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DAFTAR ISI

IMPLICATION OF SUPERVISION OF VILLAGE REGULATIONS IN THE CONCEPTION OF VILLAGE AUTONOMY BASED ON LOCAL WISDOM Nurjihhan, Firdaus and Fathul Muin	1 – 18
LEGAL EFFORTS FOR A RULING OF PERMANENT LEGAL FORCE THAT CANNOT BE EXECUTED Dewi Rayati, Firdaus, Danial	19 – 41
COMFORT ZONE OF PEOPLE WITH DISABILITIES IN SOCIAL EMPOWERMENT ASPECT BY LOCAL GOVERNMENTS REVIEWING FROM LAW NUMBER 8 OF 2016 ON PERSONS WITH DISABILITIES Shofiyatu Jahra, Firdaus, Fathul Mu'in	42 – 59
JURIDICAL ANALYSIS OF LAW ENFORCEMENT BY THE ATTORNEY GENERAL IN REPUBLIC OF INDONESIA ON THE CORRUPTION CASE OF JIWASRAYA INSURANCE BASED ON LAW NUMBER 40 ON 2014 ABOUT INSURANCE Maulana Agus Salim	60 – 83
AUTHORITY OF THE BOARD OF REGIONAL REPRESENTATIVES TO MONITOR AND EVALUATE THE DESIGN OF LOCAL REGULATIONS AND LOCAL REGULATIONS IN CONSTITUTIONAL PERSPECTIVE Restu Gusti Monitasari, Danial, Fatkhul Muin	84 – 110
OVERVIEW OF INDONESIAN LAW AND INTERNATIONAL LAW ON TERRORISM AS AN EXTRAORDINARY CRIME Nur Rohim Yunus, Siti Romlah, Siti Nurhalimah, Latipah Nasution	111 – 131
PROHIBITED ACTIONS FOR BUSINESS ACTORS ON CARRY OUT BUSINESS ACTIVITIES (ANALYSIS OF DOG MEAT SALES AT REGIONAL COMPANY PASAR JAYA SENEN JAKARTA) Syafrida, Tetti Samosir, Indah Harlina, M.T Marbun	132 – 150
CRIMINAL SANCTIONS AGAINST CRIMINAL ACTORS WITH INTENTIONAL VIOLENCE FORCES A CHILD TO CONTINUOUSLY PERFORMS SEXUAL INTERCOURSE CASE STUDY DECISION NUMBER 5/PID.SUS/2018/PN SPG Mohammad, Insana Meliya Dwi Cipta Aprila Sari, Nizla Rohaya, Heriyono Tardjono .	151 - 163

**AUTHORITY OF THE BOARD OF REGIONAL
REPRESENTATIVES TO MONITOR AND EVALUATE
THE DESIGN OF LOCAL REGULATIONS AND LOCAL
REGULATIONS IN CONSTITUTIONAL PERSPECTIVE**

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ABSTRACT

The Regional Representative Council has 3 powers as regulated in Articles 22D, 23E and 23F of the 1945 Constitution of the Republic of Indonesia, namely the powers of Legislation, Consideration and Supervision. The authority of the Regional Representative Council is expanded and added in Law No. 2 of 2018 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council, namely in Article 249 paragraph (1) letter j related to the Monitoring and evaluation of the Draft Regional Regulations and Regional Regulations. Normative juridical research method with a statutory approach. The purpose of this research is to find out and analyze constitutionally and legal problems that arise regarding the new authority of the Regional Representative Council. Based on the 1945 Constitution of the Republic of Indonesia, the new authority of the Regional Representatives Council is in the opposite direction because it is not included in the meaning of the 3 powers of the Regional Representatives Council which is referred to as the 1945 Constitution of the Republic of Indonesia. Legal problems that arise over the authority of the House of Representatives The area is an indication of rivalry between institutions, namely the Ministry of Home Affairs, the Governor, the Supreme Court and the Regional Representatives Council itself, this can be seen juridically, namely in the 1945 Constitution of the Republic of Indonesia, Law No. 23 of 2014 concerning Regional Government, Constitutional Court Decision No.137/PUU -XIII/2015 and No. 56/PUU-XIV/2016.

Keywords: Constitutional, The Regional Representative Council, Authority, Monitoring and Evaluation of Draft Regional Regulations and Regional Regulations

INTRODUCTION

The Regional Representative Council is an institution that was born after the amendment to the 1945 Constitution or the 1945 Constitution, precisely in the 3rd amendment in 2001. The existence of the Regional Representative Council is basically a meeting of two ideas, namely democratization and efforts to accommodate regional

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interests in order to maintain national integration.(Pirmansyah, 2014) The idea of forming a Regional Representative Council within the framework of the Indonesian legislative system is inseparable from the idea of establishing a two-chamber parliament or bicameral structure.(Arifin, 2019; Nirahua, 2011) With this bicameral structure, it is hoped that the legislative process can be carried out with a double check system that allows the representation of all the people to be relatively distributed on a broader social basis. The People's Representative Council is a political representation, while the Regional Representative Council reflects the principle of territorial or regional representation. (Asshiddiqie, 2006)

The functions and authorities of the Regional Representative Council itself have been regulated in the Constitution, namely Article 22D of the 1945 Constitution of the Republic of Indonesia, which states that:(Zada, 2015)

1. The Regional Representative Council may submit to the House of Representatives a draft law relating to regional autonomy, central and regional relations, the formation and expansion and amalgamation of regions, the management of natural resources and other economic resources, as well as the balance of central and regional finances, as well as those relating to balance of central and local finances.
2. The Regional Representative Council participates in discussing draft laws relating to regional autonomy; central and regional relations; formation, expansion, and merging of regions; management of natural resources and other economic resources, as well as central and regional financial balance; and give consideration to the House of Representatives on draft laws relating to taxes, education and religion.
3. The Regional Representative Council can supervise the implementation of laws concerning: regional autonomy, the establishment, expansion and

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merger of regions, central and regional relations, management of natural resources and other economic resources, implementation of the state budget for revenues and expenditures, taxes, education, and religion and submit the results of its supervision to the House of Representatives for consideration for follow-up.

4. Members of the Regional Representatives Council can be dismissed from their positions, the conditions and procedures are regulated by law

Based on the regulation of the constitutional authority of the Regional Representatives Council, the Regional Representative Council has three functions, namely the legislative, consideration and supervisory functions. The three functions of the Regional Representative Council are limited, because the implementation of these functions is limited to certain fields that are the authority of the Regional Representative Council. The authority of the Regional Representative Council was later confirmed by Law Number 2 of 2018 concerning the Second Amendment to Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council. Mentioned in Article 249 Paragraph (1).

In particular, the authority mentioned in Article 249 paragraph (1) letter J, has in fact reaped a constitutional polemic, because it is considered that there is an increasing overlap of authority in terms of "monitoring and evaluating Draft Regional Regulations and Regional Regulations". Because before the renewal of the authority of the Regional Representatives Council in Law No. 2 of 2018 was born, in Indonesia there were two institutions that were authorized by laws and regulations to evaluate Draft Regional Regulations and Regional Regulations. The first is the President through the Minister of Home Affairs, known as the Executive Preview and Executive

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Review, which are regulated in Articles 91, 245, and 251 of Law no. 23 of 2014 concerning Regional Government.(Wibowo, 2018)

The second is the Supreme Court which is called judicial review which is regulated in Article 20 paragraph (2) letter b of Law Number 48 of 2009 concerning Judicial Power (Law No. 48 of 2009) in conjunction with Article 31 paragraph (1) of Law Number 5 2004 concerning Amendments to Law Number 14 of 1985 concerning the Supreme Court (Law No. 5 of 2004) and Article 9 paragraph (2) of Law no. 12 of 2011 Formation of Legislation. (Qamar, 2012) However, the executive review carried out by the central government through the ministry of home affairs was finally revoked through the Constitutional Court Decision Number 137/PUU-XIII/2015 which stated that the authority to cancel district/city regulations could no longer be canceled by the Minister of Home Affairs or the Governor.(Taufiqurrahman, 2019) Then it was emphasized in the Decision of the Constitutional Court Number 56/PUU-XIV/2016, which stated that the authority of the Central Government to annul a Perda was deemed to have exceeded the jurisdiction of the Supreme Court because Article 24A Paragraph (1) of the 1945 Constitution affirmed that the Supreme Court has the authority to adjudicate at the level of cassation, examine laws and regulations. -law under the law against the law, and has other powers granted by law. (Wibowo, 2018)

In addition, in Law No. 12 of 2011 concerning the Establishment of Legislations, it is stated that in the case of testing the laws and regulations under the Law against the Law, the Supreme Court shall carry out the examination of the Regional Regulation itself.(Aziz, 2016) So that the supervision of the current Local Regulation does not emphasize on executive review but becomes an executive preview. (Liany, 2019) For this reason, the authority of the Regional Representative Council as stated in Article 249 paragraph (1) letter J of Law No. 2 of 2018 which

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reads "to monitor and evaluate draft regional regulations and regional regulations" still has ambiguity in its application, because in Article 249 paragraph (1) letter J of Law No. 2 of 2018 there is also no further mention regarding the method of exercising the authority of the Regional Representatives Council in monitoring and evaluating the Draft Local Regulation and Local Regulation, although there is little explanation in Article 5 paragraph (2) of the Council Regulation. Regional Representatives No. 2 of 2019 concerning the Rules of Conduct which states that in carrying out the task of monitoring and evaluating the Draft of regional regulations and regional regulations. The Regional Representative Council may hold meetings with the regional government, Regional People's Representative Council, and Community Elements, and Regional Representative Council Regulation Number 3 of 2019 concerning Monitoring and Evaluation of Draft regional regulations and regional regulations in these regulations there are no restrictions. Draft regional regulations or regional regulations which can be monitored and evaluated by the Regional Representative Council.(Sanovril et al., 2020)

This can still cause several legal problems, including; First, if you look back at the authority of the Regional Representatives Council which is regulated in the constitution, namely Article 22D paragraph (3) of the 1945 Constitution of the Republic of Indonesia, the object of supervision of the Regional Representative Council is the implementation of laws relating to regions, not related to the content of the draft regional regulations or regional regulations.(Ulya, 2016) Second, there are indications of overlapping authorities as there have been decisions of the Constitutional Court Number 137/PUU-XIII/2015 and the Constitutional Court Decision Number 56/PUU-XIV/2016 which stated that the authority to cancel district/city regulations could no longer be canceled by the Minister of Home Affairs or the Governor. and contrary to the jurisdiction of the Supreme Court and as stated in Law No. 23 of 2014 that the central government in this case the Minister of Home

Affairs and the governor still have Judicial Preview authority.(Ago, 2021; Mufidah, 2020)

Based on the description of the background above, the formulation of the problem in this study is: First, what is the authority of the Regional Representative Council in monitoring and evaluating the draft regional regulations and regional regulations based on the 1945 Constitution of the Republic of Indonesia? second, What are the legal problems that arise under the authority of the Regional Representative Council?

METHODOLOGY

The research method used in this study is a normative legal research method. Normative legal research puts law as a building system of norms. The system of norms in question is about principles, norms, rules of laws and regulations, court decisions, agreements and doctrines (teachings). (Mamudji, 2009)The research material raised in this research is the authority of the Regional Representatives Council to monitor and evaluate the draft regional regulations and regional regulations from a constitutional perspective. (Fajar & Achmad, 2010)

This research will look at the implementation and authority of the Regional Representatives Council in monitoring and evaluating the draft regional regulations and regional regulations based on the Constitution and the legal problems that arise over these powers. The data collection technique used in this research is literature study. The author uses a normative juridical approach, namely by reviewing or analyzing secondary data, which consists of primary legal materials, secondary legal materials and tertiary legal materials. These materials are arranged systematically, reviewed and then compared to draw conclusions in relation to the problem under study. The legal materials that have been collected are then analyzed using normative

juridical analysis which essentially emphasizes the deductive method as the main guide, and the inductive method as a supporting work procedure. Normative analysis mainly uses library materials as research sources.(Purwati, 2020)

RESULT AND DISCUSSION

1. The Authority of the Regional Representative Council in Monitoring and Evaluation of Draft Regional Regulations and Regional Regulations based on the 1945 Constitution of the Republic of Indonesia

The 1945 Constitution of the Republic of Indonesia as the written constitution of the Indonesian state is the main foundation which at the same time provides a definite status and scope for every legal institution in Indonesia. So that the 1945 Constitution of the Republic of Indonesia, which is the main source of law, also becomes the juridical basis for the formulation of regulations under it, because hierarchically, the laws and regulations have the highest position in the 1945 Constitution of the Republic of Indonesia, where all laws and regulations must refer to and not may conflict with the 1945 Constitution of the Republic of Indonesia (the principle of *lex superior derogat legi inferior*). Four times the amendments or amendments to the 1945 Constitution of the Republic of Indonesia, precisely in the third amendment, namely on November 10, 2001, the Regional Representative Council was born and formulated in Articles 22C and 22D of the 1945 Constitution of the Republic of Indonesia, in which the presence of the Regional Representative Council replaced and eliminated the existence of regional delegates and envoys. group. The formulation of the article is:

Article 22C

- (1) Members of the Regional Representative Council are elected from each province through general elections;

- (2) The number of members of the Regional Representative Council from each province is the same and the total number of members of the Regional Representative Council is not more than one third of the total members of the People's Representative Council;
- (3) The Regional Representative Council meets at least once a year;
- (4) The composition and position of the Regional Representative Council shall be regulated by law.

Article 22D


- (1) The Regional Representative Council may submit to the House of Representatives a draft law relating to regional autonomy, central and regional relations, the formation and expansion and amalgamation of regions, the management of natural resources and other economic resources, as well as the balance of central and regional finances, as well as those relating to central and regional financial balance;
- (2) The Regional Representative Council participates in discussing draft laws relating to regional autonomy; central and regional relations; formation, expansion, and merging of regions; management of natural resources and other economic resources, as well as central and regional financial balance; and give consideration to the House of Representatives on draft laws relating to taxes, education and religion
- (3) The Regional Representative Council can supervise the implementation of laws regarding: regional autonomy, the formation, expansion and merger of regions, central and regional relations, management of natural resources and other economic

resources, implementation of the state revenue and expenditure budget, taxes, education, and religion and submit the results of its supervision to the House of Representatives for consideration for follow-up;

- (4) Members of the Regional Representative Council may be dismissed from their positions, the conditions and procedures for which are regulated by law.

Other powers of the Regional Representative Council which are regulated in the 1945 Constitution of the Republic of Indonesia are also mentioned in articles 23E and 23F. Based on the authorities stipulated in Article 22D, Article 23E and Article 23F of the 1945 Constitution of the Republic of Indonesia, it can be identified that the authority of the Regional Representatives Council includes the functions of legislation, oversight and budget considerations, with the following identification:

- a. Other powers of the Regional Representative Council which are regulated in the 1945 Constitution of the Republic of Indonesia are also mentioned in articles 23E and 23F. Based on the authorities stipulated in Article 22D, Article 23E and Article 23F of the 1945 Constitution of the Republic of Indonesia, it can be identified that the authority of the Regional Representatives Council includes the functions of legislation, oversight and budget considerations, with the following identification:
 - 1) Regional autonomy;
 - 2) Central and regional relations;
 - 3) Formation and expansion and merging of regions;

- 
- 4) Management of natural resources and other economic resources, as well as those related to;
 - 5) Central and regional financial balance
- b. Supervisory Authority
- The Regional Representative Council may supervise the implementation of laws regarding:
- 1) Regional autonomy;
 - 2) Formation, expansion and amalgamation of regions;
 - 3) Central and regional relations;
 - 4) Management of natural resources and other economic resources;
 - 5) implementation of the state revenue and expenditure budget, taxes, education, and religion as well as;
 - 6) Submit the results of the supervision to the People's Representative Council for follow-up.
- c. The authority for budget considerations appears to be regulated in Articles 23E and 23F of the 1945 Constitution of the Republic of Indonesia, namely:
- 1) The results of the state financial audit conducted by the Supreme Audit Agency are submitted to the Regional Representative Council. Thus, the Regional Representative Council receives the results of the financial audit.
 - 2) The Regional Representative Council gives consideration to the House of Representatives in selecting members of the Supreme Audit Agency. In other words, the members of the Supreme Audit Agency are elected by the House of Representatives by taking into account the balance of the

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Regional Representatives Council and inaugurated by the President.

The authority of the Regional Representatives Council is constitutionally regulated in the 1945 Constitution of the Republic of Indonesia, then embodied in the Law on the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council, and the Regional People's Representative Council, the latest of which is Law Number 2 of 2018 concerning the second amendment to Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council, the Regional People's Representative Council by granting new authority in Article 249 paragraph (1) letter j, namely; "Monitoring and evaluating draft regional regulations and regional regulations", which means that the Regional Representative Council has the authority to supervise and evaluate draft regional regulations and regional regulations. However, the article does not explain in detail or in detail about the form of supervision and the nature of the results of supervision produced by the Regional Representative Council on the Draft regional regulations and regional regulations.

The authority of the Regional Representative Council if it returns to the identification of the authority of the Regional Representative Council based on the 1945 Constitution of the Republic of Indonesia, there are differences in the authority of the Regional Representative Council, especially in the authority to Monitor and Evaluate Draft regional regulations and regional regulations as stated in Article 249 paragraph (1) letter j of Law No. 2 of 2018, which the 1945 Constitution of the Republic of Indonesia does not mention at all regarding the authority to monitor and evaluate draft regional regulations and regional

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regulations, the 1945 Constitution of the Republic of Indonesia limits the authority of the Regional Representatives Council in terms of legislation, budget/consideration and supervision is only on legal products in the form of laws as well as with the supervisory function.

The Regional Representative Council only has a supervisory function over the implementation of certain laws as has been done so far, including supervision of the Regional Representatives Council on the implementation of Law Number 6 of 2014 concerning Villages, especially regarding village funds in 2020, on the implementation of Law Number 24 of 2011 concerning the Social Security Administering Body, and the implementation of other laws relating to regional autonomy issued in the form of a Regional Representative Council decision. So that the object of supervision of the Regional Representatives Council is clearly limited to the implementation of laws related to the region, this must and needs to be considered because the 1945 Constitution of the Republic of Indonesia as a state constitution has one function, namely as a determinant and limiting power of state organs.

While the authority to monitor and evaluate draft regional regulations and regional regulations has entered the material substance of legal products, for this reason, the authority of the Regional Representatives Council to supervise the implementation of regional autonomy as stipulated in the 1945 Constitution of the Republic of Indonesia should not be interpreted as the Regional Representative Council as the executor of monitoring and evaluation. against the Regional Regulation which in fact distances one of the initial objectives of the establishment of the Regional Representative Council itself, namely to fight for the aspirations and interests of the regions in the formulation of national policies relating to the state and regions. To resolve various

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Vol.

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problematic local regulations, the Regional Representative Council should present solutions in the form of comprehensive recommendations for the formulation of national policies. Because the roots of the many problematic local regulations do not only lie in the material of local regulations, but overlapping national-level laws and regulations also contribute to creating problematic local regulations.

In addition, the authority for "Monitoring and evaluating draft regional regulations and regional regulations" in Article 249 paragraph (1) letter j of Law No. 2 of 2018 is further regulated in the Regional Representative Council regulations, in Regional Representative Council regulations, especially Regional Representative Council regulations no. 2 of 2019 concerning the rules of the Regional Representative Council, Article 13 states that "members of the Regional Representative Council are obliged to monitor and evaluate draft regional regulations and regional regulations." The word "obligated" means "must".

The 1945 Constitution of the Republic of Indonesia essentially uses the word "can" in Article 22D Paragraph (3) which, according to Muchtar Pakpahan, "can" means not an order, so that the supervisory function of the Regional Representatives Council gives an option whether to do it or not to do it.(Pakpahan, 2015)

This shows that there is an inconsistency in the regulations of the Regional Representatives Council in embodying the 1945 Constitution of the Republic of Indonesia. In addition, the authority of the Regional Representatives Council in monitoring and evaluating regional regulation draft and Regional Regulations is also constitutionally contrary to Article 18 and Article 24A of the 1945 Constitution of the Republic of Indonesia, because with

the state system of law. adopted by Indonesia, the authority of the Regional Representative Council as referred to in Article 249 paragraph (1) letter j is not in line with the concept that was developed.

2. Legal Problems Emerging from the Authority of the Regional Representatives Council in Monitoring and Evaluation of Draft Regional Regulations and Regional Regulations based on Law No. 2 of 2018 concerning the second amendment to Law No. 17 of 2014 concerning the People's Consultative Assembly, the House of Representatives, Regional Representative Council and Regional People's Representative Council

The authority of the Regional Representatives Council in Monitoring and Evaluation of Draft Regional Regulations and Regional Regulations was born after the Law on the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council and the Regional People's Representative Council was renewed in 2018 namely in Law Number 2 of 2018 concerning the second amendment to Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council and the Front of the Regional People's Representatives.

This provision implies that the Regional Representative Council also has the authority to prevent preventive and repressive supervision over regional regulation draft and Local Regulation. Furthermore, the authority of the Regional Representative Council in monitoring and evaluating the Regional Regulation is carried out by the Regional Legislation Affairs Committee. Based on the provisions of Article 141 of the Regulation of the Regional Representatives Council of the Republic of Indonesia Number 2 of 2019 concerning Orders, it is stated that in the Monitoring and Evaluation of regional regulation draft and Regional Regulations, the Regional Legislation

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Vol.

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Affairs Committee conducts a review, analysis, and assessment of the findings of the monitoring results of draft regional regulations and regional regulations; conduct discussions and draft recommendations from the Regional Representatives Council regarding monitoring and evaluation of draft regional regulations and regional regulations. Such tasks, particularly those related to monitoring and evaluation of regional regulation draft in principle, are also carried out by the Government in this case the Minister of Home Affairs and the Governor in stages through evaluation and facilitation activities.

Meanwhile, the supervision of Regional Regulations held by the Supreme Court, prior to the decisions of the Constitutional Court Number 137/PUU-XIII/2015 and Number 56/PUUXIV/2016, the Government also has the authority to supervise regional regulations which are implemented through cancellations. Cancellation based on the provisions of Article 1 number 27 of the Minister of Home Affairs Regulation Number 80 of 2015 is an act that declares the invalidity of all or part of books, chapters, sections, paragraphs, articles, paragraphs, and/or attachments to material on regional regulations, regional regulations, Joint Regional Head Regulations and regulations Regional People's Representative Council because it is contrary to higher laws and regulations, public interest, and/or morality, which results in the revocation or amendment. After the decisions of the Constitutional Court Number 137/PUU-XIII/2015 and Number 56/PUUXIV/2016 were born, the cancellation of regional regulations became the authority of the Supreme Court. So that the current authority of the Regional Representative Council regarding the Monitoring and Evaluation of Draft regional regulations and regional regulations gives rise to Dualism of Authority and even ambiguity in the results of Monitoring and Evaluation of the Draft regional regulations and regional regulations. Specifically, it can be seen as follows:

a. Legal Problems Monitoring and Evaluation of Draft Regional Regulations

Monitoring and evaluation of the Draft Regional Regulation is part of the preventive supervision of the enforcement of a regional regulation. In the framework of understanding the legal construction of the authority to supervise draft Regional Regulations, it is necessary to trace the course of the regulations in the Indonesian legal system, including:

- 1) The supervision of draft Regional Regulations in Law Number 22 of 1948 concerning Stipulation of Basic Rules Regarding Self-Government in Entitled Regions. Regulate and Manage their Own Household (Law on Regional Government 1948). In the 1948 Regional Government Law regime, what is meant by Regional Government is the Regional People's Representative Council and the Regional Government Council, where the authority to form Regional Regulations is given to the Regional People's Representative Council. Preventive supervision of Regional Regulations in the 1948 Regional Government Law is implemented through Article 30 Paragraph (1), which must first obtain approval from the President for provinces and by regional governments for other regions.
- 2) The supervision of the draft Regional Regulation in Law Number 1 of 1957 concerning the Principles of Regional Government as a replacement for the 1948 Regional Government Law, in Article 62 it is stated that the supervisory authority is by the Minister of Home Affairs.
- 3) The supervision of the draft Regional Regulation in Law Number 5 of 1974 concerning Regional Government replaces the 1965

Regional Government Law which maintains the previous supervisory system consisting of general, preventive and repressive supervision.

- 4) Supervision of the draft Regional Regulation in Law No. 22/1999 on Regional Government. In Law Number 22 of 1999 (Law on Regional Government 1999), the supervision of regional regulations is more emphasized on repressive methods. Meanwhile, regulations related to preventive supervision and general supervision were removed.
- 5) The supervision of the draft regional regulations in Law Number 32 of 2004 concerning Regional Government which gave rise to several changes in the supervisory mechanism for the administration of regional government. Supervision of regional regulations then gave rise to the term supervision in the form of clarification and evaluation. Evaluation is a preventive monitoring system whose object is a draft regional regulation. However, it should be noted that the evaluation is not applied to all types of regional regulations, but only certain types, namely those that regulate regional taxes, regional levies, Regional Revenue and Expenditure Budgets, changes to Regional Revenue and Expenditure Budgets, and spatial planning. The draft a quo regional regulation will take effect after going through the evaluation stage by the Central Government.
- 6) Sixth, supervision of the draft Regional Regulation in Law Number 23 of 2014 concerning Regional Government. The evaluation mechanism that existed in the 2004 Regional Government Law was re-applied in Law Number 23 of 2014 concerning Regional Government (2014 Regional Government Law). However, the 2014

Regional Government Law expands the scope of the types of Regional Regulations that must go through an evaluation process. It is stated that the draft Regional Regulation that received evaluation in Article 245 of the 2014 Regional Government Law, namely the draft Regional Regulation on regional long-term development plans, regional medium-term development plans, Regional Revenue and Expenditure Budgets, Amendments to Regional Revenue and Expenditure Budgets, accountability for the implementation of Regional Revenue and Expenditure Budgets, local taxes, levies and spatial planning. There has been an expansion of the object of supervision from before with the addition of a draft regional regulation on regional long-term development plans, regional medium-term development plans, and accountability for the implementation of regional revenue and expenditure budgets.

However, Article 245 Paragraph (5) of the Regional Government Law states, "The results of the evaluation of the draft Provincial Regulation and the draft Regency/Municipal Regulation as referred to in Paragraph (1) and Paragraph (3) if approved, followed by the granting of a register number."

This provision is one of the changes made in the 2014 Local Government Law. The granting of a register number strengthens the legitimacy of the evaluation function of the Central Government. Without the register number, the Regional Regulation cannot be ratified and promulgated in the Regional Gazette. The granting of this register number becomes the justification for the Central Government to impose its evaluation authority, because like it or not, local governments must

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submit draft regional regulations for evaluation to the central government.

Authority to monitor and evaluate Draft regional regulations based on a series of regulatory journeys in the Indonesian legal system, showing that neither before nor after the amendments to the 1945 Constitution of the Republic of Indonesia and before or after the birth of the Regional Representatives Council did not show that there was a legislative institution, in this case the Regional Representative Council. has the authority to monitor and evaluate Draft regional regulations. Rather, it is the authority of the central government, in this case the Ministry of Home Affairs and the Governor. If examined and recalled on the construction that was built in the relationship between the Central Government and Regional Government as regulated in Law No. 23 of 2014 concerning Regional Government, this is due to the mandate of Article 18 of the 1945 Constitution of the Republic of Indonesia, the central government, in this case the minister in The state must and legally evaluate the Draft Provincial Regulation before it is stipulated by the Governor, while the District/City Regional Regulation Draft must receive the governor's evaluation as stated in Article 245 of Law No. 23 of 2014 concerning Regional Government. The results of the evaluation that are in accordance with the provisions of higher laws and regulations and/or the public interest are followed by the issuance of a registration number.

Based on this elaboration, the authority of the Regional Representative Council in Article 249 Paragraph (1) letter j of the Law on the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council which explicitly states that the

Regional Representative Council has the authority and duty to monitor and evaluate the Draft Regional regulations and regional regulations in their realization can lead to dualism of authority, especially in the monitoring and evaluation of Draft Regional Regulations which has implications for dualism of supervision on the evaluation results of draft regional regulations. Because if it is reviewed in the implementing regulations for this authority, namely the Regulation of the Regional Representatives Council of the Republic of Indonesia Number 3 of 2019 concerning Monitoring and evaluation of draft regional regulations and regional regulations, there is no limit to the classification of draft regional regulations and what regional regulations can be monitored and evaluated. by the Regional Representative Council, then with the authority of the Regional Representative Council it can give an indication of a discrepancy in the evaluation results.

b. Legal Problems Monitoring and Evaluation of Regional Regulations

Monitoring and evaluation of regional regulations essentially aims to see whether the applicable regional regulations are contrary to higher regulations or not, because the Regional Government Law confirms this as stated in Article 250 paragraph (1) of Law No. 23 of 2014 concerning Regional Government which reads: "Regional regulations and regional head regulations as referred to in Article 249 paragraph (1) and paragraph (3) are prohibited from contradicting the provisions of higher laws and regulations, public interest, and/or decency".

Monitoring and evaluation of this Regional Regulation has different meaning from the supervision of the implementation of the Regional Regulation which is the authority of the Regional People's Representative

Jurnal Hukum Replik

Universitas Muhammadiyah Tangerang

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Vol.

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Council, as regulated in Article 42 paragraph of Law No. 23 of 2014 concerning Regional Government, which states that the scope of Supervision of the Regional People's Representative Council covers at least 3 (three)) matters, namely: (a) Supervision of the Implementation of Regional Regulations; (b) Supervision of the Implementation of Regional Revenue and Expenditure Budgets; (c) Supervision of local government policies in implementing regional development programs and international cooperation in the regions.

In particular, supervising the implementation of regional regulations can be interpreted as supervising how regional governments and regional apparatus organizations implement regional regulations. This supervision also assesses the compatibility between the initial objectives when the Regional Regulation was enacted and the achievement of the results of the implementation of the Regional Regulation.(Ma'ruf, 2019)

Returning to the monitoring and evaluation of regional regulations, basically if a regional regulation is deemed to be contrary to a higher regulation, the action that can be taken is the cancellation of the regional regulation. Regarding the authority to cancel the Regional Regulation, if examined, it falls within the jurisdiction of the judicial power in this case the Supreme Court as stated in Article 24A of the 1945 Constitution of the Republic of Indonesia and strengthened by the decision of the Constitutional Court Number 137/PUUXIII/2015 and Decision Number 56/PUU-XIV/2016.

Decision Number 137/PUUXIII/2015 states that the phrase "regency/city regional regulations and" in the provisions of Article 251 paragraphs (2) and (4), the phrase "regency/city regional regulations

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and/or” in Article 251 paragraph (3), and the phrase "regency/municipal government administrators cannot accept the decision to cancel regency/city regional regulations and" Law Number 23 of 2014 concerning Regional Government is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force. Thus, neither the Minister of Home Affairs nor the governor has the authority to cancel regency/city regional regulations. Cancellation of regional regulations must be carried out through a judicial review mechanism at the Supreme Court.

Decision Number 56/PUU-XIV/2016 concerning the Testing of Law Number 23 of 2014 concerning Regional Government, this also complements Decision Number 137/PUUXIII/2015, so that the central government no longer has the authority to cancel regional regulations, both provincial regional regulations as well as district/city regulations. So that the authority to cancel regional regulations is in the hands of the Supreme Court based on Article 9 of Law No. 12 of 2011 concerning the formation of laws and regulations.

For this reason, the authority of the Regional Representatives Council in terms of monitoring and evaluation. Draft regional regulations and regional regulations in practice may potentially lead to rivalry between institutions, even though the Regional Representative Council Regulation No. 3 of 2019 states that the results of monitoring and evaluation are only recommendations as stated in Article 24 paragraph that:

- (1) The leadership of the Regional Representative Council submits the results of the Monitoring and Evaluation of the draft regional regulations and regional regulations as referred to in Article 23

paragraph (5) to the President and the House of Representatives no later than 7 days after they are stipulated.

- (2) Submission of the results of monitoring and evaluation of draft regional regulations and regional regulations to the President as referred to in paragraph (1) is accompanied by a request to respond to and answer the recommendation.

This cannot be used as a justification for the authority of the Regional Representatives Council because the recommendation flow as stated by the Regional Representative Council Regulation No. 3 of 2019 shows a decline in the concept of regional autonomy because the draft regional regulations and regional regulations are an inseparable part of regional rights in implementing regional autonomy as broadly as possible, so that with the participation of the President and the House of Representatives, this can provide an opportunity for regional interference to exercise their autonomy rights as widely as possible. So, even though on the pretext of recommendation, the Regional Representatives Council is still not justified in having the authority to monitor and evaluate the draft regional regulations and regional regulations, besides that so far there have been no further regulations that explain the consequences of the results of the recommendations of the Regional Representatives Council to the House of Representatives and the President regarding the results. monitoring and evaluation The draft regional regulations and regional regulations because after all the results of monitoring and evaluation The draft regional regulations and regional regulations carried out by the Regional Representative Council will essentially have implications for the regional government.

Since the Law on the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council, and the Regional Representatives Council was updated, which led to the emergence of a new authority for the Regional Representatives Council in 2018, it has not been implemented yet so there has been no socialization to local governments which has resulted in the absence of any regulations prepared by the regional government to follow up on the authority of the Regional Representative Council.

CONCLUSION

Based on the descriptions that have been stated in previous chapters, the following conclusions can be drawn:

1. The authority of the Regional Representative Council in Conducting Monitoring and Evaluation of Draft Regional Regulations and Regional Regulations based on the 1945 Constitution of the Republic of Indonesia is in the opposite direction or not in line with the original intent of establishing the Regional Representative Council as the second chamber in the legislative body. and Based on Article 22D of the 1945 Constitution of the Republic of Indonesia, the authority of the Regional Representatives Council is limited to certain laws, in particular the supervisory authority is "can" supervise "...Implementation of Laws related to regional autonomy..." which cannot be interpreted as supervision of regional legal products.
2. Legal Problems Emerging from the Authority of the Regional Representative Council in Monitoring and Evaluation of Draft Regional Regulations and Regional Regulations based on Law No. 2 of 2018 concerning the second amendment to Law No. 17 of 2014 concerning the People's Consultative Assembly, the Council People's Representatives, Regional Representative

Councils and Regional People's Representatives Councils are in practice the potential to create rivalry between institutions, and ambiguity in the results of monitoring and evaluation of Draft Regional Regulations and Regional Regulations.

The suggestions that can be put forward by the author regarding the authority of the Regional Representatives Council in monitoring and evaluating the Draft Regional Regulations and Regional Regulations are:

1. The authority of the Regional Representatives Council must be in line with the original intent of its formation, even if the reason for adding the authority of the Regional Representatives Council in Law No. 2 of 2018 Article 249 paragraph (1) letter j is to strengthen the Regional Representative Council, this is not deemed appropriate, because of the cooperative nature of the Regional Representative Council. Legislators of the Regional Representatives Council must be improved by equalizing the authority of the Regional Representatives Council with the People's Representative Council even though the focus is different so that there must be an amendment to the 1945 Constitution of the Republic of Indonesia, in order to hope that the power of the Regional Representative Council's authority can be achieved properly, for that it is necessary to amend the NRI Constitution. 1945 and Amendments to Law No. 2 of 2018;
2. The authority of the Regional Representatives Council in supervising can be exercised on the activities of implementing the authority for fostering both the facilitation and evaluation of the Raperda carried out by the Ministry of Home Affairs/Governor, at the same time it can be realized through the facilitation of problem solving in the formation of regional regulations, both between the Regional Government and the Regional Government as well as between the

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Regional Government and the Government. Center in this case the Ministry of Home Affairs

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