
THE ROLE OF PEOPLE'S REPRESENTATIVES COUNCIL AND PRESIDENT POST THE AMENDMENT TO BASIS OF THE 1945 LAW IN THE ESTABLISHMENT OF LAW

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ABSTRACT

Introduction: The powers of the President according to the 1945 Constitution of the Republic of Indonesia include administrative, legislative, judicial, military, and diplomatic powers. After four amendments to the 1945 Constitution of the Republic of Indonesia, the power of the President was significantly reduced. Many people think that there has been a shift in power towards strengthening parliamentary institutions (legislative heavy).

Method: This research is a type of normative research, data collection techniques through literature study methods. **Result:** The first amendment to the 1945 Constitution of the Republic of Indonesia in the 1999 MPR General Session contained several articles to avoid the accumulation of President's power, thus opening opportunities for the realization of the concept of power sharing. The shift or handover of legislative power from the President to the House of Representatives due to the First Amendment of the 1945 Constitution (Article 5 paragraph 1 and Article 20 paragraph 1), at least several things should be considered: first, the shift in legislative power from the President to the DPR means strengthening the position and function of the people's representative's council (DPR) as an institution legislative. **Conclusion:** Post-Amendment to the 1945 Constitution resulted in a new format for the House of Representatives, in which the role and authority of the House of Representatives became stronger than the President. With this shift, the President is not in full power when forming the Law.

Keywords: People's Representative Council, President, Law, Indonesia

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INTRODUCTION

The State always has a text called the Constitution or Basic Law. All constitutions have always been a power as the centre of power itself; in essence, it needs to be regulated and limited accordingly. The enactment of a form as a binding basic law is based on the highest authority or the principle of Sovereignty adopted by a country. If the government adheres to the ideology of people's Sovereignty, then the source of legitimacy is the people. If what applies is the understanding of the king's Sovereignty, then the king determines whether a constitution applies (Jumadi, 2016).

The Constitution is the basis used as a guideline in the administration of a country. The figure can be in the form of a written basic law called the Basic Law (Jimly, 2009). Shapes can be divided into two categories: political bodies and social conditions. A political constitution is a constitution which is merely a legal document containing articles containing basic norms in the administration of the State, the relationship between the people and the State, state institutions and so on. At the

same time, the social Constitution has a broader meaning than just a legal document because it contains the social ideals of the nation that created it, philosophical formulations about the state, social and economic system formulations, as well as formulations of the political system that the country wishes to develop (Mahendra, 1996).

In developing national life, the Constitution is the best choice for providing ideological bonds between those in power and those they control (the people) (El-Muhtaj, 2017). The form is a keyword in the life of modern society. Hence, as the most important part of the nation's life, the figure reflects a significant relationship between the government and the people. The presence of a form is a condition sine qua non for a country. The body not only provides an overview and explanation of the mechanisms of state institutions, but it is also found in the relation and position of the rights and obligations of citizens. The Constitution is a social contract between those governed (the people) and those who rule (rulers, government).

According to CF Strong in his book *Modern Political Constitutions* (Strong, 1960), the objects of a constitution, in short, are to limit the government's arbitrary action, guarantee the rights of the governed, and refine the operation of the sovereign power. So important is the presence of a constitution in a country. It is difficult to imagine how a country is experiencing a crisis in its body. Theoretically, it can be said that all nations and countries express the main points of view of the establishment and conceptual principles regarding managing their lives in the form of a written or unwritten constitution. In a welfare state, the most important thing is that the State is increasingly autonomous in regulating and directing the functions and roles of the State for the benefit of society.

In line with the idea of constitutional democracy, which is inseparable from the concept of the rule of law, both *rechtstaat* and the rule of law, in principle, have a fundamental similarity, namely the recognition of the importance of constitutionally limited powers. Lord Acton, in his "political axiom", says power tends to corrupt and absolute tends to corrupt absolutely (power tends to rot and absolute power tends to deteriorate, too) (El-Muhtaj, 2017).

One of the characteristics of a state, which in English is called a legal state or a state based on the rule of law, is that it has a different historical background and understanding. Still, both contain the idea of limiting power (Saldy, 2021). The restriction was carried out by law which later became the basic idea of modern constitutionalism.

Therefore, the rule of law is also referred to as a constitutional state or constitutional State, namely a state limited by a constitution. In the same context, the idea of a democratic state or people's sovereignty is also called constitutional democracy, which is connected with the notion of a democratic state based on Law (HABSARI, 2013). State law (*Rechtstaat*), the State aims to organize legal order, namely the order which is generally based on the law contained in the people. The rule of law maintains legal order so that it is not disturbed and everything goes according to Law (Cahyani, 2021).

While some experts define a rule of law state differently, as stated by D. Muthiras, the rule of law is a country whose composition is properly regulated in-laws so that all the powers of its government apparatus are based on Law (Pramita Sari, 2019). The people are not allowed to act independently according to their will, which is against the law. The rule of law is a country ruled not by people but by laws.

For countries with a constitution, especially those calling themselves a state of law, the body of the government functions as the highest law and as a source of direction for all regulations in effect in the country concerned.

A civilized nation is a nation that carries out its legal functions in an independent and dignified manner —being independent and dignified means that in enforcing the law, it is obligatory to side with justice, namely justice for all. Because if law enforcement can apply the value of justice, of course, the legal function is applied using philosophical thinking.

Philosophers have long developed the idea of the rule of law from ancient Greece. At first, in the republic, Plato argued that it is possible to realize the ideal State to achieve goodness with the core of integrity. For this reason, power must be held by people who know worth, namely a philosopher (the Philosopher King). But in his books "The Statesman" and "The Law," Plato stated that what can be realized is the second-best form that places the rule of law (Muhlashin, 2021).

A government that can prevent the decline of one's power is by law. In line with Plato, the goal of the State, according to Aristotle, is to achieve the best life possible, which can be achieved with the rule of law. Law is a form of collective wisdom of citizens (collective knowledge), so the role of citizens is needed in its formation (Usman, 2015).

The concept of a modern rule of Law in Continental Europe was developed using the German term "Rechtsstaat" by Immanuel Kant, Paul Laband, Julius Stahl, Fichte, and others. Meanwhile, in the Anglo-American tradition, the concept of the rule of law was developed as "The Rule of Law" pioneered by AV Dicey (Rokilah, 2019). The purpose of this study is to analyze and find the legal philosophical basis for the role of the House of Representatives and the President in the Indonesian constitutional system, to analyze and discover the role of the House of Representatives and the President in the formation of laws. The benefits of doing this research are as knowledge and scientific treasures of Constitutional Law in the study of Law science regarding the process of forming laws including the use of Carry Over and Omnibus Law methods.

METHOD

This is a type of normative research, namely legal research, a scientific research procedure to find the truth based on scientific logic from the normative side. The normative side here is not limited to statutory regulations, which is done by examining library materials which are the object of writing research the form of existing library materials, both in the State of books, journals, and regulations that have a bearing on the discussion of problems so that writing This is also a library writing (library research).

This study used data collection techniques through the literature study method, namely research carried out using literature (library), which includes laws and regulations related to legal concepts and the process of forming statutes, books, scientific journals, mass media, and the internet, as well as other relevant references to answer various problem formulations. Of course, this research method will collide with the phenomena that are happening now.

Legal materials obtained from the library research results were analyzed descriptively qualitatively, namely collecting and selecting legal materials according to the problems studied, then

described to produce a picture or conclusion following the actual situation to answer all existing issues.

The initial stage of the researcher treating qualitative data is organizing and organizing the data. With a lot of qualitative data from the data collection results, the researcher must collect the information neatly, systematically, and completely as possible. Systematic data organization allows researchers to:

- a. Obtain good data quality;
- b. Documenting the analysis performed; and
- c. Storing data and analysis related to the completion of the research.

RESULTS AND DISCUSSION

The post-New Order People of Representatives (DPR) underwent significant changes. The amendments to the 1945 Constitution resulted in a new format for the DPR, in which the role and authority of the DPR became stronger. In Legislation, the right is entirely in People of Representatives (DPR). As a lawmaker, the People of Representatives (DPR) can make laws. Based on Article 20 of the Constitution of the Republic of Indonesia says:

Paragraph (1) The People's Representative Council can make laws.

Paragraph (2) Each Draft Law is discussed by the People of Representatives (DPR) and the President for mutual approval.

Paragraph (3) If the Draft Law is not mutually approved, the Draft Law may not be submitted again at the session of the DPR at that time.

Paragraph (4) The President ratifies the Draft Law, which has been mutually agreed upon to become a Law.

Paragraph (5) If the President does not ratify the Draft Law that has been mutually agreed upon within thirty days after the Draft Law is approved, the Draft Law is valid to become a Law and must be promulgated.

Based on Article 20 of the 1945 Constitution above, there has been a paradigm shift, especially in making laws that originally had more executive branch power, changing towards the legislature (legislative heavy). The People of Representatives (DPR) is the holder of power in forming Laws. On the one hand, the President does have a duty to approve Draft Laws to become Laws after, of course, the Draft Laws are discussed jointly between the President and the People of Representatives (DPR).

Based on Article 20 paragraph (5) of the 1945 Constitution, without the President's signature, a law will take effect if it has been previously discussed by the President and the People of Representatives (DPR). Legislative power is not controlled by the People of Representatives (DPR) alone. Still, the President also has the right to participate as stipulated in Article 5, Paragraph (1) of the 1945 Constitution. The President's participation in the legislative field manifests a mechanism of checks and balances between the President and the DPR. So that the power of the People of Representatives (DPR) as the holder of legislative power can be minimized, even though, in the end, the law that has been mutually agreed upon will still be promulgated if the President does not approve it.

Article 4 Paragraph (1) of the 1945 Constitution of the Republic of Indonesia says that the President of the Republic of Indonesia holds government power according to the Constitution. Article 5, Paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that the President has the right to submit a Draft Law to the People of Representatives (DPR).

In this article, the President who holds government power refers to the President's understanding according to the Presidential system of government (Santio & Nasution, 2021). The President, as chief executive, has powers in the field of various laws and regulations, namely

- 1) Legislative power means the President can submit bills to the People's of Representatives (DPR).
- 2) Regimental power, which forms government regulations to implement laws or to implement government regulations instead of rules; and
- 3) Executive power contains regulatory authority, namely regulation by presidential decree. So that the understanding of the rights of the President in the legislative field can be understood easily

Legislative power in trias politica is the power to form laws. If reflected in the state institution that functions as holding legislative power according to the 1945 Constitution is the People's Representative Council as stated in article 20 paragraph (1) of the 1945 Constitution, which reads, "DPR holds power to make laws."

The State of Indonesia has established itself as a constitutional state. The rule of law in question is a state that rests on the belief that state power must be exercised based on just and good direction (Qamar et al., 2018). The rule of law requires that every action by the State must aim to uphold legal certainty, be carried out equally, be an element that legitimizes democracy, and fulfill the demands of reason.

That Indonesia, based on the applicable Constitution, characterizes it as a country based on the law (resistant) and not based on mere political power (machtstaat) in running the wheels of state government; this is indicated by how the process of political accumulation concerns the interests of the State as an institution that has the authority to regulate the social life of the community carries out the goods of the State on behalf of its people in forming state laws and regulations.

Based on Chapter I concerning the Form and Sovereignty of the 1945 Constitution of the Republic of Indonesia, said

Article 1, Paragraph (1) of the 1945 Constitution states that the State of Indonesia is a Unitary State in the form of a Republic.

Article 1, Paragraph (2) of the 1945 Constitution states that Sovereignty is in the hands of the people and implemented according to the Constitution.

Article 1, Paragraph (3) of the 1945 Constitution confirms that Indonesia is a state based on law.

To exercise state power as a form of implementation of the authority of state interests on behalf of its people will be realized by separating several state institutions, which we are often more familiar with as the trias politica.

The concept of trias politica is a normative principle that powers should not be handed over to the same person or institution to prevent abuse of power (abuse of power) by those in power.

So trias politica is a state power consisting of three kinds of energy, namely:

- 1) Legislative power, or the power to make laws, is often called the "rule-making function".
- 2) Executive power or the power to carry out the Act is often called the "rule application function."

3) Judicial power or the power to try violations of the law, which is often referred to as the "rule adjudication function."

These three state institutions will later determine state policies related to legal politics that are adapted to the power and authority of each of these state institutions.

Referring to the classical constitutional theory put forward by Aristotle, the concept of the rule of law is a thought that is confronted (contrasted) with the idea (rule of man). In the modern constitutional State, one of the characteristics of the rule of law (the rule of law or *rechtsstaat*) is marked by the limitation of powers in the administration of state power. The restriction was carried out by statute, which later became the basic idea of modern constitutionalism. As Julius Stahl, division or separation of powers is one of the important elements of the continental European rule of law theory.

The idea of limiting power is inseparable from the experience of accumulating all branches of state power in one person's hands, giving rise to absolute power. Based on the history of the development of state thought, the idea of horizontal separation of powers was first put forward by John Locke in the book "Two Treatises of Civil Government."

For more than 200 years, the legislature has been a key institution in the political development of modern countries. Observing the development of state institutions, the legislature is the first branch of power that reflects people's Sovereignty.

In CF Strong's view, the legislature is the government's power in the law in so far as the statute requires statutory force. In this regard, Hans Kelsen emphasized:

"By legislative power legislation, one does not understand the function of creating law, for a special aspect of this function, the general creation norm. "A law," a product of the legislative process, is essentially a general norm or a complex of such models.

"With legislative powers, the Act does not conceive the entire function of forming the Act, but the specific aspect of this function, the general norm of creation. "A law" is a product of the legislative process, a general or complex norm of these norms.

Furthermore, Hans Kelsen added the legislature's function is understood not as the formation of all general norms. Still, a special organ, the legislature, carries only the appearance of available criteria.

The general norms made by the legislature are called "laws." (statutes) which are distinguished from general criteria made by an organ or a legislative body. In the position of the legislature as the maker of all available standards, Jimly Asshiddiqie said

"The authority to regulate and make rules (*regeling*) is the domain of the authority of the legislature, which is based on the principle of sovereignty, is the executive authority of representatives of the sovereign people who determine a binding regulation and limit the freedom of every individual citizen (presumption of liberty of the sovereign people)."

As a modern country, Indonesia has adopted or practiced two models of government systems, namely the presidential and parliamentary systems of government, in different periods.

Throughout the period 1945 to 1959, Indonesia implemented a system of government with three different constitutions, namely:

1) The 1945 Constitution (1945 to 1949).

2) Provisional Constitution of the United States of Indonesia (1949 to 1950).

3) Provisional Constitution of the Republic of Indonesia 1950 (1950 to 1959).

When returning to the 1945 Constitution, through a presidential decree on July 5, 1959, Indonesia used a presidential system of government with the following characteristics:

1) The President and Vice President are elected by the People's Consultative Assembly (MPR) of the Republic of Indonesia.

2) The President is responsible for Indonesia's People's Consultative Assembly (MPR).

3) There are no restrictions on the President's term of office periodization.

With that character, Sri Soemanteri said that the Indonesian government system contains elements/characteristics of a presidential and parliamentary system of government. Because of this, when the People's Consultative Assembly (MPR) resulted from the 1999 general elections, it was agreed to maintain the presidential system of government during the four amendments to the 1945 Constitution (revision). Even though they have used different government systems, the power to form laws is in the same pattern, jointly between the government and the Regional Representative Council (DPR).

For Ismail Sunny, the phrase together in Article 5, Paragraph (1) of the 1945 Constitution resembles the function of Legislation in countries that use a parliamentary system of government.

Moh also expressed the same view. Kusnardi and Harmaily Ibrahim, if the provisions contained in Article 5 Paragraph (1) of the 1945 Constitution were connected with Article 21 Paragraph (2) of the 1945 Constitution before the amendment, the 1945 Constitution did not fully adhere to (using) a presidential government system because the President and the People's Representative Council (DPR) jointly make laws.

This means that of the three constitutions, there is one thing in common: the government and the People's Representative Council (DPR) have the power to form laws. Thus the three basic laws regulate and justify the fusion between the government and the People's Representative Council (DPR) in developing rules or legislative functions.

Therefore, as part of efforts to purify the Presidential government system in the amendments to the 1945 Constitution, which took place from 1999 to 2002, the provisions contained in Article 5 Paragraph (1) of the 1945 Constitution state that:

"The President holds power to form laws with the approval of the People's of Representatives."

Changed to "The President has the right to submit Bills to the People's of Representatives.

It did not stop until the amendment to Article 5 paragraph (1), Article 20 paragraph (1) was also changed from "every law requires the approval of the People's Representative Council (DPR) to "the People's Representative Council (DPR) has the power to form laws."

In Jimly Ashiddiqie's view, after the amendment to Article 5 paragraph (1) and Article 20 paragraph (1) of the 1945 Constitution, there has been a shift in substantive power in legislative power or lawmaking power from the President to the People of Representatives (DPR).

In line with Jimly Asshiddiqie's view, Wicipto Setiadi added that as the holder of state government power, the President only has the right to submit Bills to the People's Representative Council (DPR). This means that changes to Article 5 paragraph (1) and Article 20 paragraph (1) of the 1945 Constitution shift the pendulum of power to make laws from the executive to the legislature.

Even by comparing the differences in the formulation in Article 5 Paragraph (1) of the 1945 Constitution and Article 20 Paragraph (1) of the 1945 Constitution before and after the amendment, many people argue that the People's Representative Council (DPR) has become stronger in the use of its legislative function. Suppose the regulatory process of Legislation is only seen from the changes in Article 5, Paragraph (1) of the 1945 Constitution and Article 20, Paragraph (1) of the 1945 Constitution. In that case, it is not wrong to say that the pendulum of legislative power shifts from the executive to the legislature or changes from the President to the People's Representative Council (DPR).

That does not mean that the People's Representative Council (DPR) is stronger and more dominant than the President in legislative functions. Regarding the presence of Article 20, Paragraph (2) and Paragraph (3), Moh Fajrul Falaakh argued that the changes intended to empower the People's Representative Council (DPR) do not mean much in terms of legislative functions because each Draft Law is only valid if it is approved jointly. By the President and the People's Representative Council (DPR). Comparing the role or form of the President's involvement in the legislation process, Baqir Manan argued that before the amendment to the 1945 Constitution, there were four forms of the President's participation in the formulation of the Act, namely:

- 1) Design
- 2) Discussion at the People's Representative Council (DPR)
- 3) Refusing (not) to ratify the Draft Law approved by the People's Representative Council (DPR).
- 4) As well as loading in the State Gazette and Supplement to the State Gazette.

Of the four forms of involvement, Baqir Manan confirmed that approval is not the domain (authority) of the President in the process of forming laws. With this mutual consent. The function of Legislation in the Indonesian presidential government system after the amendment to the 1945 Constitution divided the ultimate authority that should only be owned by the People's Representative Council (DPR) into a dual source held by the People's Representative Council (DPR) and the President.

This change in legislative power took place after the process of amending the 1945 Constitution was completed in 2002. Still, on its way, it did not go according to the intent of the amendment to the 1945 Constitution of the Republic of Indonesia. Various problems still plague the People of Representatives (DPR) in carrying out the function of forming Legislation.

Two issues that are in the public spotlight on the legislative function of the DPR are the minimum quantity and quality of the People of Representatives (DPR) Legislation, namely:

- a. In terms of quantity, the legislative function of the People of Representatives (DPR) cannot be carried out optimally because the legislative targets in the national legislation program (prolegs) for four periods (1999-2004, 2004-2009, 2009-2014 and 2014-2019) have never been implemented achieved.
- b. Regarding quality, laws initiated and ratified by the People of Representatives (DPR) often become the object of judicial review at the Constitutional Court.

Philosophically, the legislative function of the People of Representatives (DPR) significantly influences the lives of many people. Every law produced is binding on the people of Indonesia without exception. This is where the participation of the People of Representatives (DPR) in carrying

out its legislative function is the focus, considering that this institution has the responsibility of being a forum for democracy and public participation in governance.

Based on the provisions of the 1945 Constitution of the Republic of Indonesia, there was a change in the pattern of power from which originally the power was in the executive power (executive heavy) to shift towards strengthening the legislature (legislative heavy). With this shift, the President is not in full control when forming laws. This shift is contained in the provisions of Article 5, Paragraph (1). It is also reflected in Article 20 Paragraph (1), which states that the People's Representative Council (DPR) holds the power to form laws. This makes the People's Representative Council (DPR) more responsible for creating rules. Therefore, the People of Representatives (DPR) has greater responsibility for the success or failure of Legislation.

According to the doctrine of the hierarchy of legal norms developed by Hans Kelsen, lawful means are hierarchical and culminate in the "grundnorm" or basic criterion. This hierarchical normative perspective is very influential in theory and practice, so it often has implications for the understanding or institutional structure of state power organizations that contain state positions or 'staatsorganen,' which also includes the hierarchical system itself.

Structurally, this understanding of the hierarchy of legal norms, as described by Hans Kelsen, has a direct impact on the institutional structure of state organizations, which consist of various state institutions, government positions and civil service positions, and even other public office positions.

In this formal and structural perspective, the hierarchy of legal norms automatically causes an absolute institutional scale. Institutions that create higher legal standards (higher norm-creating institutions) must be considered to have a higher position than institutions that make lower legal models (lower norm-creating institutions).

Hans Kelsen's theory of hierarchy of legal norms is just one part of Hans Kelsen's theory of law, as Hans Nawiasky's opinion is not much different from Hans Kelsen's idea of "grundnorm" which he calls "*staatsfundamentalnorn*" based on the theory of "Stufenbau der Rechtsordnung."

Hans Nawiasky formulates a hierarchy of norms that is more detailed, easier to understand, and quoted by many of our legal scholars. According to Hans Nawiasky, the order of legal standards includes:

1. State Fundamental Norms (*staatsfundamentalnorn*).
2. The Constitution is written (*staatsgerundgesetz*).
3. Formal Law (*formell gesetz*).
4. We are implementing laws and regulations (*Verordnung*) and autonomous regional regulations for governor and regent/mayor decisions (*autonomie satzung*).

It can be said that Hans Nawiasky is quite detailed and elaborative in explaining his opinion regarding

- i. *Staatsfundamentalnorn*
- ii. *Staatsgerundgesetz*
- iii. *Formell gesetz*
- iv. *Verordnung en autonomie satzung*

Whereas what Hans Nawiasky called hierarchical "*Staatsfundamentalnorn*" is above and is the valid basis for the text of the written Constitution (*Staatsgerundgesetz*). The text of the

Constitution becomes a presupposition for the material of the law as "Formell Gesetz," which then becomes the basis and foundation for the formation of implementing rules and regulations at the national government level (Verordnung).

In modern states, the Constitution regulates the fundamental interactions between state institutions, including the legislative function. The pattern of controlling legislative functions is determined by the design of relations between the executive and the legislature. The style of the government system largely determines this.

In the literature on constitutional law and political science, there are various variants of government systems, but the most common is

- 1) the parliamentary system of government
- 2) presidential government system
- 3) semi-presidential system of government

The government system has a character that is different from one another. This difference concerns the general texture of each government system and the patterns in forming laws.

In the realm of jurisprudence, there are many definitions of Legislation. The standard term used can refer to the provisions of Article 1 point 1 of Law Number 12 of 2011 concerning the Establishment of Legislation (UUP3) which states:

"Formation of laws and regulations is the making of laws and regulations which include the stages of planning, preparation, discussion, approval or determination, and promulgation."

The definitional limits, as stipulated by the law on the Formation of Legislation (UUP3) in terms of language and legal knowledge, contain a dichotomous meaning which means:

- 1) The process of forming a law.
- 2) The legal product itself

If a theoretical search is carried out, the legislation terminology will be the same as the Legislation itself, commonly called *wet* even, *gesetzgebung*, or Legislation. Based on reading and tracing various theories, it turns out that many experts provide definitions of this Legislation. Some give a single meaning, and some offer a double sense. This is because, theoretically, two main poles define the legislation process.

The two poles of opinion were inspired by two prominent legal experts, Von Savigny and Jeremy Bentham. For Savigny, Law is invented, not made. This view contrasts with the idea of Jeremy Bentham, who acculturates that law is constructed so that it can operate effectively.

In principle, some of the experts above believe that Legislation is not just a product but also a process. In it, there is the interaction between the institutions forming the law. Regarding the literal meaning of the word legislation itself, Legislation can be interpreted into several substances; at least there are three meanings of the word legislation, namely:

- 1) The process of making or enacting a positive law in a different form, according to some formal procedure, organized by the branch of government to carry out this process.
- 2) The law so enacted
- 3) The whole body of enacted laws.

Furthermore, Jeremy Bentham and John Austin said that "legislation" is "any form of lawmaking." "The term is restricted to a particular form of lawmaking. The declaration of the

statutory form of rules of law by the State's legislature. The law that has its source in Legislation is called enacted or written law."

Of course, the views above show that sociologically, Legislation is a field where interests and forces within society compete. Thus, the constitution-forming organs reflect the configuration of power and interests in the community.

The articulation of interests in society is reflected in the legislative process. Sardjito Rahardjo stated that the big stages in stages in the formation of law, namely

1) Social Stages

At the sociological stage, processes take place to finalize a problem which will then be brought into the juridical agenda. In the socio-political background, the initial idea that something needs to be regulated in law is processed by the people themselves, discussed, criticized, and defended through the exchange of opinions between various groups and forces in society. At this stage, an idea undergoes a test, whether it can be continued as a public agenda formatted legally or stopped in the middle of the road.

2) Juridical Stages

If the idea is politically successful, then the form and content will certainly change from the initial concept; it will be continued into the juridical stage, which is work that involves the formulation or approval of a legal regulation. This stage involves intellectual activities that are purely juridical and are undoubtedly handled by special legal educated personnel.

Regarding the discussion procedure above, Ann Siedman stated that the legislative process should pay attention to 6 (six) things, namely:

- a. Origins of the Draft Law (a bill's heritage).
- b. Concept (the concept paper).
- c. Prioritization.
- d. Drafting the bill (drafting the account).
- e. Research (research).
- f. Who has access (who has access and supplies input into the drafting process?)

In a country that adheres to a democratic system, the distribution of various interests and powers is accommodated through a representation system. From a democratic perspective, it requires equal treatment of every group, is characterized by relations and togetherness, and pays attention to public opinion. In this context, there should be an intense exchange between the legislature and the people.

Legislation plays an important role in implementing the Constitution, including clarifying, and detailing constitutional norms and regulating their performance. Legislation is an instrument or derivative of the Constitution (daily Constitution), or it is called basic Legislation in the United States.

The terms legislation and statutory regulations come from the word *wettelijke regels*. The two terms are not used consistently, depending on the context in which they are used, but both the terms laws and regulations come from the word "law," which refers to the type and form of regulations made by the State.

Laws in Dutch literature are known as "Wet," which has two kinds of meanings, namely "wet in formal zin" and "wet in materieel zin," namely laws based on the form and method of formation as well as the meaning of laws based on to its content or substance.

Based on this, it can be formulated that the statutory system is the entire set of state regulations arranged regularly in terms of form and substance.

Burkhardt Krems mentions the establishment of the regulation

1. Concerning the contents of rules (Inhalt der Regelung).
2. Form and arrangement of regulations (Form der Regelung).
3. The rule formation method (Methode der Ausarbeitung).
4. And the process of forming regulations (Verfahren der Ausarbeitung der Regelung).

The contents of regulations can be referred to as statutory regulations if these regulations, in addition to containing binding legal norms in general, are also made by state institutions or authorized officials. In the Presidential system as adopted by Indonesia, in general, the legislative function has the following general characteristics:

1. The legislature tends to have broad powers to change any law. Lack of resources and other factors can act to blunt this power. (Congress tends to have general authority to amend any legislation. Lack of sources and other factors may serve to blunt this power).
2. The potential for legislative assertiveness is greater in presidential systems, but its realization depends on other conditions. (The potential for legislative emphasis is greater in the presidential system, but the actual realization depends on the presence of other states).
3. Legislatures in presidential systems are more likely to have specific, standing committees and subcommittees with several professional staff to half draft, review, and amend laws. (Legislatures in presidential systems are more likely to have specialized and candy-standing commitments and subcommittees with several professional staff to half draft, review, and amend Legislation).
4. Through the committee system, the legislature has other powers to summon expert witnesses, members of the cabinet, advisers to the President, etc., for public or private hearings before conducting the legislative process (Via the committee system, the legislature has extensive power to call expert witnesses, member cabinet, presidential advisor, etc. for public or private hearings before for congress).

The power of the State to form statutory regulations basically must be directed at the formation of good statutory regulations. Regarding the size of good Legislation, it can refer to Lon Fuller's thoughts regarding positive legal content, which must fulfill 8 (eight) elements which include:

- a. Regulations that serve as guidelines for authorities must be announced or published (Promulgation).
 - b. There must be general rules for decision-makers (The Generality of Law).
 - c. Laws or regulations may not apply retroactively (Retroactive Laws).
 - d. Regulations are arranged in a clear or clear formula (The Charity of Laws).
 - e. The rules may not conflict with each other (Contradiction in the laws).
 - f. Regulations may not contain demands beyond what can be done and cannot be fulfilled (Laws Requiring the Impossible).
 - g. Regulations may not be changed frequently (Constancy of the Laws through Time).
-

- h. There must be consistency between the promulgated rules and daily implementation where the government must strictly implement these rules (congruence between Official Action and Declared Rule).

In international practice, several criteria have been determined for a statutory regulation to be said to be a good statutory regulation.

CONCLUSION

After the amendment to the 1945 Constitution resulted in a new format for the People of Representatives (DPR), in which the role and authority of the DPR became stronger than that of the President. Based on Article 20 Paragraph (1) of the 1945 Constitution of the Republic of Indonesia, it is stated that the People's Legislative Assembly holds power to form laws where there has been a paradigm shift, especially in terms of making laws, which originally had more power in the executive branch, now shifting towards the legislature. (Legislative heavy). Article 5, Paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that the President has the right to submit Draft Laws to the People of Representatives (DPR). With this shift, the President is not in full power when forming laws. This shift is contained in the provisions of Article 5, Paragraph (1). It is also reflected in Article 20 Paragraph (1), which states that the People's Representative Council (DPR) holds the power to form laws. This makes the People's Representative Council (DPR) more responsible for developing rules. Therefore, the People of Representatives (DPR) (DPR) has greater responsibility for the success or failure of Legislation.

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