4.	2012	64 Draft Laws	30 Laws	46,9%
5.	2013	76 Draft Laws	15 Laws	19,7%
	TOTAL	377 Draft Laws	124 Laws	32.9 %

\*) Until December 10, 2013.

The following table contained list of Laws which has enacted at the time of DPR period 2009-2014, with divide it according to year. There is a possibility that there

<sup>21</sup> Specific data from the year 2009 includes two periods of DPR, the DPR period 2004-2009 that ended in September 30, 2009 and the DPR 2009-2014 period which began October 1, 2009. It is difficult to find data for each period of DPR at the end of 2009. In the future, DPR should be able to present this data will be better to distinguish performance per period DPR as general election results so that it was more appropriate. Other notes, the Law that was confirmed not all came from Prolegnas, because some of them is the Drafts Cumulative as the Draft of the establishment of new autonomous regions, the Draft on ratification or international agreements, and the Draft of the budget.

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had been a difference between total Law that been enacted with the number of Law that been ratified by DPR in the same year, because the publication of Law requires quite a long time and possibly a new law that passed by the DPR then just enacted by the President c.q. Ministry of Justice and Human Rights in the next year (cross-year).

Table 4. Law that enacted at the time of DPR period 2009-2014 At the end of 2009 <sup>23</sup>

NO.	NUMBER	TITLE
1.	31 Year 2009	Meteorology, Climatology, and Geophysics
2.	32 Year 2009	Protection and Management of Environment
3.	33 Year 2009	Cinematography
4.	34-Year 2009	The Announcement Perppu No. 2 in 2009 about the amendment Of Law No. 13/2008 on The Hajj Pilgrimage to become Law
5.	35 Year 2009	Narcotics
6.	36 Year 2009	Public Health Service
7.	37 Year 2009	The Announcement Perppu No. 3 in 2009 about the amendment Of Law No. 9 Year 1992 about Immigration to become Law
8.	38 Year 2009	Post
9.	39 Year 2009	Special Economic Zones
10.	40 Year 2009	Youth
11.	41 Year 2009	Protection of Continous Farmland
12.	42 Year 2009	Third Amandement of Law No.8 Year 1983 about Value Added Tax for Goods and Services and Tax and Luxury Goods
13.	43 Year 2009	Archives
14.	44 Year 2009	Hospital
15.	45 Year 2009	Amandment of Law No. 31 of 2004 about Fisheries
16.	46 Year 2009	The Court of Corruption Act
17.	47 Year 2009	State Budget for 2010
18.	48 Year 2009	Judicial Authority
19.	49 Year 2009	Second Amendment to Law No. 2 in 1986 about General Court
20.	50 Year 2009	Second Amendment to Law No. 2 in 1986 about the Religion Court
21.	51 Year 2009	Second Amendment to Law No. 2 in 1986 about the Governance Court
22.	52 Year 2009	Development of Population and Family

<sup>23</sup> Note, the Act which is included in this table per October 1, 2009, on his appointed a member of the DPR from Pemilu result 2009 for the period 2009-2014. Some Law be enacted at the end of 2009, especially in the early of this period of DPR period 2009-2014 came from results of the work of DPR period 2004-2009 but till September 31, 2009, has yet to be enacted by the President and the membership of DPR was ended with a member of the new DPR from the 2009 General Election results in October 1, 2009. Source: [www.setneg.go.id](http://www.setneg.go.id) , accessed in December 12th, 2013.

Table 5. Law enacted at the time of DPR period 2009-2014 at the end of 2010<sup>24</sup>

NO.	NUMBER	MOVIE'S TITLE
1.	1 year 2010	Accountability For the implementation of State Budget for 2010
2.	2 year 2010	Ammdement of Law No. 47 Year 2009 about the State Budget for 2010
3.	3 year 2010	Revocation of Perppu No. 4 of 2009 about the amendment Of Law No. 30 of 2002 about Criminal Acts of Corruption Eradication Commission
4.	4 Year 2010	The Ratification of the Agreement between Indonesia and the Republic of Singapore about The Announcement of Sea Borderline area of Both countries in the Western part of Singapore Strait, 2009
5.	5 Year 2010	Ammdement of Law No. 22 Year 2002 about Clemency.
6.	6 Year 2010	A Memorandum of Understanding between The Indonesian Government and Kingdom Brunei Darussalam about cooperation in the field of Defense
7.	7 Year 2010	Accountability For the implementation of State Budget for 2009
8.	8 Year 2010	Prevention and Eradication of the Money Laundering Crime
9.	9 Year 2010	Protocol Arrangements
10.	10 Year 2010	State Budget for 2011
11.	11 Year 2010	Heritage
12.	12 Year 2010	Boy Scout Movement
13.	13 Year 2010	Horticulture

Table 6. Law enacted at the time of DPR period 2009-2014 at the end of 2011<sup>25</sup>

No.	NUMBER	NUMBER
1.	1 Year 2011	Housing and Resettlement Area
2.	2 Year 2011	Amandment of Law No. 2 Year 2008 about the Political Party
3.	3 Year 2011	Transfer of Funds
4.	4 Year 2011	Geospasial Information
5.	5 Year 2011	Public Accountant
6.	6 Year 2011	Immigration
7.	7 Year 2011	Currencies
8.	8 Year 2011	Ammdement of Law No. 24 Year 2003 about the Constitutional Court
9.	9 Year 2011	Ammdements of Law No. 9 Year 2006 about The Warehouse System
10.	10 Year 2011	Ammdements of Law No. 32 Year 1997 on Commodity Futures Trading

<sup>24</sup>Source: [www.setneg.go.id](http://www.setneg.go.id), accessed in December 12th, 2013.

<sup>25</sup>Source: [www.setneg.go.id](http://www.setneg.go.id), accessed in December 12, 2013.

No.	NUMBER	NUMBER
11.	11 Year 2011	Amendments of Law No. 10 on State Budget for 2010 Fiscal Year 2011
12.	12 Year 2011	The Formation of Law Making
13.	13 Year 2011	Prevention of the Poor
14.	14 Year 2011	Accountability For the implementation of State Budget for 2010
15.	15 Year 2011	The Organizer of the General Election
16.	16 Year 2011	Legal Aid
17.	17 Year 2011	State Intelligent Body
18.	18 Year 2011	Amendments of Law No. 22 Year 2004 on Judicial Commission
19.	19 Year 2011	The Ratification on the Convention on the rights of Disability People
20.	20 Year 2011	Condominium
21.	21 Year 2011	Financial Services Authority
22.	22 Year 2011	State Budget for 2012
23.	23 Year 2011	Management of Zakat
24.	24 Year 2011	The Social Insurance Body

Table 7. Law enacted at the time of DPR period 2009-2014 at the end of 2012<sup>26</sup>

NO.	NUMBER	TITLE
1.	1 Year 2012	Ratification of Treaty of Comprehensive Banning to Nuclear Test
2.	2 Year 2012	Land Procurement of the Development For the Public
3.	3 Year 2012	The Ratification of Agreement between the Indonesian Government and local Government Special Administration of Hong Kong RRC regarding Extradition Rights in a Criminal Act
4.	4 Year 2012	Second Amendment of Law No. 22 Year 2011 on State Budget for Fiscal Year 2012
5.	5 Year 2012	The Ratification of ASEAN Convention on Eradication of Terrorism
6.	6 Year 2012	The Ratification of International Conventions on Protection of Human rights to All Migrant Workers and Their Family
7.	7 Year 2012	Handling Social Conflict
8.	8 Year 2012	Legislative Election, City Council, and the Regional House of Representatives

<sup>26</sup> Source: [www.setneg.go.id](http://www.setneg.go.id), accessed in December 12, 2013.

NO.	NUMBER	TITLE
9.	9 Year 2012	The Ratification of Optional Protocol from the Convention of the rights of Children's on the involvement of Children in armed conflict
10.	10 Year 2012	The Ratification of Optional Protocol from the Convention of the rights of Children's on Child trafficking, child prostitution, and Pornography Children
11.	11 Year 2012	Children Criminal Justice System
12.	12 Year 2012	Higher Education
13.	13 Year 2012	Special Territory of Yogyakarta
14.	14 Year 2012	Accountability For the implementation State Budget for 2011
15.	15 Year 2012	Veteran of Republic Indonesia
16.	16 Year 2012	Defense Industry
17.	17 Year 2012	Cooperation
18.	18 Year 2012	Food
19.	19 Year 2012	State Budget for 2013
20.	20 Year 2012	The Formation of Provinces North Borneo
21.	21 Year 2012	The Formation of regencies Pangandaran in West Java Province
22.	22 Year 2012	The Forming of West Coast in Lampung Province
23.	23 Year 2012	The Formation of regencies Manokwari South in West Papua province
24.	24 Year 2012	The Forming of Arfak mountains in West Papua Province

Table 8. Law enacted at the time of DPR period 2009-2014 At the end of 2013<sup>27</sup>

NO.	NUMBER	TITLE
1.	1 Year 2012	Micro Finance Institutions
2.	2 Year 2012	The Forming of Mahakam Ulu District in East Kalimantan Province
3.	3 Year 2012	The Forming of Malacca in NTT Province
4.	4 Year 2012	The Formation Kabupaten Mamuju in West Sulawesi Province
5.	5 Year 2012	The Forming of Banggai Regency in Central Sulawesi Province
6.	6 Year 2012	The Forming of Taliabu Island in North Maluku Province
7.	7 Year 2012	The Forming of Penukal Abab Lematang Ilir in South Sumatera
8.	8 Year 2012	The Forming of Kolaka East in the Province of Sulawesi Tenggara
9.	9 Year 2012	Prevention and Eradication of the Crime funding terrorism
10.	10 Year 2012	Ratification of Rotterdam Convention on procedures For for Chemicals and Certain hazardous Pesticides in International trade
11.	11 Year 2012	The Ratification of Protocol Nagoya about Access to Resources of genetic engineering and distribution of benefits fairly and balanced that often arise from the Convention on Biological Diversity as usage
12.	12 Year 2012	The Formation of Morowali Regency in Central Sulawesi Province

<sup>27</sup>Source: [www.setneg.go.id](http://www.setneg.go.id), accessed in December 12th, 2013. Note: Law that is available to December 10, 2013.

NO.	NUMBER	TITLE
13.	13 Year 2012	The Formation of regencies Konawe regencies Kepulauan in North Sulawesi Province
14.	14 Year 2012	Ammendment of Law no. 56 Year 2008 about the Forming of Tambrauw in West Papua Province
15.	15 Year 2012	Ammendment of Law No. 19 Year 2012 on the State Budget for 2013
16.	16 Year 2012	The Formation of regencies Musi Rawas North in South Sumatera Province
17.	17 Year 2012	Community Organization
18.	18 Year 2012	Prevention and Eradication Forest destruction
19.	19 Year 2012	Protection and Farmer Empowerment
20.	20 Year 2012	Medical Education

Now the DPR only have a shorter time, about 9 months (January-September 2014) to discuss and formed Laws. Nevertheless this short of time, must be reduced again with the recess and the General Election Legislative and Presidential Election 2014. Members of the DPR which nominate themself again as it would focus on himself to win back in the Legislative General Election seats in DPR 2014. Moreover, with the most votes system, then the struggle to for seats in DPR is more of personal struggle (individuals) than the fight of collective group candidates or even the party. In line with that at this moment has entered the closing campaign period, so that the members of DPR use their time to go to the area of collection (dapil) to make his campaign to gain support their constituents and people's sympathy or community.

After completing his Legislative Election 2014, members of the DPR will be busy to provide support and struggling for candidate for President and the Vice-Presidential Candidates that supported by political parties where he came from. This was also much time consuming and attention and members of the DPR. Time that will be used by members of DPR to fight for candidate for President and Vice-Presidents will be longer if there's a second round and their candidate enters that round.

With that image, it is most likely that time remaining for around 9 months forward (January - September 2014) will not be effective to discuss the Draft and ratify it to become Law. Estimated that the number of Law, which passed through the rest 9 months was around 10 to 20 Laws alone.

Thus it can be concluded that the DPR this period, with note to when text is ordered (December 10, 2013), have the performance far worse than the DPR from results of the 2004 General Election. This performance is not in line with the statement of Chairman of the DPR, Mazuki Alie, in plenary meeting of the House in which he stated that the year 2012 is the year of legislation to the DPR.<sup>28</sup>

This unsatisfying performance of legislation in the DPR, not only in this period but also includes Representatives from previous period because they could not fulfill the target that he arranges itself as stipulated in Prolegnas. This kind of performance of DPR being scrutinized and criticized from various circles.

President of Student Executive Body at Gadjah Mada University in Yogyakarta, Aza El Munadiyan, considered that the DPR during one year since was appointed in October

<sup>28</sup> "House Legislation is not yet Satisfying", in [www.gatra.com](http://www.gatra.com), wednesday, April 18, 2012, accessed at wednesday, August 29, 2012.

1, 2009's has a poor performance. He said, DPR has failed to perform their legislative function because there are only 10 Drafts, which is finally ratified. In fact, for one year, noted target 70 Drafts which should have already been approved by the DPR into the Law. he said. Besides, according to him, there are 24 drafts on the initiative of DPR which has not yet been prepared text academic and draft.<sup>29</sup>

Coordinator of *Forum Masyarakat Peduli Palembang Indonesia* (Formappi) Sebastian Salang in a press conference in relation to the DPR evaluation of the 2009-2014 in Jakarta said that performance of the DPR considered getting sharply lower. A member of DPR decline sharply occurred in the field of legislation. National legislation program target in 2011 there was no Drafts approved by the DPR. Legislation target 2011 consists of 70 Prolegnas and 23 Draft Laws that encourages in 2010. But there is no single target of Prolegnas 2011 ratified to be Law in the year 2011.<sup>30</sup>

Boy Yendra Tamin said that there is something missing from the performance of DPR period 2009-2014, related to the legislation function as its main duty. In his notation, in the period 2010 Parliament only finished 13 Drafts into Laws from 70 in total that has been planned. Those 13 Laws which produced at the end of 2010, as Law of National Budget and Accountability of National Budget, the Law on ratification and Law regarding amendment. At the end of 2011 was up to August, the DPR only conclude deliberations over 8 Drafts into Laws, so that the target 70 Draft Laws in 2011 clearly impossible to achieve regarding to only 4 months left before the end of 2011. Important question that arising is what, have DPR already done related to their main duties?<sup>31</sup>

Chairman of the House of Representatives Marzuki Alie himself admitted that he was concerned with the performance council's member at this time. He said that in the time the council III in 2011-2012, the DPR can only be able to solve two laws from 12 drafts, which is targeted.<sup>32</sup> If they made the percentage, it is only 16.6 percent.

In the opening plenary session the council II, Monday (November 18, 2013) Chairman of DPR, Marzuki Alie, asked people to understand the low performance legislation a member of the DPR. According to the Democratic Party politician, people need to understand that function and regulation as well as carried out by two institutions, the DPR and the government. Often the process of draft discussion does not go on smoothly because broader disconcertion over the materials and regulation as well as the DPR with the Government as well as in the internal Government. "Especially the draft on the initiative of DPR," said Marzuki. Even so, as constitutional mandate, said Marzuki, DPR will give the best to resolve that obstacles.<sup>33</sup>

Chairman of the DPR, Marzuki Alie, in his speech commencing The Trial Period II of the Council Year 2012-2013 at 19th last November, again complained about the low performance of legislation. For the umpteenth time, Marzuki reminded members of parliament as well as possible in order to work by their oath/promise of the position. Until this time, the DPR

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<sup>29</sup> BEM Gadjah Mada University: Kinerja DPR RI Buruk (DPR has an unsatisfying performance), [www.nasional.kompas.com](http://www.nasional.kompas.com), friday, October 1, 2010, accessed at wednesday, August 29, 2012.

<sup>30</sup> Kinerja Legislasi DPR Merosot (Legislation performance of DPR has fell), [www.jurnas.com](http://www.jurnas.com), monday, October 10, 2011, accessed at wednesday, August 29, 2012.

<sup>31</sup> DPR Mulai Cari Alasan atas Rendahnya Produktivitas Kinerja Legislatifnya (DPR began to Search Reasons For The low productivity performance of its legislative), [www.jendelakita.net](http://www.jendelakita.net), accessed at wednesday, August 29, 2012.

<sup>32</sup> Marzuki Alie was Concerned about performance of DPR, [www.republika.co.id](http://www.republika.co.id), friday, April 13, 2012, accessed at wednesday, August 29, 2012.

<sup>33</sup> "Legislation process must focus and Selective", in <http://www.jurnalparlemen.com/view/6914/proses-legislasi-harus-fokus-dan-selektif.html/diakses> on December 6, 2013

legislation is in low category. Throughout the year 2012, the DPR approved 30 Laws. However, the majority, which is 20 Laws, Laws like the covenant cumulative open or the ratification of international agreement, Law on The Budget, and Law on The Formation New autonomous regions (12 Laws). Only ten Laws which was considered to be a priority or into the National Legislation Program (Prolegnas) 2012. The amount is far below target determined by the government and the DPR, the 69 Draft Laws.<sup>34</sup>

Ronald Rofiandri from the *Pusat Studi Hukum dan Kebijakan* argued, the failure of legislation performance actually already can be estimated. Because, since the beginning of design the planning of legislation already indicated problem. DPR and the government relying on quantity in formulating prolegnas. Number of the Drafts, which became the first priority every year is always beyond the ability of DPR and the government. Seeing the experience, to the former DPR can only be finished 30s Laws. Ideally just 30 Draft Laws is a priority each year. Yet in fact, the target of prolegnas always determined above 60. Preparation to make up the Drafts, which became the first priority, is also relatively short. Prolegnas 2010-2014, was completed only in two months' time. In fact, ideally preparing prolegnas is done during one year. "So in the first period position, the DPR and the government focus preparing prolegnas. Implementation then in second period," Ronald asserted.<sup>35</sup>

Ronald Rofiandri added that another obstacle is much sectoral interests, both in the internal government and the DPR. And each ministry has its own interest to promote a draft law to be priority or brake the Drafts so not being discussed. In the internal of DPR, there is struggle of interest between factions. Although various obstacles have been identified successfully, productivity of legislation is still low. The failure to fulfill the target is not made into a consideration in determining prolegnas next year. The DPR and the government is still set a target, and that they have never been achieved.<sup>36</sup>

### III. A Number of Factors Causes and Solution

The bad performance of DPR in legislation field was, of course, brought negative impact from the perspective of people and state interests. People and state had been harmed by less adequate of law or lawlessness which become legal basis for the conduct of the state and development, and in ordering the life of the people to be more democratic, prosperous, and justify. Or low quality of the existing law and was not immediately be revised or replaced with new law by DPR can lead to a less conducive condition to establishment of democracy, vulnerable to human rights violations and studiously ignored interests of the people.

A number of factors which cause a weaker performance of House of Representatives in legislation as follows:

1. In DPR, political configuration more dominated by the parties that did not support the government would cause a draft resolution slower, and can even gets worse. This condition more or less happened in nowadays period of DPR where though the vast majority party has bound in Setgab Government Coalition Party, but not all members of Setgab approved the attitude and opinion of government on the issue and materials of the Drafts, which currently under discussion in DPR.

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<sup>34</sup> "The performance Legislation Also Under target", in <http://pshk.or.id/site/?q=id/content/kinerja-legislasi-pun-di-bawah-target-0/diakses> in December 6, 2013.

<sup>35</sup>Ibid.

<sup>36</sup>Ibid.

2. DPR in discussing Law Draft often promotes political considerations more than substantial issues and materials of the law and interests of the people. This was actually natural and logical when looking at DPR as a political institutions. The discussion allowing down the consideration of Drafts until the deal between fractions is settled in perspective with political reference for all faction in gain politics and is still calls each political interests.
3. There are very varied views and understands in DPR. The diversity and understood that is reflected in the classification of faction in DPR to the emergence various attitudes and opinions on issues and materials of Draft, which is discussed. This condition is not easy to be narrowed, moreover be united. The diversity and understood of faction in the parliament reflects a real life in Indonesian society that is pluralistic reviewed from various backgrounds, whether religion, ethnic, regional, race, class, and culture.
4. Based on the formation of fractions in DPR that is quite loose and at least led to the consists of many factions in DPR that make it harder for an agreement to achieve on issue or materials of draft. Along with that, This kind of rule causes a member of the "minimum faction" must be on duty in some of the committee members to discuss some of the drafts. As a result, beside the infocus and incapable about matters and other materials of the draft, also cause at once often attend the meetings not until its done because they had to move to discuss other draft, did not able to attend the meeting to discuss the draft because they have no time or could not attend the meeting because they are less healthy caused of working too long in excesses normal when discussing some of the drafts.
5. Discussion of the draft mechanism which is a long and multi-level in DPR adding difficulty to immediately achieve an agreement of all factions in DPR. High-level talks with each of them multi-level talks need quite a long time resulting time to finish the draft into law for a long time.
6. Rules and traditions to achieve as well as possible could achieve consensus in the meetings discussion of the draft also caused many times that must be used. While in terms of the vision of the political parties that sit in the parliament, it is difficult for faction in DPR to achieve that agreement so for trying to reach an agreement was actually is a waste of time only.
7. Less optimal support for the members of DPR in the form availability of experts in a big number and have the expertise of various education background and experience. As a result of the members of DPR that the majority is comprised of the "people's" did not receive input and suggestions of its expert staff and cause them less acknowledge regarding details, issues and problems in the draft. As a consequence, a member of DPR are not able to provide color or even directing the contents of draft in accordance with justice, truth, democracy, and for the sake of people.
8. The importance of done re-selection to plan target of Prolegnas. Over the last few period of DPR, the target of Prolegnas has never been achieved, both per year and per period.

On that basis, in order to improve the performance legislation of DPR, and let these problems can be handled by various steps solution as follows.

1. The importance of narrowing party system of multi-party with so many parties participating in the election to be simple multi-party with the number of parties participating in the election, between 3 to 5 party. This can be achieved through

policies and regulations threshold the participants in the general election (electoral *threshold*) that raised and upgraded requirements are gradually from each election.

2. Faction existence in DPR is strictly should be divided into two blocks, that “the faction block government” and “the faction block opposition”. Both the block act permanent along the period over DPR, except there are things that cause principle change in attitude political faction.
3. Threshold increase parliament (*parliamentary threshold*) within that arranged in a policy that comprehensive and in the long term. It is hoped that at the top PT reached the point that ideal so later in DPR there were only 3 to 5 political party. For that, PT that at this time is still in the 3.5 percent should gradually over three times legislative election, which in the Election 2019 to 5 percent, at the General Election 2024 to 10 percent, and in the General Election 2029 up to 20 percent. This proposition closely related to become one union and with the concept simplification political party that can be realized democracy that effective and efficient but is still high-quality in DPR and the state and national level.
4. The increase requirement for the formation of a faction in DPR within policy that is formulated in a comprehensive and in the long term. It is hoped that we shall soon there were only 3 to 5 faction. For that reason, proposed in the DPR result of the General Election 2019, conditions formation of the faction when there are 25 members, in the DPR result of the General Election 2024, conditions the formation of a faction when there are 50 members, and in the General Election 2029, conditions the formation of a faction when there are 75 members. With the number of members of the DPR at this time was as many as 560 people, a comparison with the minimum number of a member of a faction still balanced and ideal. Number of factions that will be less, shall be ease and speed up the discussion, including looking for an agreement between factions.
5. Shorten the discussion mechanism so that it is hoped that a draft can be resolved between the three months to maximum one year. Tradition and culture and based on in DPR who continued to make an effort to find an agreement on issues between factions in the draft, in fact distance attitude and opinion was very far and that it’s very hard to be nearest, should be immediately ended.
6. An increase in the number of experts to every member of DPR and for faction in the DPR within so soon reached the point that ideal. Policy regarding the addition of experts should be done gradually and comprehensively, where it is proposed for DPR from result of the General Election 2019 every member of the House of Representatives has 5 experts and every faction have 10 experts. In the DPR result of the General Election 2024 every member of DPR have 10 experts and each faction has 20 experts, and in the DPR result of the General Election 2029 every member of DPR had 15 experts and every faction have 30 experts. All the experts working *full time* with minimum requirement having a master title by prioritizing so-called doctoral degree. As a comparison, a member of the US House of Representatives have the support staff around 20 people in which 15 are so-called master or doctorate, administrative staff and the rest is secretary.
7. DPR and the government really should undershooting Prolegnas to the realistic limitation that can be achieved by a member of DPR together with the government. Need to be re-checking, synchronization and initiated the draft, which was initiated by DPR and the government so the number can be significantly reduced

yet without reducing the will to make a profitable in law or regulation under it. Oftenly there are some drafts, which do not really need to be ratified as law, but the rules in beneath him. There are also some drafts which do not really need to stated in the Law on its own, but embodied in the Law which have been through revision process. There are also some drafts, which could actually be merged into one draft.

#### IV. Conclusion

Legislation function to the House of Representatives is still an important thing is that must be executed by DPR so that their existence as legislative institution can be actualized and bring real benefits for the state and nation. DPR with low performance in the field legislation being one of indicators for unoptimal existence of DPR lead to the benefit for countries and nations toward accomplishing the goals of founding of Indonesia. Some of the problems that cause the low performance in legislation field should be urgently addressed with various policy and regulations by DPR together with the government and various other related. It is hoped that in the future, the performance of DPR in the field of legislation can be improved, both from the aspect quantity and quality aspect of DPR, so its presence and benefits for the people can be felt.

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