



## Authority of State Institutions in Establishing Laws Under the Constitution of the Democratic Republic of Timor-Leste

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### ABSTRACT

This dissertation discusses the authority of state institutions in forming laws based on the Constitution of the Democratic Republic of Timor-Leste (RDTL). With regard to the division of powers of state institutions in the 2002 RDTL Constitution, there are many interpretations, because the phrase "must be based on the principle of separation of powers, and "interdependence" which leads to separation and division of powers. Authority The legal materials used in the research and writing of this dissertation consist of primary legal materials, secondary legal materials, and tertiary legal materials.

The results of this research can be summarized as follows:

1. Philosophical considerations on the division of authority of state institutions in the Constitution of the Democratic Republic of Timor-Leste
2. The basis for consideration by the 2002 Constituent Assembly which permitted the Government to form laws.
3. The implementation of the proposed draft licensing law depends on:
  - a) The term of office of the legislature.
  - b) Term of office of the Government.
  - c) the draft law on legislative permits proposed.

## **INTRODUCTION**

### **1.1 Background Problems**

Timor-Leste is a democratic legal state, as stipulated in the Preamble to the Constitution of the Democratic Republic of Timor-Leste that, "it is necessary to establish a democratic and institutional culture that is appropriate for a rule of law, where respect for the Constitution and for democratically elected institutions, is a foundation that cannot be questioned. By interpreting deep feelings, ideals and trust in God from the people of East Timor. "With regard to the division of authority of state institutions according to the provisions of the Constitution of the Democratic Republic of Timor-Leste, there is uncertainty, because Article 69 that, state institutions in carrying out their functions must comply with the principle of separation of powers and interdependence according to the Constitution. In addition, the authority to form legislation is owned by legislative and executive bodies. In a dissertation entitled "The Authority of State Institutions in the Formation of Legislation Based on the Constitution of the Democratic Republic of Timor-Leste" this study was carried out on the issue, based on the legal aspects of the law, namely: legal philosophy, legal theory and legal dogmatic. Philosophical aspects, the authority to form legislation is the authority of attribution obtained through the constitution. In terms of ontology, in the context of the rule of law, the source and limits of power are determined by law and must be used in the corridor of law.

Epistemologically, in order to avoid the accumulation of power that can lead to acts of abuse of power, the concept of a state of law also requires separation or division of powers. From an axiological aspect, power is decisive not only because it is obtained by subjecting the weak party through physical strength, but rather lies in the power of the voice of human conscience. As formulated in the opening third paragraph of the Constitution of the State of Timor-Leste that, "it is necessary to establish a democratic and institutional culture that is suitable for a rule of law, where respect for the Constitution and for democratically elected institutions is a basis that cannot be questioned. Furthermore, the fourth paragraph, which states that "By seriously reaffirming its determination to fight all forms of tyranny, oppression, control and separation of social, cultural and religious, to maintain national independence, respect and guarantee human rights and rights the human rights of citizens, to ensure the principle of separation of powers in the structuring of the State, and to establish the basic core rules of multi-party democracy, with the aim of building a just and prosperous country and developing a united and friendly society. "Theoretical aspects, the authority of state institutions in the formation of laws and the development of human rights, democracy and the division of power, can be justified through several theories, namely: the theory of trias politics, the theory of authority, and the theory of legislation.

Based on the theory of Trias politics proposed by Montesquieu, 1715-1788, in every country there are always three branches of power organized into government structures, namely: Legislative, Executive, and Judicative which relate to the establishment of laws and laws of the State. Theory of authority, said that, authority is a formal power that is owned by an official or institution, therefore, authority is a right that is owned by an official or institution that acts to exercise its authority, based on the prevailing laws and regulations.

Juridical aspect, the division of authority of state institutions in the formation of laws, according to the provisions of Article 69 of the RDTL Constitution of 2002 states that, state institutions in carrying out their respective functions must follow the principle of separation of powers, and the principle of separation of powers in question, that state sovereignty institutions, must be separated both in their form and in carrying out their respective functions. In the formulation of the sentence "interdependence" can be interpreted that, among state institutions in carrying out their authority functions not separately, because there are sentences of interdependence, such things will affect the process of governance, because of the intervention of political interests between state institutions that mutually other.

Sociological aspects, the authority of the Government in carrying out its duties and functions as a public service is not efficient, because the government as an executive institution as well as a legislative body, this will have an impact on the abuse of authority and arbitrariness in carrying out its functions.

Starting from the above description, in the writing study of this Dissertation, it only focused on the authority of State institutions in the formation of laws which were limited to the authority of the legislative institutions and the authority of the executive institutions in the formation of laws based on the RDTL Constitution. The formulation of the research title is as follows: "Authority of State Institutions in Establishing Laws Under the Constitution of the State of the Democratic Republic of East Timor."

## **LITERATURE REVIEW**

### **1. Trias Politica Theory**

The Democratic Republic of Timor-Leste, is a democratic rule of law, has 4 (four) state sovereignty institutions, according to the provisions of Article 67 of the RDTL Constitution of 2002 that State sovereignty institutions consist of: President of the Republic, National Parliament, Government, and Court. The country's sovereignty institutions, in carrying out their functions, must follow the principle of separation of powers, according to the provisions of Article 69 of the RDTL Constitution of 2002 that state sovereignty institutions, in relation to each other and in carrying out their functions, must follow the principle of separation of powers and interdependence established in the Constitution.

The idea of establishing this state institution, based on the theory of trias

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politics, but not absolutely implementing the idea of Montesquieu because in the Constitution of the Democratic Republic of Timor-Leste, there are 4 high state institutions, namely the President of the Republic, the National Parliament, the Government and the Court.

#### 1) Legislative Powers

According to the provisions of Article 92 of the RDTL Constitution, the National Parliament is an institution of sovereignty of the Democratic Republic of East Timor which represents all Timorese citizens and is given legislative authority, supervision and political decision making. Furthermore, Article 96 paragraph (1) of the 2002 RDTL Constitution, the National Parliament allows the Government to form a proposed law.

#### 2) Executive Powers

Under the provisions of Article 103 of the RDTL Constitution of 2002, the Government is the sovereign body responsible for directing and implementing the general policy of the state and is the highest general government body.

Subsequently Article 115 paragraph (3) of the RDTL Constitution of 2002 stipulates that, the Government has exclusive legislative authority over matters concerning its own arrangement and working procedures, as well as for the administration of the State, both directly and indirectly.

#### 3) Judicial Power or Judicative Powers

In the provisions of Article 118 paragraph (1) to paragraph (3) of the RDTL Constitution of 2002, it is stipulated that the Court is a body of sovereignty with the authority to uphold justice, in the name of the people.

### **2. Authority Theory**

In essence, authority is an implication of legal relations. In state administration law (HAN). The legal relationship that occurs is between the ruler as the governing subject, and the community as the subject being governed. This is in line with what was conveyed by A.V. Dicey, as quoted by Tedi Sudrajat, that:

The administrative law determines (1) the constitution and the relations of the organs of society which are charged with the care of those social interests (interests collectively) which are the object of public administration, by which they are different representatives of society among the state is the most important, and (2) the relation of the administrative authorities toward the citizens of the state.

According to R. Sri Sumantri, that authority is obtained by a person through 2 (two) ways namely by attribution or by delegation of authority: a) Attribution, which is the authority attached to a position. In a review of constitutional law, this attribution is indicated in the authority possessed by government organs in carrying out its government based on the authority established by the legislator.

b) Delegation of authority (delegation), namely the delegation of authority

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is the surrender of some of the authority of the superior to the subordinates to assist in carrying out the duties of his duty to act alone.

Based on the explanation of the theory of authority above, relating to the authority of state institutions in the formation of laws according to the provisions of Article 96 the National Parliament can allow the Government to propose laws is attribution authority.

### **3. Theory of Legislation**

The theory of legislation is used in the research and writing of this dissertation, to justify the norms and explain the mechanism (process) of the formation of legislation by the legislative and executive bodies based on the RDTL Constitution and the hierarchy of laws and regulations, the principles of the formation of regulations good legislation.

#### **3.1 Definition of Legislation**

In the context of legal formation, the important thing to note is the grouping of laws, based on their form and nature, namely in the form of written and unwritten law. The unwritten law in Timor-Leste's constitution is recognized as being in Article 2 paragraph (4) of the RDTL Constitution which says that. "The state recognizes and respects the norms and customs of Timor-Leste that are not in conflict with the Constitution and any other law, especially with regard to customary law." The nature and function of the laws and regulations in the concept of the rule of law are interesting and will always be interesting to do when associated with the idea of establishing good legislation for several reasons: First; One element of the rule of law is that every action of the Government / government must be based on the applicable laws and regulations. In the explanation of Article 1 paragraph (1) it is said that the State of the Democratic Republic of Timor-Leste is a country based on law (Rechtsstaat), not based on mere power (Machtsstaat).

Second; If it is associated with the type of modern welfare state adopted by the constitution where the Government is given very broad authority to actively participate in interference in all socio-cultural and economic fields. With such broad Government authority, if it is not fenced off with good and fair legal rules, and supervision of the use of strict authority can lead to arbitrariness from the Government.

Third; In general, the purpose of legislation is to regulate and organize life in a country so that the people governed by the law obtain certainty, usefulness and justice in the life of the state and society.

#### **3.2 Act**

The law is divided into two, namely the law in the material sense and the law in a formal sense, which is a literal translation of "wet in formele zin" and "wet materiële zin" known in the Netherlands.

The law in the material sense is a decision or decree of the ruler which is seen from its contents called the law and binds everyone in general. The law

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in the formal sense is the decision of the ruler, which is referred to as law, as seen from the way it was formed.

### **3.3 Legislation of the State of RDTL**

Legislation is one of the guidelines in the process of developing a country based on law, the State of Timor-Leste is a democratic, democratic state, which gained full independence in 2009, from the United Nations, through its mission, United Nations Transition of East Timor (UNTAET). After obtaining full independence, many obstacles faced in the process of building a nation that just emerged from prolonged suffering for several centuries living in the colonies of the colonies, one of the obstacles is the process of development in the field of law, until now the legal problem has been in the spotlight of the international community in general, and especially the people of Timor-Leste, they have not felt their rights protected by law.

### **3.4 Establishment of Law**

Establishment of the law is a plan or plan in shaping the law. The law is essentially a product of the evaluation of reason which is rooted in human conscience about justice regarding human behavior and the situation of human life.

### **3.5 Platform for Establishment of the Law**

Every statutory law can be said to be good (good legislation), legal according to law (legal validity) and effective because it can be accepted by the public naturally and is valid for a long time, so it must be based on the basis of legislation. Philosophical foundation, namely the philosophical basis or views or ideas that are the basis of ideals when pouring desire and wisdom (government) into a plan or draft state regulation; Juridical foundation, is a legal provision that becomes the legal basis (*rechtsgrond*) for the making of a regulation; Political foundation, is the line of political policy that becomes the next basis for policies and direction of state governance. A law is said to have a sociological foundation if the provisions are in accordance with general beliefs or public awareness.

## **METHODOLOGY**

This section outlines the research methods used, to analyze the "authority of state institutions in forming laws, based on the Constitution of the Democratic Republic of Timor-Leste". The term research method consists of two words, namely the word method and the word research. The word method comes from the Greek language *methodos* which means the way or to a road. While research is a thorough examination and investigation.

## **RESEARCH RESULT**

### **4. Distribution of the Authority of State Institutions In The Formation of Law**

**4.1 The philosophical foundation of the authority of state institutions in the establishment of laws based on the RDTL Constitution**

The term "Institution" as defined by Mac Millan is a set of real relationships of norms, beliefs, and values that are centered on social needs and a series of important and repetitive actions. In the RDTL Constitution, the institutions in question, there are those whose names are explicitly mentioned and there are only those functions that are explicitly mentioned. According to Jimly Asshiddiqie, these institutions can be distinguished from two aspects, namely in terms of function and hierarchy. For that there are two criteria that can be used, namely (i) criteria for hierarchies of normative source forms that determine their authority, and (ii) the quality of their main or supporting functions in the state power system.

*4.1.1 Distribution of authority over the material content of the formation of a Law between the National Parliament and the Government*

The application of the division of powers in Timor-Leste consists of two parts, namely the horizontal distribution of power and the vertical division of power.

## a) Horizontal division of powers

Horizontal division of power is the distribution of power according to the functions of certain institutions (legislative, executive and judicial). The division of power at the level of the central government has shifted, The shift in question is a shift in the classification of state power which generally consists of three types of power (legislative, executive and judicial) into four state powers, namely:

1) The power of the presidential institution, is the President of the Republic of Indonesia exclusively and exclusively responsible for: Officially promulgating the law and ordering the issuance of resolutions from the National Parliament that ratify agreements and ratify treaties and international agreements

2) Legislative power, the National Parliament is the sovereignty of the state of the Democratic Republic of Timor-Leste which represents all Timorese citizens and is given legislative authority, supervision and political decision making

3) Executive power, is the power to function in carrying out the laws and administration of the State government. This power is held by Prime Minister as affirmed in Article 103 that, the Government is the sovereignty body responsible for directing and implementing the general policy of the state and is the highest general government body as stated in Article 104 paragraph (1 and 2) that, (1) Government consists of the Prime Minister, Ministers and State Secretaries, and

(2) The Government may have one or more Deputy Prime Ministers and Deputy Ministers.

4) Judicial power (judicial), or what is often called judicial power is the power to conduct justice in order to enforce law and justice. As stipulated in Article 118 paragraph (1-3), paragraph (1) Article 124 paragraph (1 and 2) that, paragraph (1) of the Supreme Court is the highest court and guarantor of uniform law

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enforcement, and has jurisdiction in all regions of the country, and Paragraph (2) The Supreme Court is also authorized and responsible for upholding justice on legal matters, as well as matters relating to the Constitution and elections.

#### b) Vertical division of powers

Vertical division of power is a division of power according to its level, is the division of power between several levels of government. Article 5 paragraph (1 and 2) (Decentralization), which states that, paragraph (1), in terms of regional arrangement, the State will respect the principles of decentralization of general government, and paragraph (2), the law will determine and determine the characteristics from each regional level, as well as the authority of each government agency.

#### 4.1.2 Authority of the National Parliament

The National Parliament is an agency consisting of representatives of the people who are elected and responsible for legislation and control of the state's financial budget; House of Representatives. Arranging the law-making authority under the RDTL State Constitution consists of the legislative body as an institution that has the authority to form laws, in addition, constitutionally, the National Parliament allows the Government to form laws based on Article 96 paragraph

(1) In addition, the Government by Attribution has the authority to form legislation according to the provisions of Article 97 paragraph (1) section of letter (c) of the 2002 RDTL Constitution. In paragraph (2) Article 96 K-RDTL that, the law on legislative licensing will determine the principal, understanding, scope and validity period of the permit, and the permit can be renewed, and paragraph

(3) determines that the law on legislative licensing cannot be used more than once and is no longer valid when the Government is terminated, with end of the legislative period or with the dissolution of the National Parliament.

#### 4.1.3 Authority of the Government

Under the provisions of Article 103 of the 2002 RDTL Constitution, the Government is the sovereign body responsible for directing and implementing the general policy of the state as the highest public governance body. Furthermore, Article 104 of the RDTL Constitution The composition of the government cabinet is as follows:

1) The Government consists of the Prime Minister, Ministers and State Secretaries.

2) The government can have one or more Deputy Prime Ministers and deputy Ministers.

3) Amount, Name and authority of ministries, State Secretariat shall be stipulated by Government law.

Under the provisions of Article 137 of the RDTL Constitution (the basic principle of general government) paragraph (1) the implementation of general government aims to fulfill the public interest, by respecting the rights and interests of citizens and bodies in the constitution and paragraph (2) general government will be prepared to prevent excessive bureaucracy, providing

services to the people that are easier to use and ensuring the input of people who are interested in their management efficiently and paragraph (3) of the law will determine the rights and guarantees of citizens, which are related to actions that may affect their rights and worthy interests.

#### **4.2 Draft Law**

The draft law is one of the stages of the formation of legislation, to produce legislation that is responsive in accordance with community expectations, the establishment of laws relating to the interests of the people needs to be preceded by careful field research and normative assessment, while the empirical approach aims to find out the expectations, community support and substantial issues that are regulated. Establishment of a law that clearly regulates the distribution of authority, supervision, functions, tasks, good coordination in realizing a clean and democratic government because it prevents:

- a) Utilization of authority.
- b) Abuses.
- c) Corruption, collusion, nepotism.

Thus, the Government's actions in the development process to avoid acts of abuse of authority, so as to ensure a clean government, the Government must fulfill the following requirements:

- a) Government based on law.
- b) Accountability.
- c) Transparency.
- d) Participation.

In the formation of the law, it is expected to clearly regulate the authority of the Government, so that the Government does not act outside the authority regulated by law.

#### **4.3 Distribution of Content of the Law**

According to A. Hamid Attamimi, that the content of the law is an important matter to be researched and sought, because the formation of the law of a country depends on the ideals of the State and the theory of state adopted, on sovereignty and the division of power in the state held it.

##### *4.3.1 Content of the Law from the National Parliament*

In the process of preparing the proposed draft law from the National Parliament called *Projecto da Lei*. Based on the provisions of Article 92, and Article 95 paragraph (1), 97 paragraphs (1 a and b), 98, and Article 99 of the RDTL 2002 Constitution, the implementation of the draft law is an initiative proposed by the National Parliament

Members as regulated in Article 86 Parlamento Nacional 2002 (RDTL National Parliamentary Rules of Procedure) and Article 97 paragraphs (1 a and b) of the RDTL Constitution, namely: paragraph (1) A initiation and determination: (Authority to initiate laws owned by):

- (a) Aos Deputados; (Parliamentarian);
- (b) As Bancadas Parlamentares; (Factions in Parliament). Furthermore, Article 86 of the Regimento do Parlamento Nacional 2002 (RDTL National Parliamentary Rules of Conduct) dated June 18, 2002, namely: A iniciativa de lei compete aos

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Deputados, as bancadas parlamentares e ao Governo (initiative of the draft law can come from Members of Parliament National, from factions in the National Parliament and the Government).

#### *4.3.2 Content of the Law from the Government*

Based on the Constitutional system is a pair of state insights based on law. Pursuant to Article 96 paragraph (1) of the RDTL Constitution of 2002, determines the delegation of authority to the Government to make laws that regulate matters which constitute further arrangements of the Constitution, and the establishment of the law requires the approval of the National Parliament.

#### **4.4 Application of the Proposal of Law design based on Timor-Leste Constitution**

In essence, the enactment of the law is, one of the requirements of legislation. In this section of the chapter, the author describes the applicability of the law used by the Government through legislative licensing laws to the Government, and the adoption of the proposed draft law by the President of the Republic and the publication in the gazette (journal da Republika) as follows:

##### **4.4.1 Applicability of the Proposed**

Bill in Article 73 of the RDTL Constitution, announcement of legislation and decisions; paragraph (1) that laws and decisions will be issued by sovereignty bodies in the State Gazette. Subsequently paragraph (2) that, negligence to issue legislation or decision as referred to in paragraph (1) Article 73 above that, the decisions of state sovereignty institutions and regional Government, must be published in the state sheet, if not published then, the law or the decision is canceled or not valid, and in paragraph (3) that, the form of the announcement of legislation and other decisions, and the consequences of such negligence, will be determined by law. In connection with the validity of the law the RDTL country can be explained as follows:

##### 1) Philosophical foundation

Philosophically, the authority of state institutions in the formation of legislation is to support the implementation of development in the field of constitutional law and is a manifestation of efforts to achieve the goals of the nation mandated in the constitution. In the opening and Article 1 paragraph (1) of the 2002 RDTL Constitution, it is clearly stated that social justice for all Maubere people is the basis of one of the national philosophies, therefore

every citizen has the right to get the best social justice. As in the Opening of the 2002 RDTL Constitution, and Article 1 paragraph (1), then in the provisions of Article 6 letter (b) that, to guarantee and promote the fundamental rights and freedoms of citizens and their respect for the principles of a democratic State by force of law.

##### 2) Juridical foundation

Legislation in the State of Timor-Leste, the material of the law clearly stated in Article 95 paragraph (2) and Article 96 paragraph (1) of the RDTL Constitution

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of 2002. Material content of the law that is authorized by the National Parliament is stipulated in paragraph (2) while Article 96 paragraph (1) of the National Parliament allows the Government to propose a bill based on predetermined content. Furthermore, concerning the initiative (initiative) of the law as stipulated in the provisions of Article 97 that;

(1) The authority to initiate the law is owned by:

- a) Member of Parliament;
- b) Fractions in Parliament;
- c) Government.

(2) It is not permissible to submit a draft law, the concept of laws or amendments relating to, in an ongoing budget year, the addition of State expenditures or the reduction of State revenues as stipulated in the Budget and State Revenue or Correction Budget.

(3) The draft law and the draft law that is rejected cannot be submitted again during the same legislative session when it has been closed.

(4) The draft law and draft law which are not responded to, do not need to be re-submitted during the next trial period, except in the case of the expiration of the law making period.

(5) The draft law does not apply again at the time of dismissal of the Government. Based on the consideration of the National Parliament for the proposed draft law from members of the National Parliament, factions in the National Parliament and the Government, depending on the period of the ongoing legislative process. When a proposed bill is accepted, the draft law is enacted, and if the National Parliament has held 10 hearings of the bill, but without making a final decision (rejected), the draft law is no longer valid.

### 3) Sociological foundation

The authority of state institutions in the formation of laws, as one form of legislation departs from the reality that exists in society. This reality can be in the form of developing aspirations, existing problems and demands for the interests of changes.

#### **4.1.2 Ratification and Enactment of the Law by the President of the Republic of Timor-Leste**

The enactment of the law is one of the conditions for a democratic rule of law, therefore, every law of decisions made or issued by an authorized official or State institution, laws and regulations can be applied must be published

through the State Gazette (Journal da Republika).

According to the provisions of Article 73 of the RDTL Constitution of 2002 paragraph (1), laws and decisions will be issued by sovereignty bodies in the State Gazette, paragraph (2) Failure to issue legislation or decisions as referred to in paragraph (1) at for or general decisions taken by the sovereignty institutions of the State or regional Government resulting in cancellation and invalid and paragraph (3), the form of announcements of legislation and other decisions resulting from such negligence will be determined by law invite.

## CONCLUSIONS

Based on the description of the discussion of the three problems above, it can be concluded as follows:

1. The philosophical consideration for the division of authority of state institutions, in the Constitution of the Democratic Republic of Timor-Leste, is to avoid the accumulation of authority in one of the state institutions, which can lead to acts of abuse of power. Considering the State of the Democratic Republic of Timor-Leste (NRDTL) is a rule of law, then to obtain, use its authority and limits, it must be clearly regulated so that it can

Be accounted for according to the laws and regulations, and in addition, in order to control each other between state institutions with each other, to guarantee a system of checks and balances.

2. Distribution of authority the contents of the Act between the National Parliament and the Government are:

a) In the provisions of Article 95 paragraph (1) of the RDTL Constitution, the National Parliament has the authority and responsibility to make laws concerning basic issues concerning domestic and foreign policies. The content of the Law which is the authority of the National Parliament as stipulated in paragraph (2) Article 95 of the RDTL Constitution, furthermore, the National

Parliament has the authority to submit a bill through the Law initiative as stipulated in Article 97 paragraph (1) of the RDTL Constitution

b) Material content of the Law from the Government;

In the provisions of Article 103 of the 2002 RDTL Constitution, the Government is the sovereign body responsible for directing and implementing the general policy of the state as the highest public governance body. Furthermore, Article

115 paragraph (3) the Government has the exclusive authority to form regulations that govern the procedures for implementing government either directly or indirectly. In addition, in the provisions of Article 96 the National Parliament can allow the government to propose laws on content matters as set forth in paragraph (1), through statutory initiatives as stipulated in Article 97 of the 2002 RDTL Constitution.

3. The application of the legislative licensing draft proposal depends on:

a) The term of office of the legislature, meaning when on a trip; The Republican President dissolves the National Parliament, so the proposed draft law cannot be continued, and or

b) The term of office of the Government, meaning, if in the course of government; The President of the Republic dissolved the Government and dismissed the Prime Minister, so the proposal for the legislative licensing bill cannot be continued.

c) When the legislative licensing draft proposed by the Government is rejected twice in a row by the National Parliament.

## RECOMMENDATIONS

Based on the above conclusions, advice can be given to those who have a role in the formation of the laws of the State of Timor-Leste, both directly and indirectly involved in the process of forming the law, to consider the following:

1) Amendments to the constitution are needed, to clarify the division of the authority of state institutions based on the principle of separation of powers or division of powers so that in carrying out its functions, it can avoid abuse of authority and guarantee the principle of checks and balances.

Unclear division of authority of state institutions in carrying out their functions, so that the sentence becomes unclear which can have an impact on abuse of authority, arbitrariness, so that ultimately the practice of corruption occurs; and overlapping authority that has an impact on the governance process.

2) It is necessary to establish a law to limit the legislative licensing of the National Parliament to the Government, so that the Government in implementing the law is in accordance with its authority, with the intent:

- a) To clearly regulate the contents of the law that is given to the executive, so that in the implementation of its functions as an institution the implementation of the law can be carried out effectively and efficiently.
- b) It is necessary to establish a law on the hierarchy of laws and regulations, in order to determine the content of each level of legislation that is formed, in order to avoid conflicts of norms, blurring of norms, and void norms.
- c) It is necessary to establish a national legislative body to draft a bill on content that is the authority of the National Parliament and the

Government, so that there is a clear division of authority to submit material for the bill between the National Parliament and the Government can be formed.

## REFERENCES

- Admin Legal Corner , 20 16, *the basis and principles of local regulation formation* [https://www.sudut\\_hukum.com /.html](https://www.sudut_hukum.com /.html) . Access on June 22, 2018
- Amiroeddin Sjarif, 1997, *Legislation: Basic, Type, and Making Technique*, Rineka Cipta, Jakarta, p. 78-84.
- Amiroeddin Syarief in Rojidi Ranggawijaya, 1998, *Introduction to Indonesian Legislation*: CV. Mandar Majuh. Bandung, p.78.
- Ann Seidman & Robert Seidman, 2001, *Drafting the Draft Law on Democratic Changes in Society*, Op. h.8.
- Bernard Arief Sidharta, 2010, *Indonesian Law*, FH Unika Parahyangan, Bandung, p. 88.

Lula, Wairocana, *parsa, suyatna*

CFG Sunaryati Hartono, 2006, *study law in Indonesia at the end of the 20th century*, Alumni Bandung, h.141 Ibid. h. 35. Ibid. 13 Ibid.

E. Utrecht, 1961, *Introduction to Indonesian Law*, PT Penerbitan and Ichtiar Book Center, Jakarta, p.136

Hadjon, Philipus M, 2007, *Legal Protection for the People in Indonesia, a study of its Principles, Handling by the Courts in the General Courts and the Establishment of Administrative Courts*, Perabadan, p. 75

Hayek, Friedrich , 1960, *The Constitution of Liberty* , University of Chicago Press, Chicago, USA, p. 199

I Gede Pantja Astawa and Suprin Na'a, 2005, *Handbook of Legislation Design*, Director General of Legislation was translated from IC Van der Vlies's book, *Handboek Wetgeving*, language transfer by Linus Doludjawa, Bandung, p. 54-55

I Nyoman Suyatna, 2011, Dissertation, *General principles of good governance in the formation of regional regulations: Doctoral Program of Law Science*, Faculty of Law, Brawijaya University Malang, h. 152-153

Idup Suhadi and Desi Fernanda, 2001, " *Fundamentals of good governance* ", Jakarta, Institute of State Administration of the Republic of Indonesia, p.4 Ibid. h.5

Jeremy Bentham, 2000, *An Introduction to the Principles of Morals and Legislation* Kitchener, Batoche Books, p. 14.

Jimly Asshiddiqie, 2010, *Development & Consolidation of Post-Amendment State Institutions* (Jakarta: Sinar Grafika, p. 27.

LJ van Apeldoorn, 1978, *Introduction to Legal Studies: Pradnya Paramita*, Jakarta, p. 92 Ibid.

Maria Farida Indrati. S, 2007, *Legislation*, Kanisius, Yogyakarta, p. 197. Ibid.

Maria Farida Indrati. S, 2007, *Legislation*, Kanisius, Yogyakarta, p. 197. Ibid.

Mohammad Kusnardi and Harmaily Ibrahim, 1983, *Introduction to Constitutional Law*, p. 40

Nurrahman Aji Utomo, 2016 *Unraveling the Framework Legislation As Embodiment of Human Rights Instruments (Unraveling Legislation Framework as an Instrument for Realization of Human Rights)*. In the *Constitutional Journal*, Volume 13, Number 4 December 2016. <https://media.research.com/media/publications/113071-ID-parse-framework-legislation-as-inst.pdf>. Access on April 5, 2018, h. 1