

THE COMPETENCE OF NATIONAL PARLEMENT AS LEGISLATION OF THE REPUBLIC DEMOCRATIC OF EAST-TIMOR

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ABSTRACT

The title of the research is the establishment of the National Parliamentary Privileges Act by Formulating the problem as follows. The authority is held by the national parliament in the formation of legislation? How does the mechanism of draft legislation by National Parliament?

Regarding the writing of this thesis, the method used is the normative juridical approach and the type of legislation and conceptual. Furthermore, the State law the special of every State agency to Authority in government, such as competence owned by the National Parliament in shaping legislation Attribution is the authority, the authority is the original has been provided in article 95 paragraph 1 of article 86 of the Constitution, together on, 87, 88 Standing Orders of the National Parliament, but in the formation of the National Parliament of legislation is limited by article 95, paragraph 2 of the Constitution Concerning the substance of the charge law made by National Parliament, while the Authorities of the Government to make laws had been set in article 96 paragraph 1 of the RDTL constitution materials laws made by the government. Mechanism classifying the legislation in the national parliaments of the member of Parliament and factions in National Parliament and the government, the same procedure, but the mechanism of filing legislation quit made the government of environmental approval from the Board of Ministry, Then handed to the President of the Republic to be approved and published in article 88 paragraph 4 of the Constitution, Then legislation of draft can be submitted to the national parliament and the stipulated in the Standing Orders of the National Parliament

Keywords; Authority, Parliament, the Act

INTRODUCTION

Under the article 69 constitution of the Republic Democratic of East-Timor system adheres to the separation of powers, according to the doctrine of Montesquieu there is three functions; legislative, executive and judicial branches; distinguished and separated powers had dried structural in organs that are not mutually interfere with each and cannot be separated from the principles of the law asserted article 1, paragraph 1 of the Constitutional Republic Democratic of East-Timor, but in the context of state East-Timor during this doctrine isn't longer appropriate because the conditions of organizing the state government is real to use of power - sharing system was emanates Institutions Country domiciled horizontal dried up with each other, the goal for creating checks and balances in the system of state administration of East Timor. However, the principle of division of powers, the state often creates problems between the National Parliament as a state institution has the authority to formation of the legislation stipulated in Article 95 paragraph 1 of the Constitution of East-Timor, the government also has the authority making the legislation, stipulated in Article 96 paragraph 1 of the Constitution of East-Timor in 2002. Philip Mandiri Hadjon argues: term authority or authorities often align with the language of the Dutch term *bevoegheid*. In the Indonesian dictionary or authorize the authority used as the concept of public law, while *bevoegheid* used as the concept of the public and private law. As a concept of public law, authority or

authorities consist of at least three components, namely the effect, the law and the legal basis conformities. Had dried theoretical authority in the legislation can be obtained through the third face is; attribution, delegacy and mandate. As stated describe by HD Willem van and Wiljk Konijnenbelt defines as follows; 1. Attribution is the provision of governmental authority by lawmakers of the organs of government. 2. Delegations are a delegation of authority from one organ of government to the other government organs 3. Mandate occurs when the organ to allow government authorities run by other organs in her name. Appropriate exposure above, the actual establishment of the authority of statutory regulations between the two Institutions has been obvious, but the legislation that regulates the formation of wings-wings are good laws hitherto owned by the State of East-Timor yet, Philip M. Hogan explained that; Common wings-wings establishment of the rule of law, both serve as a testing ground in the formation of the applicable law (formal test) as well as a judicial review basis for the rule of law (material test). Further confirmed by S. Attamimi that; principles of formation of legislation that deserves, serves to provide guidelines and guidance for pouring the contents of regulations into the appropriate shape and composition, so that the proper use of the method in accordance with the formation and establishment of processes and procedures that have been determined. In accordance views above, during the formation of legislation by the national parliament and the government relies only on the Constitution of East-Timor in 2002 and disciplinary rules of the national Parliament, it is quite conflict with the principles of the formation of legislation is good, because a law that is not grounded in the principles of the law, it will have implications for product character laws, and even worse on society or community. Later in the context discussed will be divided into; the first authority is owned by the National Parliament in the legislative formation; the second mechanism of filing of the draft law by the National Parliament.

The Authority Possessed by the Parliament in the Formation of Legislation

National Parliament (PN) or Institution legislative branch of power is first reflected people's sovereignty. There are three important activities are to be governed by the people through a parliament deputy; (1). The arrangements can reduce the rights and freedoms of citizens. (2). the arrangements which can overload the wealth of citizens; and (3). The arrangements regarding expenditures by the organizing country. While the government held the appropriate government, according to regulation of laws and laws set by the national parliaments, as suggested by Stephen Leacock, executive power is the power that the conduct of law. In other words, that the executives held a willingness state, which is expressed through the body-forming lows of the legislators. Thus the First Function Institution representatives of the people are the function of legislation. And government as the implementing legislation relating to the National Parliament of East-Timor has had dried constitutional functions, namely legislation; make law as stipulated in article 95 paragraphs 1 of article 86 of the RDTL Constitution along the National Parliament Rules. Then the legislation needs to be established by the National Parliament set out in article 95 paragraph (2) and (3) of the Constitution of East-Timor, through commissions affirmed in the article 29 paragraph 1 of the National Parliament of the Commission's regulations-this committee of joining MPs, factions and government stated in article 97 of the RDTL constitution. Proposed Draft held at the time of submission of the Full Assembly had to be discussed in detail and thoroughly dried. The establishment of laws, rules, there are three main components fulfilled; First, it is the legislators Institute (legislators); second, the procedure or procedures, formation guy (the Act), the third is the substance to be regulated under the Act. The citing or opinion of FAM Stroink, and JG Steenbeek call it a core concept in state law and administrative procedure law that the authority of rights and obligations contained therein. The rights held by the members of national parliaments to propose new laws and regulations, to be debated in the full

meeting, set out in Article 97 and by Letter the RDTL Constitution, emanates National parliaments have the right to make laws (a). Members of Parliament; (B). Faction in National Parliament right of initiative legislature making the minute's public proposals received, discussed and approved had dried together in the Full Meeting. Thus the right of MPs and factions is a demand that must be implemented and the associated authority is the authority born of the National Parliament by the Constitution 2. Mechanism of filing the draft law by National Parliament legislation as a process. Woodrow Wilson says that; legislation is the aggregate, not simple production. Furthermore, it is said by Jeremy Bentham Dan John Austin; "Legislation as any form of law making" The term is, However, restricted to a particular form of law making, this. The declaration is a statutory form of rules of laws by the legislation of the state. The law has its source in legislation is called enacted law or statute or written law. With such a rule set by the Institute of binding legislative intent had dried by the public. Connection with the establishment of laws is defined as the process of making laws, which skeleton starting from the planning, preparation, preparation techniques, formulation, discussion, validation and dissemination, narrowed by the WJS Poerwadarminta, said formation also be interpreted as a process, man, or deeds form. This will be presented legislation that formation performed by the National Parliament through four stages.

Mechanism Making of the Draft Law by the National Parliament

The establishment of law is a process planning and submission of the draft law by national Parliament Formation of statutory regulations essentially part of good development activities, including construction law, would occur if the planning starts with good planning mechanisms. Through this law, can be found the relationship between the developments of law with other fields of Development, through this planning can be done the legal establishment had dried integrated and unified political and formulate laws to be achieved within the existing various areas of law. By the draft law emphasizes the importance of the establishment of laws and through the mechanism of the preparation of the national legislative program. As stipulated in Article 97 paragraph 1 of the Constitution of East-Timor, on the initiative law states; 1. Initiative legislation owned by: a) Members of National Parliament; b). Factions in the National Parliament; c) The government. Legislative initiative, is a power for members of the national Parliament, the Government and national Parliament fractions, arranged in chapters 86 and 87 of the National Parliament Rules, which states that; Article 86 states that this initiative is Deputy law, the government and parliamentary party. And Article 87 (Forms initiative), it can be understood every faction and members of Parliament have the right to initiate a draft law and submitted to the Chairman of the National Parliament. The rights should be used by every member of National Parliament, proposed legislation and draft legislation sent by the initiator (the Member of National Parliament, Government and faction) to the chairman of the National Parliament, which has verified the formal request, Further will contain it as arranged in article 96 Rules of the National Parliament, connection with the implementation of the Initiative draft legislation proposed by members of the National Parliament, the Government and the fractions must accordance with the criteria set out in article 96 paragraph 1 of the National Parliament Rules, if the non-conformable has, then the President of Parliament, will reject the draft law, it applies to members of the National Parliament and factions whereas it calls the Government to submit a written application and then Parliament can issue a resolution that essentially agree that the government continued preparing the draft legislation. Initiatives must not violate the Constitution or the principles contained in Article 88 of the National Parliament and the rules in Article 89 and Article 97 paragraph 2. The preparation stage, there are some important activities are regulated in the draft law, namely the preparation of the manuscript academic. The academic paper contains academic thinking about the substance of the legislation that

rules formulated very helpful academic manuscript or any board member who is involved in the formation of the rules, because all the information and date academic thinking with related substances accumulate in the academic manuscript document. Drafting of legislation carried out in accordance with the technical preparation of statutory regulations. This provision for the technical preparation of regulatory legislation becomes attached to the bill on the establishment of statutory regulations. Mechanical drafting the legislation rules applicable to all types of statutory regulations, which are both listed as part of the hierarchy of structural and functional hierarchy, which laws are made by the national parliament or government. The most important things related to the preparation of the technical legislation is concerned the regulatory framework of the legislation, matters such as delegation of authority Specials, investigations, changes in statutory regulations, the establishment of a government regulation in lieu of law becomes law, ratification of international treaties, varieties of English law regulations, as well as forms of draft laws and regulations.

Discussion and Deliberation Process

A setting on the bill has been discussion that the substance set forth in article 99 of the RDTL Constitution. The bill, along with an explanation / description, and / or academic manuscript derived from MPs, factions and the government had dried submitted in writing to the Chairman of the national Parliament, taking into existence in the legislative initiative of the Committee will be submitted for consideration early in Article 96 TT Parliament, The Committee shall prepare reports and VIEW gowns in time determined by the president of the National Parliament TT in the article 98 of the National Parliament. Furthermore, the chairman of the Committee shall appoint a report author to prepare a report and the article VIEW Item 31 (g) 1 in accordance with Article 33 paragraph by paragraph 1 and 2 TT PN, should report things to load. Discussion of the bill along with the process of explanation / description, and academic manuscript or derived from, members of national Parliaments, factions and the government had dried submitted in writing by the Chairman of the Commission to the Chairperson of the Parliament, after the bill is received notifying the Members of Parliament Chairman entry of the bill, then share them all Members. Furthermore, the Commission discusses the bill, and in the discussion time 30 (thirty) working days, the Commission or the Agency Legislation invite members of national parliaments fittings as much 2/3 (one third) of the number of fittings Members of Parliament, to discuss the bill discussion Results are reported the Plenary Session, the bill has been discussed subsequently submitted by the Chairman of the Parliament to the President for endorsement (proof) in accordance with Article 88 paragraph 1 of the Constitution of East-Timor, this discussion focused on the principles and structure of any draft or proposed legislation as well as on general matters the presentation begins with the propose initiative by (members of national Parliament or the government, and with the presentation of the report followed the Committee view compiled by the authors of the report, followed by parliamentary factions, set in article 100 paragraph 1 tata orderly National Parliament. After the consideration and drafting of the initial and the Committee view, further Initiative is scheduled for discussion and voting sweated about common things in full siding National Parliament. The schedule set by the chairman after hearing the meeting and Deputy Faction of Parliament should be included in the discussion of the agenda as set out in Article 50 T, PN, discussion starts in the Plenary Session, and the delivery Reasons and conclusions bill by initiates establishment, in accordance with the Article 100TT National Parliament. If the legislative initiative was rejected after the discussion is finished, if approved, the initiative can be forwarded to the Committee the authority to be taken into consideration minutes, and held voting sweated matters concerning Special, has been regulated in article 101 TT PN; If the discussion and voting on matters sweated Special reference to the matters in article 95

paragraph 2 and 3 of the Constitution of RDTL, it must be carried out full siding. Thus the discussion is for things that are included in the exclusive authority of Parliament to other things, and the discussion of voting on matters sweated Special held in the Committee. Special phase is proposed in the proposed changes and sweated levied according to article 71 of the TTP If the draft bill proposal is accepted by the next PN then be submitted to the competent committee / relevant. This means that the commission in charge of the proposed issue in the bill, will be in Discusses had dried Lodging (article by article) level commission and will result delivered in full session with the aim that all MPs can provide feedback on the content of the bill. Sweated collection can be focused on each chapter, paragraph or clause. After voting on matters sweated Special finishes. Held voting sweated overall finish. If the discussion and voting on matters sweated Special held in the Committee, the manuscript is forwarded to the full meeting for final sweated the whole collection is based on Article 104 and 105 TT PN draft or proposed legislation was rejected, at any stage discretion cannot be resubmitted in the same legislative session. The draft proposed legislation and will expire end of service legislative laws. However, if there are clauses should be repaired, it will recommend to the full commission for a relevant editorial content and improve, so that the next full Assembly can make voting had dried thoroughly and to end determine whether the bill is approved or rejected by the substantial majority members Present PN. The discussion carried out by the national parliament this time, according the order of the National Parliament, had dried theoretic not in accordance with the general formation of wings-wings good law as law-wings wings are the foundation for the formation of other laws, Scholten explained by that; wing law is not a rule of law to be considered as the rule of law, a law is too general wings, so it would or not at all or too much talk. The law enforcement wings had dried directly through the subsuming or not the grouping as a rule probably, because it first needs to be established for more concrete contents. Although the theoretical odds had dried, but continued with the Voting Continues sweated held after the discussion is finished, has been set in article 101 paragraph 1 TT PN, Other causes that influence the content of the law is a system of voting, this is a guy governance Democratic process, to define different views of the content (the bill) in the full Assembly. This should be explored that the process as it is the last alternative path in the Democratic state. However, such a process often prioritizes political interests alone. Voting is the last process to determine sweated taken a substantial majority of parliament against the bill were discussed. With this face substantial majority of parliamentary voting determines the passage of a bill in the full Assembly, but the substantial majority sweated sometimes not consider the Principles of the contents of an existing bill, so that eventually the remains taken by the Community as a legal product that is not profitable. For example, in terms of the debate about firearms bill recently proposed by this government in the PN. This would be a sort of cultural PN East Timor in the future, due to board members always put political considerations of the true meaning of the contents of the Act, which is supposed to consider the elements of philosophy, sociology / anthropology and Historical.

The Promulgation

So that everyone knows the rules and regulations, explanation and / or with attachments must be promulgated in the State Gazette or placing the sheet area. Legislation covering East-Timor; Parliament decreed law, parliamentary decree law decree government, government decreed, Resolution, once ratified by the Republic and president of the Justice Ministry published by East-Timor. This enactment has important meaning because it is, in principle, any legislation Entry into force and have binding force on the date of promulgation, unless otherwise specified in the legislation concerned. Writing measure End Time 5 days, the final document that was approved through the end of the whole collection sweated sent back to the

committee in charge of writing the final preparation. At this stage no longer able to change the concept of legislative committee and the self-limiting repair systematize Script language and style, through the Council. As stipulated in article 106 TT PN. The text was forwarded to the President for signing it, and the next president of the Republic to be announced and publishing is the final step. Governed by Article 108 (Article 108), that; the decrees once signed by the President of National Parliament, are sent to the President of Republic for promulgation and publication. (The decree, after being signed by the President, will be sent to the President of the Republic to be announced officially had dried and publications). Once approved by a 2/3 majority of members of Parliament, it will be subsequently submitted to the President for endorsement or by refusing to use the veto in accordance with Article 85 letter c and Article 88 paragraph 1 of the Constitution. After that, it was announced through the sheets to the state enacted as law. The constitution is not set had dried firmly that if the time in 30 days the president did not use its veto, what the consequences. This raises policy, the need for regulation with the enactment of a law on the authority of the President veto in or not laws a, however it can be said that if the period of time within 30 days, the president did not use its veto then deemed to accept and should enact laws submitted.

Approval by the President of RDTL Dissemination and Law

Before the publication through the State Gazette and dissemination product laws, laws that have first been approved by the National Parliament through voting, submitted to the President of East-Timor, is obliged to validate and announced through the State Gazette (Journal of the Republic) to enforce the law consistently had dried and legitimate in the time period of eight days commencing from the date of receipt is confirmed article 88 paragraph 2 of the Constitution of East-Timor. But if President refused and returned to the Parliament, then the review carried cargo Stuff minutes to make changes as referred from the rejection, and perform re-polling sweated, and approved had dried consensus or shared. The draft law will then be signed by the president of the national parliament, then passed back to the President of the Republic as a new law draft to be announced and published. second; if the president legislation men-veto twice, then a 2/3 majority of the members of Parliament to approve the Absolute the law in Article 88, paragraph 3 is set 95 years and thus jumps RDTL Constitution 2002 has been set in article 109 paragraph (1) TT PN, Article 88 Constitution of East-Timor, after the draft legislation was approved to be reconsidered in terms of the things that have been commonly defined in article 109 paragraph 2 and 4 TT PN, this will only be done if the proposed changes to the final stages of debate on matters of public. If there is a change is approved, then the draft-law be continued to the Committee that the new make up the writing end. If there are two noting now opportunity? Both options will pass sweated different voting procedures. Act of Advertisement approved can be the same with the current provisions submitted and rejected by the president of the republic. For that would be required sweated absolute majority of parliament. If approved, the president should announce in a time of 8 days in a regulated article 110 paragraph 1TTP.

Thus the legal drafting can be approved and ratified by the National Parliament, the President of RDTL to veto if the legal drafting is as much as two times, but as a Democratic State constitutional authority of Parliament here look so moons and has been violating the constitutional principle of a Democratic State. By it because there are obvious should rule of law and certainly on good vetoed approval procedures and carried out by Parliament and the President of East-Timor. In order for the act of advertisement is approved and passed into law by the known forms of society should be the dissemination done by national Parliament and the government, since the preparation of the draft legislation, the discussion until enactment. The dissemination do provide that information and requested input and Society for stakeholders.

CONCLUSIONS

In accordance with the above explanation, it can be summed up as follows: The authority of the establishment of statutory regulations National by national parliament of East-Timor, an authority born and affirmed by the Constitution of East-Timor in 2002. The mechanism of formation of laws made by the National Parliament through four stages in accordance with Article 95 Constitution of RDTL and order number 4 of the National Parliament in 2002.

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