

# Proceedings of the 6th International Conference on Community Development (ICCD 2019)

Welcome to the 6th International Conference on Community Development (ICCD 2019), held in Bandar Seri Begawan, Indonesia, on 24-25 July, 2019.

ICCD 2019 is going to share insight how science and technology contribute to develop and solve Moslem community's problems in ASEAN. It also offers a special opportunity for scholars, researchers, students, academicians, and specialists to interact and discuss future research directions so that Islamic values are well promoted in daily life.

**Volume Title**

Proceedings of the 6th International Conference on Community Development (ICCD 2019)

**Series**

Advances in Social Science, Education and Humanities Research

**Publication Date**

October 2019

**ISBN**

978-94-6252-803-1

**ISSN**

2352-5398

**DOI**

<https://doi.org/10.2991/iccd-19.2019.93>How to use a DOI?

**Copyright**

© 2019, the Authors. Published by Atlantis Press.

**Open Access**

This is an open access article distributed under the CC BY-NC license (<http://creativecommons.org/licenses/by-nc/4.0/>).

# Proceedings of the 6th International Conference on Community Development (ICCD 2019)

## Title

Proceedings of the 6th International Conference on Community Development (ICCD 2019)

## Editors

Prof. Akhsanul Inam, Ph.D.  
Latipun, Ph.D.  
Djoko Sigit Sayogo Ph.D.  
Zulfatman, Ph.D.  
Prof. Dr. Ishomuddin, M.Si.  
Rafika Rabba Farah, M.Ed.  
Sugeng Hariadi, S.Pd.  
Dwi Mawan Karifianto, MA  
Eka Listianing Rahayu, M.Ed.  
Alimin Adi Waloyo, M.App.Ling.  
Nina Inayati, M.Ed.

## Part of series

ASSEHR

## Volume

349

## ISSN

2352-5398

## ISBN

978-94-6252-803-1

### Indexing

All articles in these proceedings are submitted for indexation in **CPCI**, **CNKI** and **Google Scholar**. Optionally, we also submit to **Compendex** and **Scopus**. Note that in case you need information about the indexation of these proceedings, please check with the organizers of the conference as we cannot reply to messages received from participants.

### Free Access

In order to increase the visibility of this conference and of the papers from its participants, this conference has chosen to sponsor the online publication of the conference papers. Therefore, all conference papers can be read and downloaded **for free**; no subscription or other payment is required.

### Copyright

The copyright of all articles published in these proceedings remains with the **Authors**, i.e. Authors retain full ownership of their article. Permitted third-party reuse of the open access articles is defined by the applicable **Creative Commons (CC)** end-user license which is accepted by the Authors upon submission of their paper. All articles in these proceedings are published under the **CC BY-NC 4.0** license, meaning that end users can freely **share** an article (i.e. copy and redistribute the material in any medium or format) and **adapt** it (i.e. remix, transform and build upon the material) on the condition that proper **attribution** is given (i.e. appropriate credit, a link to the applicable license and an indication if any changes were made; all in such a way that does not suggest that the licensor endorses the user or the use) and the material is only used for **non-commercial** purposes. For more information, please refer to the **Open Access and User Licenses** section in the Atlantis Press **Open Access & Article Sharing** policy.

### DOIs

Each article that is published in these proceedings is assigned a **Digital Object Identifier (DOI)**. DOIs are standardized digital identities which can be used to cite and link to electronic content. A DOI is guaranteed to never change, so can be used as a persistent identifier to permanently link to an electronic article no matter where it is stored. More information on how to cite and use DOIs can be found [here](#).

### Permanent Archiving

Atlantis Press is committed to the **permanent availability** and **preservation** of scholarly research and to ensure **accessibility** to this research by converting and upgrading digital file formats to comply with new technology standards.

Besides maintaining its own digital archive, Atlantis Press therefore collaborates with the **National Library of the Netherlands** which permanently archives all Atlantis Press content in their “**e-Depot**”. All proceedings are uploaded to this e-Depot after publication to guarantee permanent archiving of the articles.

### Print Copies

In case you wish to have **printed copies** of these proceedings you can order these directly from our partner **Curran Associates**.

# Proceedings of the 6th International Conference on Community Development (ICCD 2019)

establish ASEAN is “...to accelerate the economic growth, social progress and cultural development in the region through joint endeavors in the spirit of equality and partnership in order to strengthen the foundation for a prosperous and peaceful community of South-East Asian Nations.” This aim and purpose have been manifested into various policy and activities. The emergence of the ASEAN Economic Community (AEC), for example, is another breakthrough to achieve ASEAN’s goals that leads to bring better life changes. The integration among countries, developed and developing countries, will have a positive impact on the region. On the other hand, different economic, political, social, cultural backgrounds among the countries may cause problems that must be solved.

The Association of Muslim Community in ASEAN (AMCA), to arrive at the intended goal elaborated earlier, annually organizes International Conferences on Community Development (ICCD). ICCD 2019 shared insight how science and technology contribute to the further development and solutions on community's problems in ASEAN. This year, the 6th conference is organized and hosted by AMCA in collaboration with University of Muhammadiyah Malang (UMM) Indonesia and supported by 15 Co-Hosts such as; Universitas Muhammadiyah Sumatera Utara; IKIP Budi Utomo, Malang; Univet Bantara Sukoharjo; Universitas Muhammadiyah Jakarta; Universitas Muhammadiyah Jember; IAI Diponegoro, Nganjuk; Universiats Muhammadiyah Purwokerto; Universitas Wisnu Wardhana Malang; Universitas Wijaya Kusuma Surabaya; Universitas Ahmad Dahlan; Institut Ilmu Keislaman Zainul Hasan, Probolinggo; Universitas Tadulako, Palu; Universitas Panca Bhakti, Pontianak; Sekolah Tinggi Keguruan dan Ilmu Pendidikan, Sumenep; Flipmas Legowo. It was held in Wafa Hotel and Apartment, Annajat Complex 23-25 of July 2019.

On behalf of AMCA, therefore, we would like to deliver our appreciation and express our prodigious gratitude to all of our partners for facilitating and making this event successful. There were 227 participants attended the conference and 175 papers were selected to publish. Before they were published, 3 (three) reviewers were assigned to review each paper. First, each reviewer reviewed the paper in terms of content and language use. Second, the rejected paper was then sent back to the author, and the accepted paper with minor revision was also sent back to the author to revise.

This precious event is projected to explore and provide best practices in the advance of science and social policies with an intense emphasis on the enhancement of qualified human in the ASEAN region.

Latipun, Ph.D.  
Secretary General of AMCA

## DAFTAR ISI

**ALW, Lita Tyesta**

Beginner Voters' Participation in the 2019 Election in Semarang

**Abdullah**

The Moral Disengagement to Mediate the Relationship between External Control and Production Deviance among Public Employees

**Abidah, Laila**

Shift of Understanding Mission from Keummatan and Kemuslimatan to Practical Politics in Muslimat Citizens Nahdlatul Ulama (NU) in East Java

**Achmad, Wachyudi**

Oral Story of Ulemas' Legend in Bangil, Pasuruan Regency to Teach Positive Life Values

**Adda, Harnida W.**

Transforming the Workforce: Integrating Internal Marketing Orientation and Business Strategy in Training and Development Programs

**Adiyastiti, Bayu Etti Tri**

Improving the Quality of Herbal Pasteurization Milk with the Application of the Equipment and Environmental Sanitation SOP

**Adrijanti**

Teacher's Pedagogic Competency: Implementation of 2013 Curriculum through a Sustainable Academic Supervision

**Afriyanti**

The Development of Organic Farming by Sri Kuncoro Farmer Group in Pokoh Kidul, Wonogiri

**Afriyanti**

The Processing of Fig Leaves (*Ficus carica* L.) by Posdaya Lancar Barokah in Pokoh Kidul Wonogiri

**Agustin, Amanah**

The Inspiration of Singasari's Statues as the Basic Design of Malang Batik, Indonesia

**Ahmad**

Validity and Reliability Instrument for a Scientific-based Module Book

**Akrim**

An Integrative Islamic Education Learning System in Khairul Imam Junior High School, Medan

**Albab, Hayyan Ahmad Ulul**

The Construction of Islamic Education Institutions; Existence and Relevance in the Era of Disruption

**Amalia, Husna**

The Integration of Literacy and Character Building in Islamic Education

**Ambarwati, Retnoning**

Service Quality, Customer Relationship Marketing, and Institutional Trust to Engender Customer Loyalty

**Amilia, Fitri**

The Development of General Education in English Education Curriculum in the Industrial Revolution Era 4.0

**Amiq, Bachrul**

- The Influence of Regional Minimum Wage Discretion on Wage Disparity and Company Relocation
- Andalas, Eggy Fajar**  
Hate Speech by Supporters of Indonesian Presidential Candidates on Social Media
- Andayani, Tri Rejeki**  
The Dynamics of Jothakan: How it becomes a conflict resolution in Javanese context
- Andriani, Rita**  
The Flashcard Media to Reduce Reading Difficulties of First-Grade Elementary School Students
- Anggraini, Apriliana Devi**  
Socio-Economic Study of Food Stuff and Herbal Medicine for Free-range Chicken as Efforts to Increase Food Reliability and Edibility
- Annurdi**  
Justice Creation for Indigenous Community in Palm Oil Plantation Investment in West Kalimantan
- Anshory, Ichsan**  
Thematic Learning Strategy in Elementary Schools
- Anwar, Muhammad Ali**  
The Effectiveness of Writing Approach Viewed From Students' Self-Confidence
- Ardhanariswari, Riris**  
Implication of Constitutional Court Decisions No. 30 / PUU-XVI / 2018 Concerning Judicial Review of General Election Laws on the Existence of Representative Institutions in Indonesia
- Arifin, Syamsul**  
The Strategy Used to Improve the Quality of Learning in Model Schools in Indonesia
- Arifin, Syamsul**  
The Use of Digital Map Innovations in the Learning of Islamic History
- Asmoni**  
Teacher Development in Mastering the Teaching Materials and Understanding Student Characteristics before and after Receiving Certification Allowance
- Asnawi, Nur**  
Switching Behavior of Customers from Conventional Bank Services to Islamic Bank Services
- Asngadi**  
Model of Development on Small and Medium Enterprises (SMEs) Supporting Industry of Tourism in Tojo Una-Una Regency, Central Sulawesi, Indonesia
- Asngadi**  
Strategic Management, Competitive Advantage and Community Empowerment
- Asrini, Hari Windu**  
Language Semiotics of Campaign Banners and Billboards of Legislative Candidates in Malang
- Astutik, Ika Ratna Indra**  
Design System of Small and Medium Industry Performance Measurement Based on Balanced Scorecard and Quadruple Helix Method
- Aswir**  
Managing Literacy Classroom through Prezi



**Ayu, Dyah**

The Participation of Oyster Mushroom Farmers in Agro Ecovillage to Support Sustainable Development

**Aziz, Abd.**

The Internalization of Profane and Sacred in Forming the Character of Islamic Santri in the Islamic Boarding School of Zainul Hasan Genggong Probolinggo

**Bachri, Syamsul**

Transforming the Workforce: Integrating Internal Marketing Orientation and Business Strategy in Training and Development Programs

**Bahar, Herwina**

The Effect of Exercise Method on the Learning Achievement of Primary School Students

**Bahar, Herwina**

Managing Literacy Classroom through Prezi

**Bahtiar**

The Development of General Education in English Education Curriculum in the Industrial Revolution Era 4.0

**Baidawi, Muhammad**

The Portrait of Learning the Linear Program in Indonesian Universities

**Baidawi, Muhammad**

Strengthening of Mathematics Character Education Students (Teacher Candidates) in Facing the Challenges of the 21st Century

**Baiduri**

The Generalization Process of Secondary School Students on the Concept of Volume and Surface Area of Prism

**Bariroh, Siti**

Teacher's Pedagogic Competency: Implementation of 2013 Curriculum through a Sustainable Academic Supervision

**Basriyah, Khusnul**

Comparing the Effectiveness of Flipped Classroom and Online Learning on Improving Critical Thinking Skills in High School Physics Learning

**Basuki, Joko Setyo**

The Development of Organic Farming by Sri Kuncoro Farmer Group in Pokoh Kidul, Wonogiri

**Basuki, Joko Setyo**

The Processing of Fig Leaves (*Ficus carica* L.) by Posdaya Lancar Barokah in Pokoh Kidul Wonogiri

**Basyeban, Abunawar**

The Use of the Strict Liability Principle by the Indonesian Courts in Solving Environmental Conflicts

**Boerman, Amrullah**

Religion and Social Change: A Phenomenological Study of Muhammadiyah Movement towards Social Change in Bengkulu

**Budiman, Ajang**

War Metaphors in Political Contestation Prior to 2019 Presidential Election

**Budiono**

Building the Nation-State Future through the Development of Indonesia  
Multiculturalism-Based Nationalism

**Budiyanto, Moch. Agus Krisno**

The Implementation of Daily Feeding Policy in Malang Elementary School

**Budiyono**

The Effect of Business Strategy on Firm Value, Performance Measurement Model and Company Performance as Intervening Variable: Empirical Study on Jakarta Islamic Index

**Cahyaningrum, Retno**

Lawson Instrument: Analyzing Student's Scientific Reasoning Skill in Junior High School

**Cantia**

Lesson Study for Learning Community in Teaching Human Body Skeleton Material in Muhammadiyah 8 Junior High School Batu

**Chamidah, Dina**

The Use of Augmented Reality to Introduce Wijaya Kusuma Flower

**Cholila, Annisa Nur**

Improving the Quality of Herbal Pasteurization Milk with the Application of the Equipment and Environmental Sanitation SOP

**Chusniyah, Tutut**

Pragmatism-Philosophy of John Dewey's Education: Role and Position in Learning Information Literacy (Study in Educational Psychology)

**Damayanti, Evy Arsita**

Math BRAINO – Mathematics Braille Dominos for Visually Disabled Students

**Darheni, Nani**

The Javanese Enclave in Ketanggungan Village, Kecamatan Ketanggungan, Kabupaten Brebes, Central Java

**Darmawati, Besse**

Bugis Cultural Taxonomy: An Overview of Hofstede's Cultural Dimension

**Darmini, Wiwik**

Language and Morality: A Case Study on Vulgar Contents in Song Lyrics Prohibited by KPID West Java

**Degeng, I Nyoman Sudana**

Pragmatism-Philosophy of John Dewey's Education: Role and Position in Learning Information Literacy (Study in Educational Psychology)

**Dewi, Dinar Sari Eka**

The Relationship between Spirituality, Quality of Life, and Resilience

**Dewi, Santi Riana**

Spiritual Quotient, Coaching, and Extrinsic Job Satisfaction on Employee Performance at Multinational Companies in Banten

**Dg, Rostiati**

Strategic Management, Competitive Advantage and Community Empowerment

**Diamantina, Amalia**

Beginner Voters' Participation in the 2019 Election in Semarang

**Djumadin, Zainul**

The Big Possible Future Use of Military Power in ASEAN

**Dullah, Mohammad**

Analysis of Village Potential and Development of Post-Harvest Product To Be the Village of Guava Gondangmanis Tourism

**Effendi, Moh. Mahfud**

Analysis of Humanist Education on VHS Mathematics Curriculum

**Elan, Umi**

Teacher's Pedagogic Competency: Implementation of 2013 Curriculum through a Sustainable Academic Supervision

**Endratno, Hermin**

The Strategy of Internationalization of Muhammadiyah Higher Education Institution: A Case Study at Universitas Muhammadiyah Yogyakarta

**Erviana, Vera Yuli**

The Flashcard Media to Reduce Reading Difficulties of First-Grade Elementary School Students

**Esti, Erna Atiwi Jaya**

The Portrait of Learning the Linear Program in Indonesian Universities

**Etiyasningsih**

Teacher's Pedagogic Competency: Implementation of 2013 Curriculum through a Sustainable Academic Supervision

**Fanreza, Robie**

The Formation of Students' Akhlakul Karimah and Al-Islam and Muhammadiyah Studies at The Muhammadiyah University of Sumatera Utara

**Farah, Rafika Rabba**

The English Needs of Islamic Studies Learners: ESP Speaking Course Model

**Farida, Nur**

Teacher's Pedagogic Competency: Implementation of 2013 Curriculum through a Sustainable Academic Supervision

**Faruq, Rosyid Ahmad**

Religious Maturity in Boarding School Students: The Effect on School Connectedness

**Fathani, Abdul Halim**

Strengthening of Mathematics Character Education Students (Teacher Candidates) in Facing the Challenges of the 21st Century

**Fatmawati, Diani**

Antimicrobial Activity of leaf *Apium graveolens* L. Extract: An Exploration of Celery Potential as Hand Sanitizer

**Fatonah, Siti Nur**

Study of the Use of Organic Polybags based on Water Hyacinth and Coconut Fiber on Growth and Results of Big Red Chili (*Capsicum Annum* L.)

**Faturochman**

The Dynamics of Jothakan: How it becomes a conflict resolution in Javanese context

**Fauzan, Muhammad**

The Implementation of Autonomy Policy in Indonesia

**Fauzan, Muhammad**

Implication of Constitutional Court Decisions No. 30 / PUU-XVI / 2018 Concerning Judicial Review of General Election Laws on the Existence of Representative Institutions in Indonesia



# Implication of Constitutional Court Decisions No. 30 / PUU-XVI / 2018 Concerning Judicial Review of General Election Laws on the Existence of Representative Institutions in Indonesia

Riris Ardhanariswari  
University of Jenderal Soedirman  
ririsardhana@gmail.com

Muhammad Fauzan  
University of Jenderal Soedirman

**Abstract.** Changes in Indonesian state administration after the amendments of the 1945 Constitution included changes relating to people's representative institutions. After the amendment to the 1945 Constitution the representative body of the people consisted of the People's Consultative Assembly, the House of Representatives and the Regional Representative Board. The existence of the House of Representative and the Regional Representative Board in the Indonesian constitutional system which all its members are members of the People's Consultative Assembly does not mean that the Indonesian representative system adheres to a bicameral representation system. Decision of the Constitutional Court No. 30 / PUU-XVI / 2018 concerning Judicial review of the General Election Law states that the phrase "other work" in Article 182 letter 1 of Law Number 7 of 2017 concerning General Elections is contrary to the 1945 Constitution and does not have the legal force conditionally binding as long as it is not it also means that the political party functionaries. This has implications for the existence of the Regional Representative Board whose initial ideas were regional representations that were truly realized and not distorted in the practice of state life due to the absence of restrictions regarding nomination requirements, especially those related to the management of political parties.

**Keywords:** *constitutional court, representative institutions*

## INTRODUCTION

The Regional Representative Board in state administration in Indonesia only existed after the amendment to the 1945 Constitution of the Republic of Indonesia. The existence of the Regional Representative Board was intended to establish a mechanism of control and balance between branches of state power. The

existence of the Regional Representative Board is to guarantee and accommodate adequate regional representatives to fight for regional aspirations and interests.

The presence of the Regional Representative Board as a representative institution is expected to be a safety valve in covering or at least controlling the classical weaknesses of democracy. The composition of a uniform the Regional Representative Board membership without considering the proportion of the population and the social structure of the community indirectly becomes the House of Representative balancing institution against the possibility of various discriminatory decisions against minorities as a result of being dominated by certain ideological or ethnic groups. Therefore, the institutionalization of representatives in the Regional Representative Board also becomes a safety valve, possibly from the threat of regional instability within the framework of The Unitary State of the Republic of Indonesia [1].

The Regional Representative Board is also a regional representative institution that is domiciled as a state institution consisting of provincial representatives elected through general elections without involving the role of political parties. The establishment of the Regional Representative Board as one of the new state institutions aims to provide opportunities for regional people to participate in taking policies at the national level, especially those related to regional interests. [2].

This shows the existence of Regional Representative Board in the Indonesian constitutional structure and the philosophical basis of the existence of the Regional Representative Board in Indonesia is to channel regional aspirations and interests.

Decision of the Constitutional Court No. 30 / PUU-XVI / 2018 concerning Judicial review on General Elections starting with the application for review the Article 182 letter 1 of Law No. 7 of 2017 concerning General Elections. The applicant wishes to submit a norm test along the phrase "other work" in Article 182 letter 1 of the Election Law, which states: "Individuals as

referred to in Article 181 may become Election Participants after fulfilling the requirements: (l) are willing not to practice as public accountants, advocates, notary, official of land deed, and / or does not carry out the work of providing goods and services related to state finances as well as other work which can cause conflicts of interest with duties, authority and rights as the Regional Representative Board members in accordance with the provisions of legislation ".

In the absence of clear and clear meaning as long as the phrase "other work" in Article 182 letter 1 of the Election Law, has provided the possibility for the management of political parties to participate in the General Elections as Candidates for the Individual Regional Representative Board. Thus, the petitioner feels that he has not received fair legal certainty, as long as the nature of the existence of the Regional Representative Board institution is a representation of local communities to represent regions that are free from the interests of certain political parties.

The decision of the Constitutional Court No.30 / PUU-XVI / 2018 concerning the Judicial Review of the General Election Law states that the phrase "other work" in Article 182 letter 1 of Law Number 7 of 2017 concerning General Elections is contrary to the 1945 Constitution and has no legal force binding conditionally as long as it is not interpreted to also include political party functionaries.

Based on the background above, the formulation of the problem is as follows: how are the implications of the Constitutional Court decision No. 30 / PUU-XVI / 2018 concerning the Judicial Review of the General Election Law on the existence of representative institutions in Indonesia?

#### METHOD

The approach method used in this research is the normative juridical approach, because the problem to be investigated relates to the authority of the Constitutional Court in conducting judicial review of the law against the Constitution and its implications for the development of national law in Indonesia.

The specification of this research is descriptive analysis with the object to be studied, that is related with the implication of judicial review to law national development in Indonesia. Data used in this research is secondary data.

The type of research used in this writing is a type of normative research, namely research by looking at the legal provisions in the applicable laws and regulations, which are then associated with the issues discussed [3]. The type of approach used is the legislative approach, historical approach, and conceptual approach.

The data used in this study are secondary data, namely data obtained from library materials. The data obtained in the study will then be analyzed qualitatively, namely the data obtained will then be systematically compiled which will then be analyzed qualitatively to achieve clarity regarding the implications of the

Constitutional Court Decision No.30 / PUU-XVI / 2018 concerning Judicial review the Law General Elections on the existence of representative institutions in Indonesia.

#### RESULT

The decision of the Constitutional Court No.30 / PUU-XVI / 2018 concerning the Judicial Review of the General Election Law states that the phrase "other work" in Article 182 letter 1 of Law Number 7 of 2017 concerning General Elections is contrary to the 1945 Constitution and has no legal force binding conditionally as long as it is not interpreted to also include political party functionaries.

Article 182 of the Election Law which regulates individual requirements to become candidates for Regional Representative Board members does not explicitly state that there is a prohibition on the management of political parties to run as members of the Regional Representative Board. As an institution established by the function of guarding the Constitution in the constitutional system that adheres to the principle of constitutional supremacy, the Court is obliged to guarantee the realization of the spirit contained in Article 22D of the 1945 Constitution, so that the idea that the Regional Representative Board is regional representation is truly realized and not distorted in the practice of state life due to the absence of restrictions regarding the nomination requirements, especially those related to the management of political parties.

The Constitutional Court decided several times to Judicial review of laws relating to the Regional Representative Board. In Decision Number 10 / PUU- VI / 2008 dated July 1, 2008, in paragraph [3.18.1] letter f page 205-206 confirms:

The Regional Representative Board is territorial representation that brings and fights regional aspirations and interests within the framework of national interests, as a balance on the basis of the principle of checks and balances on the House of Representatives which is a political representation of the political parties' aspirations and interests politics within the framework of national interests;

The existence of the House of Representatives and the Regional Representative Board in the Indonesian constitutional system which all its members are members of the People's Consultative Board does not mean that the system of Indonesian representation adheres to a bicameral representation system, but rather as an illustration of a system of representation that is typical of Indonesia;

Although the constitutional authority of the Regional Representative Board is limited, all of its authority in the fields of legislation, budget, supervision and consideration as stipulated in Article 22D of the 1945 Constitution are all related and oriented to regional interests which must be fought nationally based on a balance postulate between national interests and interest area;

That as regional representation from each province,

the Regional Representative Board members are elected through elections from each province with the same number, based on nominations individually, not through the Party, as participants in the General Election`.

Although in the Decision of the Constitutional Court No. 10 / PUU-VI / 2008 dated July 1, 2008, in its legal considerations considering the ability of political party members to participate as participants of the election from individual candidates in nominating Regional Representative Board members, however, the existence of the Regional Representative Board must be neutral and free from the interests of political parties. Thus, it may be that individual candidates and / or Regional Representative Board members who come from ordinary political party members, who do not have positions, duties, functions, responsibilities, and management authority in political parties, will be small even if there is no possibility of conflict of interest in carrying out duties, authority and rights as Regional Representative Board members. But if the individual candidates and / or Regional Representative Board members also carry out their daily activities as administrators who are attached to the functions of a political party, there will be an unavoidable conflict of interest which results in changes in the original intent of the formation of the Regional Representative Board as regional representation. Thus, if individual candidates and / or Regional Representative Board members have positions, duties, functions, and management responsibilities in political parties, it surely creates a conflict of interest with the duties and authority of Regional Representative Board members as representations of local communities to represent areas free from the interests of certain political parties.

Based on data available until 2017 Regional Representative Board membership originating from political parties numbered 78 people out of 132 Regional Representative Board members [5]. This shows that the dominance of Regional Representative Board membership comes from political parties for the 2014-2019 period, around 59% affiliated with political parties. This means that when viewed from the background and philosophical basis of the existence of the Regional Representative Board in Indonesia, this is not appropriate, because the Regional Representative Board is intended to represent regional aspirations and interests rather than political parties.

The Regional Representative Board in its position as a state institution which is a regional representative institution, institutionally has the same position as other state institutions, such as the People's Consultative Assembly and the House of Representatives. From this position, the Regional Representative Board is not functional in regard to the position and relations. In relation to the People's Consultative Assembly and House of Representatives, the position of the Regional Representative Board as stipulated in the 1945 Constitution is not in accordance with the idea of forming the Regional Representative Board. The reform of the Indonesian constitutional structure towards a strong bicameralism system is not materialized in the

1945 Constitution. Based on the formulation of Article 2 paragraph (1) of the 1945 Constitution, the Indonesian constitutional system has a soft bicameralism representation system [6].

In the legal considerations of the Decision of the Constitutional Court No.30 / PUU-XVI / 2018 concerning the Judicial review of the General Election Law, it is emphasized that there is actually a need for the Court to reaffirm its position related to the Regional Representative Board membership. Because, Article 182 of the Election Law which regulates individual requirements to become candidates for the Regional Representative Board members does not explicitly state that there is a prohibition on the management of political parties to run as members of the Regional Representative Board. As an institution established by the function of guarding the Constitution in the constitutional system that adheres to the principle of constitutional supremacy, the Court is obliged to guarantee the realization of the spirit contained in Article 22D of the 1945 Constitution, so that the idea that the Regional Representative Board is regional representation is truly realized and not distorted in the practice of state life due to the absence of restrictions regarding the nomination requirements, especially those related to the management of political parties. In the absence of an explanation of the phrase "other work that can lead to a conflict of interest with duties, authority, and rights as a Regional Representative Board member in accordance with the laws and regulations" in Article 182 letter 1 of the Election Law, legal uncertainty arises as to whether Indonesian citizens and administrators are political parties may or may be candidates for Regional Representative Board, so that it is contrary to Article 28D paragraph (1) of the 1945 Constitution. If interpreted can or may be, it will conflict with the nature of the Regional Representative Board as a form of regional representation and at the same time the potential for double representation because if the Regional Representative Board member candidates from the political party's management are elected, then the political party from which the Regional Representative Board member originates from factually will have representatives both in the House of Representatives and in the Regional Representative Board even if the person concerned claims to be an individual when registering as a Regional Representative Board member candidate. This means that it contradicts the spirit of Article 22D of the 1945 Constitution. On the contrary, if interpreted cannot or cannot, such prohibitions are not explicitly mentioned in the Election Law, especially Article 182 letter 1. Therefore, the important Court affirmed that Indonesian citizens who nominate themselves as members of the Regional Board may not concurrently serve as administrators of political parties.

#### CONCLUSION

Decision of the Constitutional Court No. 30 / PUU-XVI / 2018 concerning Judicial review the General Election Law states that the phrase "other work" in

...

Article 182 letter 1 of Law Number 7 of 2017 concerning General Elections is contrary to the 1945 Constitution and does not have the legal force conditionally binding as long as it is not also means that the political party functionaries. This has implications for the existence of the Regional Representative Board whose initial ideas were regional representations that were truly realized and not distorted in the practice of state life due to the absence of restrictions regarding nomination requirements, especially those related to the management of political parties.

#### REFERENCES

- [1] Kelompok DPD di MPR RI, Eksistensi DPD 2009-2013: Untuk Daerah & NKRI, 2014.
- [2] Firmansyah Arifin, dkk, *Lembaga Negara dan Sengketa Kewenangan Antarlembaga Negara*, Konsorsium Reformasi Hukum Nasional (KRHN) bekerjasama dengan Mahkamah Konstitusi Republik Indonesia (MKRI), Jakarta, 2005.
- [3] Peter Mahmud Marzuki, *Penelitian Hukum*, Fajar Interpretama Offset, Jakarta, 2005.
- [4] Putusan Mahkamah Konstitusi No. 30/PUU-XVI/2018 tentang Pengujian Undang-Undang Pemilihan Umum, p.8.
- [5] <http://ipc.or.id/katastrofi-dewan-perwakilan-daerah-parpolisasi-korupsi-dan-kemelut-konflik/> accessed 20 Mei 2019.
- [6] Salmon E.M. Nirahua, Kedudukan dan Kewenangan Dewan Perwakilan Daerah dalam Sistem Ketatanegaraan Indonesia, *Jurnal Hukum* No. 4 Vol. 18 Oktober 2011.