



Legal and Democratic Uncertainty in the Mechanism of Electing DPRD Leadership Based on Party Seat Acquisition: A Study on the Principle of Majority Vote and Fairness of Constituent Representation

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ABSTRACT

Law Number 17 of 2014 on the MPR, DPR, DPD, and DPRD (Law on MD3), particularly Articles 327 and 376, stipulated that the leadership of provincial and regency/municipal Regional House of Representatives (DPRD) was drawn from the political party with the highest number of seats, rather than from the individual legislative candidate who obtained the highest number of votes. This provision stood in contrast to the principle governing the determination of elected DPRD members under Article 422 of Law Number 7 of 2017 on General Elections, which based individual electability on the highest number of votes obtained within an electoral district. This article examined this normative inconsistency and its implications for legal certainty and the quality of local democracy, focusing on two problems: first, the shift of DPRD leadership legitimacy from voters' will to the decisions of political party elites; second, the disparity in institutional support, including the recess-activity budget, between members who obtained the highest votes without holding leadership positions and those who held leadership positions through the party-seat mechanism, even though both bore an equally significant burden of constituent representation. Employing normative legal research through statutory and conceptual approaches, the article concluded that norm harmonization and a reconfiguration of the criteria for electing DPRD leadership were needed to align the mechanism with the principle of voter sovereignty and the proportionality of constituent representation.



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INTRODUCTION

Reform of the legislative electoral system in Indonesia since Constitutional Court Decision No. 22-24/PUU-VI/2008 affirmed that the determination of elected members of the DPR, provincial DPRD, and regency/municipal DPRD must be based on the individual candidate's highest number of votes, rather than on the serial number assigned by the political party. This principle was subsequently reinforced in Article 422 of Law Number 7 of 2017 on General Elections. The philosophy underlying this reform is unambiguous: the legitimacy of a people's representative originates from the trust that voters confer directly through the ballot, not from an internal decision of the political party that nominates the candidate. This shift from a closed, party-ordered list to an open, vote-based mechanism was intended to strengthen the direct accountability of elected representatives to their constituents and to reduce the discretionary control that party elites had previously exercised over who would occupy a legislative seat.

Nevertheless, the majority-vote principle is not applied consistently at the stage of determining DPRD leadership. Article 327 (for provincial DPRD) and Article 376 (for regency/municipal DPRD) of Law Number 17 of 2014 on the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional House of Representatives (Law on MD3) stipulate that DPRD leadership is drawn from political parties on the basis of the ranking of party seats obtained in the DPRD, and that the Speaker of the DPRD is the member originating from the political party that

won the largest number of seats. Under this normative construction, a DPRD member who obtains the highest number of individual votes in his or her electoral district does not automatically become entitled to, or even eligible for, a leadership position if his or her party is not the top seat winner; conversely, a member from the party with the largest number of seats may occupy a leadership seat even though his or her personal vote acquisition is lower than that of other members within the same council.

This is not merely a technical, institutional issue; it touches two foundational values that ought to operate in tandem within a democratic state governed by the rule of law: legal certainty and democratic legitimacy. In classical legal theory, the law is expected to simultaneously fulfil the values of certainty, justice, and expediency, and a systemic imbalance among these values tends to erode public confidence in the legal order as a whole. The asynchrony between the principle governing the determination of elected candidates – based on individual majority vote – and the principle governing the determination of leadership – based on party-seat dominance – has the potential to generate legal uncertainty regarding the very basis of legitimacy of DPRD leadership. On the other side, the shift of the basis of trust from voters to political parties also carries implications for the fairness of the allocation of council resources, including the budget for recess activities, which ideally ought to be proportional to the burden of constituent representation borne by each member, rather than following solely the structure of positions that arises from the dominance of party seats. This budgetary dimension is governed, among others, by Government Regulation Number 18 of 2017 on the Financial and Administrative Rights of the Leadership and Members of the Regional House of Representatives, which links certain facilities and allowances to structural position rather than to the scale of the constituency represented.

Based on the foregoing background, this article addresses two central questions. First, how consistent is the majority-vote principle underlying the determination of elected DPRD members with the party-seat-based mechanism for electing DPRD leadership, when examined from the standpoint of the principle of legal certainty? Second, what are the implications of the seat-based DPRD leadership mechanism for the fairness of the distribution of institutional support – particularly the recess-activity budget – for DPRD members who obtain the highest number of votes yet do not occupy leadership positions? Addressing these questions is intended, first, to construct a normative-doctrinal basis that may assist lawmakers, the Constitutional Court, and regional legislative bodies in evaluating – and, where necessary, harmonizing – Articles 327 and 376 of the Law on MD3 with the principle of voter sovereignty embedded in Article 422 of the Election Law; and second, to enrich the academic discourse on the relationship between electoral legitimacy and the internal governance of representative institutions, an issue that carries direct practical consequences for the quality of constituent representation at the regional level.

The problem may also be situated within the broader theoretical debate on the nature of political representation, commonly framed as a tension between the “trustee” model, in which a representative is expected to exercise independent judgment once elected, and the “delegate” or mandate model, in which a representative is expected to act as a direct conduit for the preferences of those who elected him or her. Indonesia’s post-2008 shift toward an open-list, majority-vote system reflects a clear legislative preference for the mandate model at the stage of candidate selection: the voter, not the party, is meant to identify ‘ho among a party’s candidates should occupy the seat. Yet the seat-based formula governing DPRD leadership in Articles 327 and 376 of the Law on MD3 effectively reintroduces a party-centred logic at the very next institutional stage, one that more closely resembles the logic of a closed-list system in which the party retains ultimate control over who advances into positions of authority. The coexistence of a mandate-model candidacy regime with a party-centred leadership regime within a single institutional design is, in itself, a source of theoretical as well as normative tension, since the two models rest on different conceptions of where political legitimacy properly resides.

Prior studies have addressed related but analytically distinct concerns. Suparman et al. (2020) examined the political process behind the election of DPR RI leadership within the dynamics of the political revision of the Law on MD3, with an emphasis on inter-party political negotiation rather than on the constitutional consistency between the vote-based candidacy regime and the seat-based leadership regime. Meanwhile, the study conducted by the Center for Constitutional and Government Studies of the Faculty of Law, Universitas Muhammadiyah Yogyakarta (2011) evaluated the implementation of Constitutional Court Decision No. 22-24/PUU-VI/2008 on the quality of provincial

DPRD members in the Special Region of Yogyakarta following the 2009 general election, concentrating on the correlation between the majority-vote system and the substantive quality of elected legislators, without extending the analysis to the subsequent stage of leadership selection or to its budgetary consequences for representation. This article seeks to fill that gap by connecting three elements that, to the authors' knowledge, have not previously been examined together within a single normative framework: the consistency between the candidacy-determination regime and the leadership-determination regime; the constitutional review history of Articles 327 and 376 of the Law on MD3, as reflected in Constitutional Court Decision No. 87/PUU-XII/2014; and the fairness implications of these norms for the allocation of the recess budget. In doing so, the article aims to offer an original contribution to the study of local legislative institutional design and to the broader discourse on legal certainty within Indonesia's regional representative bodies.

The scope of this article is deliberately confined to the normative and doctrinal dimensions of the problem; it does not purport to measure, through empirical or statistical means, the actual magnitude of the recess-budget disparity experienced by individual DPRD members across Indonesia's various provinces and regencies/municipalities, nor does it evaluate the internal party mechanisms through which candidates for DPRD leadership are nominated. These are acknowledged as legitimate avenues for further empirical research that would complement, rather than substitute for, the normative analysis undertaken here. Within its chosen scope, however, the article aims to provide a sufficiently rigorous doctrinal account of why the current statutory design warrants renewed legislative and judicial attention.

RESEARCH METHODS

As doctrinal legal research, this study does not involve field data collection, human subjects, or statistical sampling; its object of inquiry is the internal coherence of the legal norms themselves and the doctrinal arguments that surround them. This choice of method is appropriate to the nature of the problem examined, namely a question of normative consistency between two sets of statutory provisions and their alignment with constitutional principles, rather than a question of empirical fact requiring field verification. The research nonetheless draws on the findings of prior empirical and political-process studies – such as those concerning the 2009 general election in the Special Region of Yogyakarta and the political dynamics surrounding the revision of the Law on MD3 – as secondary material informing the discussion, without treating those findings as primary data generated by this research itself.

This research employs the normative legal research method (doctrinal legal research), which examines law as a system of norms concerning principles, rules of legislation, court decisions, agreements, and doctrine (Marzuki, 2017; Soekanto & Mamudji, 2015). Three approaches are combined. The statute approach is used to examine the relevant legislation, namely Law Number 17 of 2014 on MD3 (Articles 327 and 376), Law Number 7 of 2017 on General Elections (Article 422), Law Number 23 of 2014 on Regional Government, and Government Regulation Number 18 of 2017 on the Financial and Administrative Rights of the Leadership and Members of the Regional House of Representatives. The conceptual approach is employed to examine the underlying legal concepts of legal certainty, democratic legitimacy, voter sovereignty, and proportionality of representation that inform the analysis of the norms under review. The case approach is applied to the petition for judicial review of Articles 327 and 376 of the Law on MD3 before the Constitutional Court, as reflected in Constitutional Court Decision No. 87/PUU-XII/2014, together with the earlier Constitutional Court Decision No. 22-24/PUU-VI/2008, which serves as the doctrinal foundation for the majority-vote principle.

The primary legal materials used in this research comprise the 1945 Constitution of the Republic of Indonesia, the Law on MD3, Law Number 7 of 2017 on General Elections, Law Number 23 of 2014 on Regional Government, Government Regulation Number 18 of 2017, and the relevant Constitutional Court decisions noted above. Secondary legal materials consist of legal literature, academic journal articles, and legal news reports relevant to the discussion of DPRD leadership selection and constituent representation. These materials were collected through documentary and library research techniques.

The data analysis technique applied in this research is qualitative and descriptive-analytical, following the standard stages of doctrinal legal analysis: inventorying and systematizing the primary and secondary legal materials according to hierarchy and relevance; describing the content of the

relevant norms; conducting a systematic and comparative interpretation between the norm governing candidate determination (Article 422 of the Election Law) and the norms governing DPRD leadership determination (Articles 327 and 376 of the Law on MD3); and constructing an argumentative legal analysis that connects the identified normative inconsistency to its implications for legal certainty, democratic legitimacy, and the fairness of institutional support for DPRD members. The conclusions are drawn deductively from the general norms and principles examined toward the specific problem of DPRD leadership determination addressed in this article.

RESULTS AND DISCUSSION

1. Normative Inconsistency: Individual Votes versus Party Seats as the Basis of Legitimacy

Constitutional Court Decision No. 22-24/PUU-VI/2008 laid the philosophical foundation that the determination of a winner in an election of persons must be based on the highest number of votes, so that the determination of elected candidates no longer depends on the serial number arranged by the political party. This principle was subsequently codified in Article 422 of Law Number 7 of 2017. As a consequence, the seat occupied by a DPRD member is, philosophically, a representation of the trust of voters in his or her electoral district, not a grant bestowed by the party. The seat is, in other words, personal to the elected representative in the sense that its legitimacy is traceable to an individual electoral mandate, even though the representative is nominated and supported by a political party throughout the electoral process.

However, upon entering the stage of filling DPRD leadership positions, the Law on MD3 follows a different logic altogether. Article 327 paragraph (2) and Article 376 paragraph (2) of the Law on MD3 state that DPRD leadership originates from political parties based on the ranking of the highest number of seats obtained in the DPRD, while the following paragraphs stipulate that the Speaker of the DPRD is the member from the political party that won the largest number of seats. This norm has previously been the subject of a petition for judicial review before the Constitutional Court, brought by a number of DPRD members who argued that the mechanism disregarded the constitutional right of members to elect and be elected as leaders through deliberation, and that it created differential treatment between one council instrument (*alat kelengkapan dewan*) and another, since certain other council posts remain open to a form of internal selection while the top leadership position is allocated automatically by seat ranking.

From the standpoint of legal certainty, two principles thus run on separate tracks within a single institutional system: the filling of membership follows the principle of individual majority vote, while the filling of leadership positions follows the principle of party-seat dominance. As a result, a member with the highest vote acquisition in his or her electoral district may have no normative opportunity whatsoever to become a leader if his or her party is not the top seat winner, however great the constituent trust that member has earned. Conversely, the leadership position automatically attaches to the member of the party that wins the largest number of seats, without any further mechanism of competition or internal deliberation among elected members. This condition places the decision of the political party – rather than the will of voters or the collective agreement of elected members – as the most determinative factor in deciding who is entitled to lead a regional people's representative institution. Such a construction is difficult to reconcile with the value of legal certainty as understood under Article 28D paragraph (1) of the 1945 Constitution, which guarantees fair legal certainty and equal treatment before the law, precisely because the criterion for occupying a public leadership position is not derived from a uniform, transparent, and predictable standard applicable to every member regardless of party affiliation, but rather from a variable that depends entirely on the outcome of inter-party seat competition.

Table 1 summarizes the principal points of divergence between the two regimes discussed above, namely the regime governing the determination of elected DPRD members and the regime governing the determination of DPRD leadership.

Aspect	Determination of Elected Members (Article 422, Election Law)	Determination of DPRD Leadership (Arts. 327 & 376, Law on MD3)
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Determining factor	Highest number of individual votes within an electoral district	Ranking of the political party's total seats in the DPRD
Source of legitimacy	Direct mandate from voters	Inter-party seat competition
Role of the political party	Nominates candidates; does not determine the winner	Determines the leader through the party's collective seat total
Role of internal deliberation	Not applicable (decided by voters)	Not provided for the top leadership position

Table 1 Comparison Between the Basis of Candidate Determination and the Basis of DPRD Leadership Determination

As Table 1 illustrates, the asymmetry between the two regimes is not confined to a single element but runs across every dimension of comparison: the determining factor, the source of legitimacy, the role assigned to the political party, and the availability of internal deliberation. This across-the-board asymmetry suggests that the inconsistency identified in this article is not an incidental drafting gap that could be resolved through a narrow textual amendment, but reflects two genuinely distinct legitimacy logics operating within adjacent provisions of Indonesia's electoral and legislative-institutional legal framework. Addressing it coherently therefore requires legislators to make an explicit choice – rather than leaving the choice implicit, as the current framework does – about which legitimacy logic should ultimately govern the internal leadership of a body whose members are, at the point of election, chosen under the opposite logic.

It is worth underscoring that the petitioners in the review of Articles 327 and 376 of the Law on MD3 did not merely object to the outcome of the seat-based formula but to the absence of any deliberative mechanism through which elected members could participate in determining who among them should lead. In many collegial bodies, a presiding officer is selected through some form of internal vote or consensus among members, which allows the body's own composition of trust and competence to shape the outcome. The DPRD leadership formula under the Law on MD3 forecloses that possibility entirely for the top leadership position, since the identity of the leading party – and, within it, the specific individual nominated by that party – already determines the outcome before any internal DPRD process takes place. The absence of a deliberative safeguard of this kind means that the norm not only privileges party-seat dominance over individual electoral mandate, but also forecloses the alternative avenue – collective deliberation among elected members – through which a party-seat-based starting point might otherwise have been tempered by the council's own internal judgment.

The inconsistency is further compounded when one considers that Law Number 23 of 2014 on Regional Government positions the DPRD as an element of regional government that exercises legislative, budgetary, and oversight functions on behalf of the people of the region, meaning that the institution's legitimacy as a whole is meant to be anchored in constituent trust. When the internal leadership structure of that very institution is allocated on a basis divorced from the individual electoral mandate, a structural tension arises between the constitutional design of regional representation and the statutory design of DPRD's internal leadership selection. This tension is not resolved by the current text of the Law on MD3, and it remains an open normative question notwithstanding the Constitutional Court's earlier review in Decision No. 87/PUU-XII/2014, which did not fundamentally alter the seat-based leadership formula.

2. Institutional Support Disparity: Recess Budget Allocation and the Burden of Constituent Representation

The disparity described here is best understood not as a deliberate policy of neglect toward high-performing members, but as an unintended structural by-product of a budgeting logic that was designed primarily around institutional hierarchy rather than around the representational function that recess activities are meant to serve. Budgetary and facility frameworks for legislative bodies are commonly organized around position-based tiers because such tiers are administratively simple to apply and audit; a formula tied to constituency size or vote count, by contrast, requires additional data management and periodic recalculation. This administrative convenience, however, does not eliminate the normative problem: a framework that is easy to administer is not thereby a framework that is fair to every member's representational burden, and the ease of administration cannot substitute for an

examination of whether the resulting allocation still serves the constitutional purpose of the recess mechanism, namely to keep elected representatives meaningfully connected to the constituents who elected them.

A second problem arises at the practical level of carrying out council duties. Recess activities constitute the means by which DPRD members absorb and follow up on the aspirations of constituents in their respective electoral districts, and budgetary support for such activities should ideally be proportional to the burden of representation borne by each member, including the number and geographic spread of the constituents represented. When the structure of council budgets and facilities is instead determined primarily by the hierarchy of structural positions – leadership and other council instruments – that arises from the party-seat mechanism, members who obtain the highest votes but hold no more than an ordinary membership position risk receiving recess-budget support that is disproportionately small relative to the size of the constituent base they must serve.

Government Regulation Number 18 of 2017 on the Financial and Administrative Rights of the Leadership and Members of the Regional House of Representatives forms part of the legal basis for this disparity, insofar as several categories of financial rights and operational support are differentiated according to structural position rather than according to the volume or geographic dispersion of constituents represented. This is not, in itself, an illegitimate policy choice; structural positions do carry additional institutional responsibilities that justify a degree of differentiated support. The concern raised in this article is narrower: that the same logic of position-based differentiation is applied uniformly to the recess budget, an instrument whose functional purpose is representation-facing rather than institution-facing, without a corresponding mechanism that adjusts allocation according to the representational burden actually carried by each member.

This condition generates a tension between institutional logic, in which support follows the structure of positions, and representational logic, in which support ought to follow the burden and breadth of constituent coverage. Members with a large vote acquisition bear a moral and political responsibility that is no lighter than that of council leadership, and in many cases their constituent reach is broader, yet the instruments supporting their duties remain comparatively limited. Such an imbalance, if left unaddressed through a reconfiguration of allocation criteria, risks eroding the quality of substantive representation and, in turn, diminishing public trust in regional legislative institutions. It also creates a perverse incentive structure within the council: because access to a wider range of institutional support is tied more closely to structural position than to electoral performance, individual members may come to regard alignment with party leadership – rather than direct engagement with constituents – as the more consequential determinant of their capacity to serve their electoral district effectively.

For constituents themselves, the practical consequence of this disparity is that the intensity and reach of representational activity they receive may depend less on how decisively they supported their representative at the ballot box and more on which party that representative belongs to and how many seats that party secured overall. This runs counter to the basic expectation, embedded in the open-list majority-vote reform since 2008, that the strength of an individual electoral mandate should translate into a meaningful capacity to serve constituents. Where budgetary support does not follow that mandate, the practical value of casting a decisive vote for an individual candidate is correspondingly diminished, even though the formal right to vote for that candidate remains fully intact.

It is also worth noting that the recess mechanism is not a discretionary courtesy extended to DPRD members but a formally recognized component of the exercise of the representation function assigned to the DPRD under Law Number 23 of 2014 on Regional Government. Recess periods are scheduled within the council's official calendar precisely because direct, periodic contact between representatives and constituents is treated as integral to the legitimate exercise of legislative, budgetary, and oversight authority at the regional level, not as an optional adjunct to it. Framed this way, an allocation formula for the recess budget that is only loosely connected to constituency size or electoral mandate does not merely create an administrative inconvenience for individual members; it potentially undermines the very mechanism through which the DPRD as an institution is meant to remain answerable to the people it represents. A member who commands a large personal mandate but a comparatively modest recess allocation may find it structurally more difficult to sustain the frequency and reach of constituent engagement that his or her mandate would otherwise call for, regardless of that member's individual diligence or political skill.

3. Comparison with Previous Studies and the Discourse on DPRD Leadership Reform

The findings above may be situated within the existing body of literature on DPRD and DPR leadership arrangements, while also clarifying the distinct contribution of this article. Suparman et al. (2020), examining the political process surrounding the election of DPR RI leadership amid the political dynamics of the revision of the Law on MD3, found that the determination of leadership composition was substantially shaped by inter-party political negotiation and coalition-building rather than by a fixed, judicially settled formula. That finding is consistent with the analysis offered in this article insofar as it confirms that party-level political calculation, rather than an individually earned electoral mandate, remains the operative logic behind legislative leadership formation at the national level; however, Suparman et al. (2020) approached the issue predominantly from a political-process perspective and did not evaluate the constitutional consistency between the candidacy-determination regime and the leadership-determination regime, which is the central normative question examined here.

Meanwhile, the study by the Center for Constitutional and Government Studies of the Faculty of Law, Universitas Muhammadiyah Yogyakarta (2011) on the implementation of Constitutional Court Decision No. 22-24/PUU-VI/2008 in the 2009 general election in the Special Region of Yogyakarta found that the shift to a majority-vote system had a discernible relationship with the substantive quality of elected provincial DPRD members, though the relationship was not uniformly positive across all electoral districts studied. That study, too, stopped short of examining what happens after members are seated – specifically, how the majority-vote mandate they carry does or does not translate into the subsequent allocation of leadership positions and institutional support. The present article's contribution lies precisely in extending the inquiry beyond the point of candidate determination to the subsequent, and largely unexamined, stage of leadership selection and resource allocation, thereby connecting electoral-legitimacy scholarship with institutional-design scholarship on regional legislative bodies. In this sense, the normative inconsistency identified in this article should not be read as contradicting earlier findings, but rather as identifying a downstream consequence of the same structural condition – the continuing weight of party-level control – that earlier studies observed primarily at the candidacy and election stages.

Taken together, the two strands of prior literature and the analysis developed in this article point toward a common underlying dynamic: notwithstanding the formal shift to a majority-vote, mandate-based system for candidate selection since 2008, the internal life of Indonesia's representative institutions – whether in the negotiation of national leadership posts or in the statutory formula governing regional council leadership – continues to be substantially organized around party-level bargaining power. What distinguishes the present article is its focus on the formal, statutory character of that continuity at the regional level, and on tracing its concrete distributive consequence through the recess-budget mechanism, rather than describing the phenomenon solely in political or electoral-quality terms as the two prior studies did.

4. Implications for the Quality of Local Democracy

The two problems examined above are interrelated and converge on a single conclusion: a party-seat-based mechanism for electing DPRD leadership has the potential to reduce the meaning of voter sovereignty that has been painstakingly built through the open-list proportional representation system. Voters confer a mandate upon an individual candidate through the highest number of votes, yet that mandate does not, by itself, determine the candidate's structural position within the council. This creates a potential dissonance between the electoral preferences of the public and the actual composition of leadership within the representative institution, which may in turn cultivate the perception that it is the political party, rather than the voter, that truly determines the direction of regional leadership through the DPRD.

This dissonance carries at least three further implications for the quality of local democracy. First, it may weaken the incentive for individual candidates to cultivate a strong, direct relationship with their constituents, since electoral success alone does not guarantee proportional influence within the council unless accompanied by a favourable party-seat position. Second, it may entrench the practice of candidate recruitment being oriented toward a candidate's capacity to help the party secure seats in aggregate, rather than toward the candidate's individual capacity for constituent representation, since the party's collective seat total – not any single candidate's vote count – ultimately determines access to leadership. Third, over time, the disjunction between electoral mandate and leadership access may contribute to a broader erosion of public trust in the proportional representation system itself, if voters

come to perceive that their ballot choices carry limited consequence for who actually leads the institution they helped to compose. These implications underscore that the inconsistency identified in this article is not merely a matter of internal legislative housekeeping, but a matter that bears directly on the health of representative democracy at the regional level.

These dynamics are especially consequential at the regional level, where the distance between voters and their representatives is, in principle, shorter than at the national level, and where constituents often expect a more direct and personal channel of accountability from the individual they elected. A DPRD member's capacity to maintain that channel depends materially on the institutional resources available for constituent-facing activity, including recess programmes, casework support, and access to the council's broader facilities. When those resources track party-seat hierarchy rather than electoral mandate, the very feature that distinguishes regional representation – its closeness to the represented community – is placed under strain, since the member with the closest and most electorally validated connection to that community is not necessarily the member best equipped, institutionally, to act on it.

5. A Conceptual Note on Models of Legislative Leadership Selection

It is useful, finally, to situate the DPRD leadership formula within a broader conceptual typology of how representative bodies select their presiding officers. At a general level, at least two ideal-typical models can be distinguished. The first is a seat-priority model, in which the presiding position is allocated automatically to the party or coalition commanding the largest bloc of seats, without a separate internal vote among members; this is the model presently reflected in Articles 327 and 376 of the Law on MD3. The second is a deliberative-election model, in which members of the body themselves elect their presiding officer through an internal vote or consensus process, so that the outcome, while still influenced by party strength, remains formally contingent on the collective judgment of the elected members rather than being fixed in advance by seat arithmetic alone. Many collegial and parliamentary bodies incorporate at least some element of the second model for their presiding officer, precisely because doing so preserves a check – however modest – on the automatic translation of party dominance into unchallenged institutional control.

Viewed against this typology, the current DPRD leadership mechanism sits close to the pure seat-priority end of the spectrum, with essentially no deliberative check built into the selection of the Speaker. This is a legitimate design choice in the sense that it is clearly authorized by statute and produces predictable, low-conflict outcomes; predictability is, after all, itself a component of legal certainty. The difficulty identified in this article is not that the seat-priority model is inherently illegitimate, but that it coexists, within the very same institution, with a candidacy-determination regime built on the opposite theoretical premise – that individual electoral mandate, not party position, should be the ultimate source of legitimacy. A more internally coherent design would either extend the mandate-based logic of candidate determination into the leadership stage, for instance by introducing an element of deliberative election among members, or would transparently justify why leadership selection should follow a different legitimacy logic altogether – a justification that, at present, is not clearly articulated in the legislative history of the Law on MD3 relevant to this discussion.

This conceptual observation also bears on how future norm harmonization might be pursued. Rather than requiring a wholesale replacement of the seat-priority formula, a more modest reform could preserve the party's role as the entry point for leadership nomination while adding a confirmatory or deliberative step among elected DPRD members before a nomination is finalized, so that party strength continues to structure who may be nominated while the council's own members retain some voice in who is ultimately confirmed. Such an intermediate design would not fully resolve the theoretical tension described above, but it would at least introduce a degree of the deliberative-election logic into a mechanism that currently contains none, thereby narrowing – even if not eliminating – the gap between the legitimacy logic governing candidacy and the legitimacy logic governing leadership.

CONCLUSION

This article has shown that there is a normative inconsistency between the principle of individual majority vote that underlies the determination of elected DPRD members and the principle of party-seat dominance that underlies the election of DPRD leadership under Articles 327 and 376 of the Law on MD3, a discrepancy that generates uncertainty regarding the basis of legitimacy of council leadership and that sits uneasily with the guarantee of fair legal certainty under Article 28D paragraph (1) of the 1945 Constitution. This inconsistency, in turn, contributes to a disparity in institutional

support – particularly the recess-activity budget regulated under Government Regulation Number 18 of 2017 – between members who hold leadership positions and members who obtain the highest number of votes without holding such positions, even though both categories of members bear a significant and comparable burden of constituent representation. A comparison with earlier studies, including those examining the political dynamics of MD3 leadership formation and the implementation of the majority-vote principle in the 2009 general election, indicates that the party-centred logic identified in this article is a continuing structural condition rather than an isolated anomaly, and that its consequences extend beyond candidate selection into the subsequent allocation of leadership and institutional resources. Lawmakers should therefore reconsider the harmonization of the norms governing the filling of DPRD leadership positions so that they are more closely aligned with the majority-vote principle, including by opening space for deliberation among elected members in determining council leadership, as has previously been raised in petitions for review before the Constitutional Court, and should likewise revisit the formula for allocating the recess-activity budget so that it accounts for the number and geographic spread of constituents or the vote acquisition of each member, rather than following the structural hierarchy of positions within the council alone. Such reconfiguration would bring the internal governance of DPRD into closer alignment with the constitutional commitment to voter sovereignty and would help ensure that the quality of constituent representation does not depend upon whether a member happens to belong to the party with the largest number of seats. Future research building on the doctrinal findings of this article could usefully pursue an empirical assessment of the actual scale of recess-budget disparity across different provinces and regencies/municipalities, as well as a comparative examination of how other collegial and parliamentary bodies balance party strength against member-level deliberation in selecting their presiding officers, so as to inform a more evidence-based redesign of the relevant provisions of the Law on MD3.

REFERENCES

- Anggraini, T. (n.d.). Sistem pemilu setengah hati [The half-hearted electoral system]. Fakultas Hukum Universitas Indonesia.
- Asshiddiqie, J. (n.d.). Pengantar ilmu hukum tata negara [Introduction to constitutional law]. Rajawali Pers.
- Constitution of the Republic of Indonesia 1945.
- Constitutional Court of the Republic of Indonesia. (2008). Decision Number 22-24/PUU-VI/2008.
- Constitutional Court of the Republic of Indonesia. (2014). Decision Number 87/PUU-XII/2014.
- Government Regulation Number 18 of 2017 concerning the Financial and Administrative Rights of the Leadership and Members of the Regional House of Representatives.
- Law Number 7 of 2017 concerning General Elections.
- Law Number 12 of 2011 concerning the Establishment of Laws and Regulations, as lastly amended by Law Number 13 of 2022.
- Law Number 17 of 2014 concerning the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional House of Representatives, as several times amended, lastly by Law Number 13 of 2019.
- Law Number 23 of 2014 concerning Regional Government, as several times amended.
- Marzuki, P. M. (2017). Penelitian hukum [Legal research] (Rev. ed.). Kencana.
- Pusat Kajian Konstitusi dan Pemerintahan FH Universitas Muhammadiyah Yogyakarta. (2011). Suara terbanyak dan kualitas anggota DPRD Provinsi DIY (Implementasi Putusan MK No. 22-24/PUU-VI/2008 dalam Pemilu 2009) [Majority vote and the quality of DIY provincial DPRD members]. *Jurnal Konstitusi*, 8(1).
- Soekanto, S., & Mamudji, S. (2015). Penelitian hukum normatif: Suatu tinjauan singkat [Normative legal research: A brief overview]. Rajawali Pers.
- Suparman, B., et al. (2020). Proses politik pemilihan pimpinan DPR RI dalam dinamika politik revisi UU MD3 [The political process of electing DPR RI leadership amid the political dynamics of the MD3 Law revision]. *Jurnal Renaissance*, 5(1).