

Presidential Veto on the Draft Constitution of the Democratic Republic of Timor Leste

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Abstract

This study aims to analyze and examine the President's Veto Rights over draft laws submitted by the Timor Leste Parliament. In the administration of the Democratic Republic of Timor Leste, it is stated in Article 74 of the 2002 Constitution of the Democratic Republic of Timor Leste (RDTL) that the President of the Republic is the Head of State and the symbol of the guarantor of national independence and national unity as well as the smooth functioning of state institutions in a democratic manner. So that the power / authority of the state is held by the President. The research method used in this study is the normative legal research method, which examines and examines based on book reviews / literature reviews and law reviews. The results of the study show that based on Article 85 of the 2002 Constitution of the Democratic Republic of Timor Leste (RDTL) states that one of the authorities of the President of the Democratic Republic of Timor Leste is the veto right over Draft Laws. The veto right is the right to cancel decisions, provisions, draft regulations and laws, or resolutions. In order to improve and make effective the oversight function of the national parliament in fighting for the aspirations of the people of the Democratic Republic of Timor Leste to protect human rights, it is necessary to have limitations and criteria for the use of the President's veto power over draft laws.

Keywords : Veto Power, Authority, President, Draft Law.

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1. Introduction.

Rules or norms in society aim to ensure human survival, so that laws are formulated (Ali, 2012). That the existence of legal regulations and social norms in society (Clifford Shearing, et.al. 2003), the law functions to protect individual rights and maintain social peace (Syed Risvi, 2019). In relation to the rules or norms in a constitution in a country, in this case the constitution in the country of Timor Leste, in its constitution the objectives of the Democratic Republic of Timor Leste constitutionally according to the Constitution of the Democratic Republic of Timor Leste in 2002, require all state institutions, namely, the President of the Democratic Republic of Timor Leste, the National Parliament of the Democratic Republic of Timor Leste, the Government of the Democratic Republic of Timor Leste and the judiciary as well as the Ministers, and other officials vertically and horizontally both at the central government and regional government levels, have the duty and authority to maintain the fundamental objectives of the Democratic Republic of Timor Leste as follows: maintaining and guaranteeing the sovereignty of the State, guaranteeing and advancing basic rights and freedoms. Maintaining the principles of a democratic state and the rule of law of the Democratic Republic of Timor-Leste, involving the people in resolving state issues; ensuring economic development, scientific and technological advancement, and advancing the development of a society based on social justice to achieve the people's welfare.

Authority concerns only a specific portion of authority, in this case derived from government organizational law, which can be defined as the entire set of rules concerning the acquisition and use of government authority by public law subjects within public legal relations (H. D. Stout, 2011). Regarding authority, Article 85 of the 2002 Constitution of the Democratic Republic of Timor-Leste (RDTL) states that one of the powers of the President of the Democratic Republic of Timor-Leste is the right to veto draft laws. Therefore, the regulation of the President's authority to exercise the President's veto over draft laws demonstrates the President's special powers. This is contrary to the essence of the provisions in Article 1 paragraph (1) and Article 2 paragraph (1) and paragraph (2) of the Constitution of the Republic of Timor Leste which states that the Democratic Republic of Timor Leste is a democratic, sovereign,

independent and united country, based on the power of law, the will of the people and respect for human dignity). The provisions of this article determine in a limited and clear manner that a democratic country means that the governance of the Democratic Republic of Timor Leste is carried out by upholding democratic principles. Therefore, as a democratic country, in making decisions and making general policies, the government must ask for the support of the people to participate as a form of democracy.

This clearly demonstrates a conflict of legal norms or constitutional antinomy resulting from the granting of broad authority to the President in his capacity as Head of State. However, constitutionally, the President's power and the powers of other state institutions must be limited according to the 2002 Constitution of the Democratic Republic of Timor-Leste. These limitations aim to prevent abuse of authority and arbitrary actions by state officials, namely the President, the National Parliament, the Prime Minister, ministers, judicial officials, and others, in carrying out their governmental duties and authorities.

The theory of popular sovereignty emphasizes that the people hold sovereignty in electing the leaders of state, the President and the National Parliament, according to the procedures stipulated in the 2002 Constitution of the Democratic Republic of Timor-Leste. Populist democracy asserts that sovereignty rests with the people (Yohanes Usfunan, 2019).

The formulation of the provisions above is that, bound by legal force, meaning that all government actions and relations between the government and the people of Timor Leste must be based on statutory regulations and uphold the supremacy of law. Thus, the supremacy of law in the Democratic Republic of Timor Leste is highly respected in accordance with the provisions of Article 1 paragraph (1) of the Constitution of the Democratic Republic of Timor Leste in 2002. The supremacy of law is also regulated explicitly and firmly according to the provisions of Article 2 paragraph (2) of the 2002 RDTL that the State is subject to the Constitution and Law.

2. Problem Formulation & Methode Research

The problem formulation in this research is how to analyze the legal rights of the president's veto against the draft law of Timor Leste. The research method

used in this research is the normative legal research method, which examines and researches based on book reviews / literature reviews and studies of laws and legal theories in this case to analyze and examine the President's Veto Rights over the draft law submitted by the Parliament of Timor Leste.

3. Analysis and Discussion.

3.1.The President's authority is based on the 2002 Constitution of the Democratic Republic of Timor Leste (RDTL).

Regarding the governance of the Democratic Republic of Timor-Leste, the 2002 Constitution of the Republic of Timor-Leste serves as the basic law governing state institutions and delegating powers to them.

Generally, a Constitution contains three main elements: first, guaranteeing human and citizen rights; second, establishing a fundamental constitutional structure; and third, establishing a fundamental division and limitation of state duties (Chaidir, 2007). The importance of a state government system aligned with the protection of human rights is paramount. In this regard, all constitutions worldwide contain two fundamental elements: first, the authority and functioning of state institutions related to the state's system of government; and second, the protection of human rights related to the relationship between the government and its citizens.

In the governance of the Democratic Republic of Timor-Leste (RDTL), each state official, namely the President, the National Parliament, the Government (Prime Minister), and the Courts/Judicial Powers, constitutionally possesses attributive or original authority as stipulated in the Constitution/Constitution of the Democratic Republic of Timor-Leste of 2002. Thus, state institutions in the Democratic Republic of Timor-Leste can carry out their duties and authorities constitutionally within their respective areas of responsibility.

Good laws impact the effectiveness of the governance system (S.E. Trapnell, 2011), including in this case, governance of a country based on the authority granted by the constitution. Based on this authority, each state institution has the authority to act within the framework of governance guided by the authority stipulated in the Constitution. Therefore, each government official within these

branches of government must have a clear source of authority, and limitations on authority are necessary. The goal is to create balance and cooperation between each branch of government.

The President's powers, as stated in Article 85 of the 2002 Constitution of the Democratic Republic of Timor-Leste (RDTL), include:

- a. veto power over draft laws.
- b. appointing and swearing in the Prime Minister.
- c. requesting the Supreme Court to conduct preventive and abstract reviews of the compliance of regulations with the Constitution.
- d. justifying any violation of the Constitution caused by negligence.
- e. submitting matters concerning the national interest for decision through a popular referendum.
- f. declaring a state of war or a state of emergency.
- g. declaring war and establishing peace upon the Government's proposal.
- h. granting pardons and commuting sentences.

Article 85 of the 2002 Constitution of the Democratic Republic of Timor-Leste (RDTL) states that one of the President's powers is the veto power over draft laws. The veto power is the right to overturn decisions, decrees, draft regulations and laws, or resolutions. The veto power is usually vested in a high state institution, thus emphasizing the importance of the principle of public interest in exercising the veto power. To enhance and enhance the effectiveness of the national parliament's oversight function in upholding the aspirations of the people of the Democratic Republic of Timor-Leste to protect human rights, limitations and criteria are needed for the use of the President's veto power over draft laws.

3.2. Limitation of the President's Veto Power on the Draft Constitution of the Democratic Republic of Timor Leste.

According to Gustav Radbruch, the legal ideal "rechti-dee" serves as a regulative and constructive benchmark. Without it, the resulting law will lose its meaning (Warassih, 2006). In its function as *ius constituendum* (the law envisioned), the legal ideal serves as a positive value that illuminates legal norms.

Therefore, philosophically, the legal ideal serves as a foundation/guideline for achieving the desired goal of a constitutional state, thus producing responsive legal principles. In this regard, laws are formulated regarding the criteria for limiting the President's power, including the President's veto power over draft laws.

Article 74 of the 2002 Constitution of the Democratic Republic of Timor-Leste (RDTL) states that the President of the Republic is the Head of State and the symbol of the guarantor of national independence and national unity, as well as the smooth functioning of state institutions democratically. Therefore, the President holds state power/authority. Article 85 of the 2002 Constitution of the Democratic Republic of Timor-Leste (RDTL) states that one of the President's powers is the right to veto draft laws. Veto power is the right to overturn decisions, decrees, draft regulations, laws, or resolutions. Veto power is usually vested in a high state institution, thus emphasizing the importance of the public interest in exercising veto power. To enhance and enhance the oversight function of the national parliament in upholding the aspirations of the people of the Democratic Republic of Timor-Leste to protect human rights, limitations and criteria are necessary for the use of the President's veto power over draft laws.

Based on this legal ideal, it is hoped that restrictions on the President's power in exercising the President's veto power in the Democratic Republic of Timor-Leste require regulations that meet established responsive legal standards/criteria. Essentially, the preamble to the 2002 Constitution of the Democratic Republic of Timor-Leste contains a legal ideal, requiring that all legislation, including those limiting the President's power, be implemented to meet the standards of legal certainty and justice. This legal ideal (*rechts idee*) of the Democratic Republic of Timor-Leste can be understood from the formulation: the administration of state government in Timor-Leste, in implementing all aspects of development (for the sake of general welfare—according to researchers), must uphold the values of legal certainty and justice.

Therefore, the President of the Democratic Republic of Timor-Leste's attributable power/authority to dissolve the national parliament and exercise veto power over draft laws must be clearly defined and regulated in the constitution or

positive legal provisions, thereby ensuring legal certainty and justice in accordance with the legal ideal and the concept of the rule of law of the Democratic Republic of Timor-Leste.

Article 1, paragraph 1 of the 2002 Constitution of the Democratic Republic of Timor-Leste (RDTL) stipulates that the Democratic Republic of Timor-Leste is a democratic, sovereign, independent, and united state, based on the rule of law, the will of the people, and respect for human dignity.

To achieve legal certainty and justice regarding the limitations and criteria for the President's veto power over a draft law, this must meet philosophical and theoretical considerations, as well as the provisions of positive law of the Democratic Republic of Timor-Leste, in accordance with three layers of legal science. In this regard, Meuwissen (Sidartha, 1997) states that the layers of legal science, broadly defined, include legal philosophy, legal theory, and dogmatic legal science.

The granting of broad powers to the President of RDTL requires limitations in the following ways:

1. This is done through the delegation of regulations from articles in the constitution to be further regulated by law.
2. Limitations on the President's power regarding veto power over draft laws are in accordance with the objectives stipulated in the law.
3. Further delegation of regulations from other constitutional articles to/within the law is necessary for other fundamental matters.

The purpose of limiting the President's power in the RDTL is to create national stability and state security. Granting excessively broad powers has the potential to lead to arbitrariness and abuse of authority, corruption, and human rights violations.

4. Conclusion.

State institutions have the authority to act within the framework of government administration, guided by the authorities stipulated in the Constitution. Therefore, each branch of government must have a clear source

of authority, and limitations on this authority are necessary. The goal is to create balance and cooperation between the branches.

Article 85 of the 2002 Constitution of the Democratic Republic of Timor-Leste (RDTL) states that one of the powers of the President of the Democratic Republic of Timor-Leste is the right to veto draft laws. This veto is the right to overturn decisions, decrees, draft regulations, laws, or resolutions. To enhance and enhance the effectiveness of the national parliament's oversight function in upholding the aspirations of the people of the Democratic Republic of Timor-Leste to protect human rights, limitations and criteria are necessary for the use of the President's veto over draft laws.

The granting of broad powers to the President of the RDTL requires limitations in the following ways: First, by delegating regulations from articles in the constitution/UUD to be further regulated in/by law. Second, by limiting the President's powers to the dissolution of the National Parliament and the right to veto a draft law in accordance with the objects stipulated in the law. Third, further delegation of regulations from other constitutional articles to/with laws is necessary for other fundamental matters.

In its constitution, the objectives of the Democratic Republic of Timor-Leste, constitutionally stated in the 2002 Constitution, require all state institutions, namely the President of the Democratic Republic of Timor-Leste, the National Parliament of the Democratic Republic of Timor-Leste, the Government of the Democratic Republic of Timor-Leste, the judiciary, as well as ministers, and other officials, both vertically and horizontally, at both the central and regional levels, to have the duty and authority to uphold the fundamental objectives of the Democratic Republic of Timor-Leste, as follows: maintaining and guaranteeing state sovereignty; guaranteeing and promoting fundamental rights and freedoms; upholding the principles of a democratic state and the rule of law of the Democratic Republic of Timor-Leste; involving the people in resolving state issues; ensuring economic development, scientific and technological advancement; and advancing the development of a society based on social justice to realize the welfare of the people.

Reference

Achmad Ali, 2012, *Reveals Legal Theory of Law and Judicial Theory of Judicial Prudence*, Kencana, Makassar.

Arief Sidartha, 1997, *Refleksi Teori Hukum*, Aditya, Bandung.

Clifford Shearing and Jennifer Wood, 2003, *Nodal Governance, Democracy, and the New Denizens*, Journal of Law and Society Vol. 30, no. 3.

Esmi Warassih, 2006, *Pranata Hukum, Sebuah Telaah Sosiologi*, PT. Suryandara Utama, Semarang.

Ellydar Chaidir, 2007, *Negara Hukum, Demokrasi dan Konstalasi Ketatanegaraan Indonesia*, Kreasi Total Media, Yogyakarta.

H.D. Stout, 2011, *Hukum Administrasi Negara*, Rajawali Pers, Jakarta.

Mulyadi, 2024, *The Relationship between Legal Effectiveness Theory and Coaching Effectiveness Prisoners in Correctional Institutions*, Focus Journal Law Review, Vol. 4 No. 1.

S.E. Trapnell, 2011, *Actionable Governance Indicators: Turning Measurement into Reform*, Hague Journal on the Rule of Law Vol. 3, No. 2.

Syed Rizvi, 2019, *Justice and Social Inequality*, Oxford University Press, New Dehli.

Thomas John Kenevan, 2022, *The United Nations in the Field of Education (Constitution United Nations Educational, Scientific and Cultural Organization)*, Focus Journal Law Review, Vol. 2 No. 2.

Undang-Undang Dasar Republik Demokratis Timor Leste (RDTL) 2002.

Yohanes Usfunan, 2019, *Hukum, HAM Dan Pemerintahan*, Udayana University Press, Denpasar.