

Reconstruction of Educational Qualifications for Members of the House of Representatives and DPRD in the Election Law

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ABSTRACT

This study aims to discuss in depth the juridical study and the role of members of the House of Representatives in a democratic country, as well as comprehensively discuss the urgency of reconstructing the law on the educational qualifications of members of the House of Representatives in election law. The type of research is normative juridical with a descriptive-analytical approach, discussing existing legal symptoms and problems and testing them based on laws regulations, and legal norms. The results of this study show that the legislative institution has a strategic position because it plays a role in carrying out the functions of legislation, budgeting, and supervision, as stipulated in Article 20 of the Constitution of the Republic of Indonesia of 1945. The requirements to become a legislative member are regulated in Article 240 Paragraph (1) of Law Number: 7 of 2017 concerning Elections, namely: being over 21 years old, fearing God Almighty, being loyal to Pancasila and the 1945 Constitution, and having at least a high school, madrasah aliyah, vocational high school, or other equivalent school. The urgency of reconstructing the law on the educational competence of legislative members in Law Number: 7 of 2017 concerning Elections, namely the provisions of Article 240 to improve the educational qualifications of legislative members. Higher educational qualifications can affect the ability to make decisions, absorb aspirations, increase public credibility and trust, and adapt to the needs of the times.

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INTRODUCTION

Law Number: 7 of 2017 concerning General Elections (Elections) is a comprehensive legal basis for the implementation of elections in Indonesia, covering various aspects ranging from basic principles, institutions, and participants, to the mechanism for implementing elections. This regulation is stipulated to regulate the implementation of elections in general, direct, free, confidential, honest, and fair [1]. Elections are a 'democratic party' where the people directly use their voting rights to elect the President-Vice President (executive), DPR, and DPRD (legislative). In the constitutional structure, the legislature has a strategic position because it plays a role as a policymaker formulating laws (including legislative amendments), formulating budgets, and supervising bodies or institutions to run according to their functions. Therefore, everyone who occupies a legislative position must have integrity and quality, including their educational background [2].

In addition to formal education, every legislative member must have a non-formal educational background such as leadership education, management, as well as other skills related to the commission. This non-formal education can be obtained from course institutions, training institutions, study groups, and so on. Educational qualifications influence the performance of legislative members, especially in understanding both technical and non-technical problems. The higher the education of a politician, the better his political skills [3].

The provisions of Article 240 Paragraph (1) of Law Number: 7 of 2017 concerning General Elections, one of which states that the requirements for becoming a legislative member (DPR and DPRD), must at least graduate from high school (SMA-SMK). This condition is in stark contrast to the provisions of DPR Regulation Number: 1 of 2019 concerning the Management of Experts and Administrative Staff of Members of the House of Representatives of the Republic of Indonesia, it is explained that Expert Staff must have an S2 education with a minimum GPA of 3.00 from an accredited public/private or foreign university, or at least S1 with at least five years of work experience [4].

The educational qualifications of council members have been debated. For positions at the level of the DPR or DPRD, they should have a minimum undergraduate higher education background, because it is in accordance with their duties and responsibilities. In addition, the people's representatives should be higher than those led by the community. Field facts also show that the institutional capacity and ability of council members to carry out their functions are not at the expected level. Based on the Baseline Survey study, regarding the capacity of DPRD members conducted in nine districts/cities in the Eastern Region of Indonesia, it shows that in general, almost all newly elected DPRD members do not understand well the authority they have and the functions they must carry. Even the incumbent DPRD members also do not have a uniform perception and understanding among them regarding the scope and operational limitations of the function [5].

The changing times and phenomena in a society that is constantly developing, require council members to have high skills. To get these abilities, one way is through higher education qualifications. Through a good educational background and in accordance with the field, the legislature can achieve intellectual and emotional maturity. This element is part of a person's ability to respond or react to certain phenomena and find a way out according to their knowledge and skills [6].

People's representatives must come from people with integrity, trust, and professionalism in their fields, with extensive knowledge. Through education, a person is more able to solve various problems that occur in modern times because with his capacity policies or regulations that are useful for the benefit of the nation are formed. Therefore, the legal reconstruction of Article 240 of Law Number: 7 of 2017 concerning General Elections, regarding minimum educational competence is very important to improve the integrity, skills, and capacity of legislative members [7].

RESEARCH METHODS

The research conducted is normative juridical research or research analyzing written law, jurisprudence, and norms that live in society. The descriptive-analytical approach aims to take systematic, factual, and accurate data on an issue based on applicable laws and legal norms. The data collection technique is carried out through literature research, namely obtaining data by examining library materials or secondary data which includes primary legal materials, secondary legal materials that can be in the form of laws and regulations, books and works, or other scientific journals or university legal materials in the form of dictionaries, magazines, newspapers, and artifacts [8].

RESULTS AND DISCUSSION

Juridical Studies and the Role of Members of the House of Representatives in a Democratic State

To achieve the state's goals and implement the government system, it is necessary to hold general elections to elect members of the House of Representatives, DPD, Regency/City DPRD, and the President and Vice President, as a means of realizing people's sovereignty to build a democratic government based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

The House of Representatives is one of the highest state institutions in the Indonesian constitutional system in the form of a people's representative institution. The House of Representatives consists of members of political parties elected through general elections along with the DPD, both of which form the MPR [9]. Article 20 of the 1945 Constitution of the Republic of Indonesia states the duties and functions of the House of Representatives, including:

The function of legislation is to make laws and regulations that are in accordance with the needs and interests of the people. This function of legislation is very important in a democratic system;

The function of the budget, discussing and approving the state budget, to ensure the use of the budget according to needs and on target;

The supervisory function is to supervise the running of the government in accordance with the law and for the benefit of the people. This check and balance function is important to anticipate the abuse of power [10].

Carrying out their functions, members of the House of Representatives and Provincial/Regency-City DPRD also have rights as stipulated in the 1945 Constitution jo Article 79-Article 80 of Law Number: 7 of 2014 concerning the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional House of Representatives, namely: the right to interpellation to request information from government institutions and regional heads regarding important policies, the right to conduct inquiries on matters considered strategic, the right to express opinions on public policies and the right to immunity in carrying out duties [11].

The right to immunity protects board members from lawsuits for statements, questions, or opinions expressed either orally or in writing in meetings or outside meetings related to their functions and authorities. Council members have the right to submit proposals and opinions related to various issues or policies. This right allows the council members to actively participate in the decision-making process and provide input on government policies [12].

As for the requirements to become a member of the DPR, the Provincial/Regency-City DPRD is regulated by Article 240 Paragraph (1) of Law Number: 7 of 2017 concerning Elections, including:

- a. Be 21 (twenty-one) years old or older;
- b. Fear God Almighty;
- c. Residing in the territory of the Unitary State of the Republic of Indonesia;
- d. Able to speak, read, and/or write in Indonesian;
- e. Educated at least high school, madrasah aliyah, vocational high school, vocational madrasah aliyah, or other equivalent schools;
- f. Loyal to Pancasila, the 1945 Constitution of the Republic of Indonesia, the Unitary State of the Republic of Indonesia, and Bhinneka Tunggal Ika;
- g. Never convicted based on a court decision that has permanent legal force with a maximum prison sentence of 5 (five) years.
- h. Be physically and spiritually healthy, and free from narcotics abuse;

Regarding the provisions of Article 240 Paragraph (1) point e, which states that members of the House of Representatives and the Provincial/Regency-City DPRD, minimum high school education, is considered necessary to be reviewed. The reason is that the quality of education and reasoning ability have a significant relationship. The higher the quality of a person's education, the more reliable the power of reasoning and analysis in solving problems. Candidate education will greatly affect the performance of legislative members in parliament [13].

According to data from the General Election Commission (KPU) of the Republic of Indonesia, 575 members of the House of Representatives were elected for the 2019-2024 period. Of the 575 council members, there are 56 members (9.7%) who are high school graduates, 6 D3 members (1%), 198 D4/S1 graduates (34.4%), 210 S2 graduates (36.5%), and 53 S3 graduates (9.2%). Meanwhile, there are 52 members (9%) who are pursuing other education.

As supporting data, for the regional level, the majority of elected members of the Regency DPRD, South Aceh in 2024 come from high school graduates. The South Aceh DPRD with a high school education totals 15 people from various political parties, namely the Democratic Party 3 people, PNA 3 people, PAN 2 people, PKB 2 people and the PPP Party, Nasdem Party, Hanura Party, Golkar Party, and PDA Party each have 1 high school graduate. Meanwhile, for members of the South Aceh Regency DPRD who have a Diploma education, there are 2 people and 11 S1 people (krusial.com).

Legislative members with high school graduates have met the requirements in the election law, but people's representatives with high school graduates are considered not yet experts and lack the insight to occupy important positions. In addition, Article 240 Paragraph (1) letter g of the Election Law also states that he has never been convicted based on a court decision that has permanent legal force with a maximum prison sentence of 5 (five) years, candidates who have the status of ex-convicts must also meet other conditions, including: having passed 5 years after being released from prison, declaring himself as a former convict honestly or openly and not a repeat offender [14].

Dwiyanto stated that there are several indicators in measuring the performance of council members, including [15]:

Productivity, which is not only measuring the level of efficiency but also measuring the effectiveness of service. Productivity is understood as the ratio between input and output;

Service Quality is important in explaining the performance of public service organizations. Many of the negative views that have been formed about public organizations arise because of public dissatisfaction with quality;

Accountability refers to how much public bureaucratic policies and activities are subject to political officials elected by the people. The assumption is that political officials, because they are elected by the people, automatically always prioritize the public interest, consistent with the will of the people;

Responsiveness is the ability of the bureaucracy to recognize the needs of the community, develop service agendas and priorities, and develop public service programs in accordance with the needs and

aspirations of the community. Responsiveness here refers to the alignment between service programs and activities with needs and aspirations;

Responsibility, which explains whether the implementation of public bureaucratic activities is carried out in accordance with the principles of good and correct administration.

The Urgency of Reconstructing the Law on Educational Qualifications for Members of the House of Representatives in the Election Law

A good educational qualification can improve a person's reasoning and analytical skills in solving problems. This is important for members of the House of Representatives and DPRD in carrying out their functions, both legislation, supervision, and budget. People's representatives in parliament must have the capacity to accommodate and convey the aspirations of the people. The discourse on improving the educational qualifications of council members from high school to S1 has taken place and has reaped pros and cons among the internal circles of the council, including The PPP, Nasdem, and PDIP Party factions consider that the Election Law does not need to be revised. The minimum high school education requirement for candidates up to the current presidential candidate does not reduce the quality of work of council members. Meanwhile, the PKS faction and the Democratic Party proposed the idea that a leader must have a higher level of education than the one he leads so that the council members must have a college graduation background (detiknews, 2021).

The Head of the Ombudsman of the Republic of Indonesia Representative of Aceh, Taqwaddin Husein, stated that the quality of education and reasoning ability have a significant relationship. The quality of legislative members both at the central and regional levels will be very easy to see from the quality of thinking. Analysis and various alternative solutions to solve social problems that are affected by the quality of education. Candidate education will greatly affect the performance of council members in Parliament. If the education of council members is not much better than the average society, it is feared that many other important political and general policy problems will not be able to be solved properly. Each council member must have the ability to think and competency in carrying out functions, especially in formulating laws (Ombudsman, 2018).

Not a few legislative members have carried out their functions optimally, especially in establishing political communication with their constituents. Many council members tend to be oriented towards political interests and their groups only. They neglect political communication with the people so that the aspirations of their constituents are ignored. As a result of the lack of political communication, can cause public apathy towards the performance of legislative institutions at the central and regional levels, to foster public distrust which leads to protests, demonstrations, or demonstrations [16].

Examples of cases of a number of council members (DPR and DPRD) who graduated from high school who did not carry out their duties properly and were entangled in legal cases include:

Zigo Rolanda, born in Rimbo Tengah, on December 10, 1991, has a high school education and has never had a formal work history/experience. Zigo became a member of the West Sumatra Provincial Parliament for the 2014-2019 period from the Golkar Faction and chose to resign before his term ended on the grounds of his candidacy as a Member of the South Solok Regency DPRD for the 2019-2024 period [17].

Boby Ade Saputra, born in Ujung Tanjung, on August 29, 1990, with a high school education, became a member of the Dharmasraya Regency DPRD 2019-2024. In 2020, he was designated as a suspect and DPO in a persecution case involving the death of one of the residents. As a result of the case, Boby was dismissed from his position as a member of the DPRD [17].

Two elected members of the Tanah Bumbu Regency DPRD with the initials R and M were reported to the Police for allegedly a case of fake high school izasah used in participating in the 2024 legislative election contest (radarbanjarmasin, 2024).

Apriyani Djamaluddin, a member of the Pare-pare City DPRD, and a high school graduate, admitted that her inclusion in the list of legislative candidates was due to meet the quota of 30 percent of women's participation. His position on the list of candidates is at the bottom, but he was elected as a member of the DPRD for the 2014-2019 period.

In addition, many council members do not have educational backgrounds and qualifications under the commission's field of duties. Many elected members of parliament have no political experience at all, their previous professions were completely unrelated to political activity. The data of the cases mentioned above cannot be fully used as a benchmark in assessing the performance and achievements of legislative members, especially those who only have a high school education, but these cases at least explain the urgency of improving educational qualifications for legislative positions to be able to carry out their duties and functions properly.

DPR Regulation Number 1 of 2019 concerning the Management of Experts and Administrative Staff Members of the House of Representatives of the Republic of Indonesia explains that the requirements for becoming experts and administrative staff are to have a strata two (S2) education with a minimum GPA of 3.00 from a public/private or foreign university accredited by a body that accredits universities nationally, or

at least strata one (S1) with at least 5 years of work experience. This condition is in stark contrast to the requirements for council members (Law Number: 7 of 2017 concerning Elections) who only have a minimum high school education.

The urgency of improving the educational qualifications of members of the House of Representatives and the House of Representatives from high school graduates to S1 is very important for the effectiveness and quality of performance with the following considerations:

Analysis in Decision Making, council members with an undergraduate education background have critical and better thinking skills that are needed in formulating legislative policies. The quality of education is directly related to the ability of individual reasoning and analysis in solving social problems.

Ability to Absorb Aspirations, with higher education, council members are expected to be able to understand complex issues of society and formulate effective solutions to overcome these problems.

Increasing Credibility and Public Trust, the educational qualifications of legislative members have an effect on credibility in society. Constituents want people's representatives to have an adequate educational background (at least S1), to be able to represent various levels of society well and to build public trust in the legislature.

Adjusting to the needs and complexity of current social, economic, and political problems requires a strong legislative institution that can overcome these issues effectively. Higher educational qualifications provide a broad foundation of knowledge of a wide range of disciplines, including law, economics, and society, relevant to legislative duties [18].

In addition, for elected council members, especially those with high school education qualifications, it is necessary to carry out need assessment and upgrading and training with a curriculum that suits their needs. The learning materials must be by the duties, functions, and needs of legislative members while still combining the theoretical-conceptual dimension with the empirical-factual dimension [19].

These considerations must be implemented to provide certainty and usefulness, it is necessary to carry out a legal reconstruction regarding the provisions of the minimum educational requirements for council members contained in Article 240 of Law Number: 7 of 2017 concerning General Elections. Legal reconstruction in this case means building a law based on certain conditions, where the reconstruction contains primary values that must remain in the activity of rebuilding something according to the desired conditions. For the sake of rebuilding something, whether it is events, past historical phenomena to the conception of ideas that have been issued by previous thinkers, reconstructors must look at all sides [20].

Legal reconstruction to improve the quality and capacity of members of the House of Representatives and DPRD in Law Number: 7 of 2017 concerning Elections, namely the provisions of Article 240 concerning Improvement of Educational Qualifications, needs to be considered to set minimum educational requirements from high school to a bachelor's degree (S1). This can help ensure that council members have a better understanding of law, public policy, and government management. So that it can produce quality and fair legislation products, carry out supervisory duties well, and prepare budgets proportionally and appropriately [21].

CONCLUSION

Lembaga legislatif memiliki kedudukan strategis karena berperan sebagai pembuat kebijakan dalam undang-legislation (legislation function), formulating budgeting and supervising the running of government (check and balance). The requirements to become a legislative member are regulated in Article 240 Paragraph (1) of Law Number: 7 of 2017 concerning Elections, including being over 21 years old, fearing God Almighty, being loyal to Pancasila and the 1945 Constitution, and having at least a high school diploma, madrasah aliyah, vocational high school, vocational madrasah aliyah, or other equivalent schools.

The urgency of reconstructing the law on the educational competence of legislative members in Law Number: 7 of 2017 concerning Elections, namely the provisions of Article 240 to improve the educational qualifications of legislative members, needs to be considered to set the minimum educational requirements from high school to a bachelor's degree (S1), to ensure that council members have a good understanding of law, public policy, and government management. In addition, higher educational qualifications can affect the ability to make decisions, absorb aspirations, increase public credibility and trust, and adjust to the needs of the times.

REFERENCES

- [1] K. Sumual, "Pelaksanaan Pemilu Di Indonesia Berdasarkan Perspektif Undang Undang Dasar 1945," *J Law Nation*, vol. 2, no. Mei, p. 105, 2023.
- [2] S. Said, "“ Jurnal PenKoMi : Kajian Pendidikan dan “ Jurnal PenKoMi : Kajian Pendidikan dan Ekonomi " *STKIP Bima Vol . 2 , No . 1 Januari 2019,*" *J PenKoMi Kaji Pendidik dan Ekon*, vol. 2, no. 1, pp. 109–116, 2019.
- [3] M. Shaleh and S. Rusmiwari, "Hakikat Pendidikan dan Pola Kepemimpinan terhadap Kinerja Anggota DPRD," *J Ilmu Sos dan IlmuPolitik*, vol. 2, no. 2, p. 30, 2015, doi: <https://doi.org/10.33366/jisip.v2i2.56>.

- [4] N. Kurniawati and Hermansyah, "Peran Tenaga Ahli Anggota Dpr Ri Dalam Mendukung Tugas Dan Fungsi Konstitusional Dewan Perwakilan Rakyat (Studi Tenaga Ahli Dewan Perwakilan Rakyat Republik Indonesia)," *Tanjungpura J Law*, vol. 1, no. 2, p. 8, 2023.
- [5] OPI, Hasil Baseline Survei Peta Jalan Open Parliament Indonesia (OPI). Jakarta: Open Parliament Indonesia, 2020. [Online]. Available: <https://openparliament.id/wp-content/uploads/2021/07/2.1-Paparan-Hasil-Baseline-Survei-OPI.pdf>
- [6] S. Saleh, "Peran lembaga pendidikan dalam membentuk karakter bangsa," *Pros Semin Nas Himpun Sarj Ilmu-Ilmu Sos*, vol. 2, p. 110, 2017.
- [7] Hartoyo, "Pengembangan integritas dalam kepemimpinan pada anggota Dewan Perwakilan Rakyat Daerah (DPRD) Provinsi Jawa Timur," *GulawentahJurnal Stud Sos*, vol. 8, no. 1, p. 60, 2023, doi: 10.25273/gulawentah.v8i1.15491.
- [8] K. F. Andy Chandra, Agustina, Hasanuddin, Babby Hasmayni, "Psychological Education and Legal Policy for Child Victims of Pornographic Content on Social Media," *Evol Stud Imaginative Cult*, vol. 8, no. 2, p. 93, Sep. 2024, doi: 10.70082/esiculture.vi.674.
- [9] G. J. P. Jamil, "Kedudukan Dewan Perwakilan Daerah Dalam Sistem," *J Judic*, vol. 11, no. 1, p. 65, 2022.
- [10] G. Asmara, "Konsep Penguatan Fungsi Legislasi Dewan Perwakilan Rakyat Republik Indonesia Pasca Amandemen UUD NRI Tahun 1945," *J Kompil Huk*, vol. 4, no. 2, p. 194, Dec. 2019, doi: 10.29303/jkh.v4i2.28.
- [11] E. Purnamawati, "Kekuasaan Dewan Perwakilan Rakyat Dalam Penggunaan Hak Angket Menurut Undang-Undang Dasar 1945," *Solusi*, vol. 17, no. 3, p. 307, Sep. 2019, doi: 10.36546/solusi.v17i3.219.
- [12] F. A. Massie, "Kajian Yuridis Hak Imunitas Anggota Dpr Dalam Sistem Ketatanegaraan Indonesia," *Lex Adm*, vol. 6, no. 4, p. 141, 2018, [Online]. Available: <http://dx.doi.org/10.1016/j.gde.2016.09.008%0Ahttp://dx.doi.org/10.1007/s00412-015-0543-8%0Ahttp://dx.doi.org/10.1038/nature08473%0Ahttp://dx.doi.org/10.1016/j.jmb.2009.01.007%0Ahttp://dx.doi.org/10.1016/j.jmb.2012.10.008%0Ahttp://dx.doi.org/10.1038/s4159>
- [13] T. Utami, Perempuan, Partai Politik, dan Parlemen: Studi Kinerja Anggota Legislatif Perempuan di Tingkat Lokal. Jakarta: PT. Gading Inti Prima, 2012.
- [14] A. Sobari, "Mantan Terpidana Korupsi Menjadi Calon Legislatif," *Natl J Law*, vol. 5, no. 2, p. 670, Oct. 2021, doi: 10.47313/njl.v5i2.1445.
- [15] Kemala Novriyanti and Muh. Irfan Mufti, "Kinerja Organisasi Pada Kantor Badan Penanggulangan Bencana Daerah Kota Palu," *J Adm Publik*, vol. 16, no. 1, p. 86, Sep. 2020, doi: 10.52316/jap.v16i1.40.
- [16] T. Nurohman, "Kinerja Anggota Dewan Perwakilan Rakyat Daerah Studi Tentang Kinerja Anggota Dewan Perwakilan Rakyat Daerah Perspektif Opini Publik Di Kota Tasikmalaya," *J Ilmu Polit dan Pemerintah*, vol. 4, no. 1, p. 626, 2018, doi: <https://doi.org/10.37058/jipp.v4i2.277>.
- [17] U. Astin, "Kontroversi Persyaratan Pendidikan Calon Anggota Legislatif Pada Pasal 240 Undang-Undang Nomor 7 Tahun 2017 Prespektif Fiqih Siyasah Dusturiyyah," *Al Ushuliy J Mhs Syariah dan Huk*, vol. 1, no. 2, p. 19, Dec. 2022, doi: 10.31958/alushuliy.v1i2.8350.
- [18] N. A. Utomo, "Mengurai Kerangka Legislasi Sebagai Instrumen Perwujudan Hak Asasi Manusia," *J Konstitusi*, vol. 13, no. 4, p. 909, Dec. 2016, doi: 10.31078/jk13410.
- [19] Mampu, Menata Ulang Upaya Peningkatan Kapasitas Anggota DPRD. Makassar: Australian AID, 2015.
- [20] Agustina, Rekonstruksi Sanksi Pertanggungjawaban Pidana Korporasi Dalam Pekerjaan Jasa Konstruksi. Medan: Program Studi Doktor Hukum Universitas Muhammadiyah Sumatera Utara, 2024.
- [21] H. Haruna and M. Madalina, "Analisis Implementasi Anggaran Pendapatan Dan Belanja Negara (Apbn) Sebagai Sumber Keuangan Utama Dalam Pendanaan Kampanye Partai Politik Peserta Pemilihan Umum," *Res Publica J Huk Kebijakan Publik*, vol. 7, no. 2, p. 181, Nov. 2023, doi: 10.20961/respublica.v7i2.51859.

<https://www.krusial.com/anggota-dprk-aceh-selatan-mayoritas-lulusan-sma-akankah-berpengaruh-terhadap-kinerja-dewan/>

<https://news.detik.com/berita/d-5354325/4-alasan-parpol-yang-resah-atas-wacana-caleg-minimal-lulusan-kuliah>

<https://ombudsman.go.id/perwakilan/news/r/pwk--pendidikan-pengaruhi-kualitas-kinerja-->

<https://radarbanjarmasin.jawapos.com/hukum-peristiwa/1975066459/dua-anggota-dprd-tanah-bumbu-dilaporkan-karena-kasus-ijazah-palsu>