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POSITION AND AUTHORITY OF THE PERMANENT COMMISSION OF THE NATIONAL PARLAMENT OF TIMOR - LESTE

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ABSTRACT

This research relates to the Position and Functions of the Special and Permanent Commissions of the National Parliament of Timor-Leste. The purpose of this study is to examine the functions and authorities in administering state institutions, especially in the institutional structure of the National Parliament. There are two legal issues discussed, namely: 1). What are the functions and powers of the Standing Committee of Parliament in carrying out its legislation and functions? 2). Factors hindering the functioning of the permanent commission of the National Parliament of Timor-Leste. Theoretically, this study focuses on the function, authority, and distribution of power and legislation.

This type of research uses normative research, with a statutory approach, conceptual approach, and comparative approach. The legal materials used are primary legal materials and secondary legal materials.

This study resulted in several conclusions including 1). The functions and powers of the Standing Committee of the National Parliament are overseeing the running of government activities, coordinating with structural commissions for each activity, as well as preparing and organizing sessions. 2). In essence, the legal factor is a procedural in a state based on law, every state administration must be based on legal norms. The product is a political process, but it needs to be carried out based on the legal basis, namely the philosophical basis, sociological basis, and juridical basis so that a legal product can obtain legal objectives, namely certainty, benefit, and justice. When the law is used as the basis, non-law elements must be removed in its implementation, so that it does not affect the moral action that is used as a process of behavior from government activities.

Keywords: Position, Function, Parliament, Constitution, and Regiment

PRELIMINARY

The existence of the National Parliament of Timor-Leste originated from the United Nations Transition Administration in East Timor (UNTAET) Government. Through Regulation No. 2/2001, concerning "Elections of the Assembly of Lawmakers (*Assembleia Konstituante*) to formulate a Constitution for the independent, sovereign and democratic state of Timor-Leste". This election was held on 30-August 2001. This regulation was approved by the Cabinet and the National Board. There are five things discussed in the regulation above, namely; (1) Legislative Assembly, (2) Independent electoral commission, (3) Registration of political parties,

(4) Rights of voters and candidates, (5) Allocation of seats.

The election that was carried out at that time was to elect 88 members of the Constitution Drafting Council, consisting of 75 members as national representatives and 13 representatives from the District level. With the specific aim of drafting the Constitution of the Democratic Republic of Timor-Leste (K-RDTL). The Constitution was ratified by the President, following the election of the President of the Democratic Republic of Timor-Leste (RDTL) in 2001 to ratify the Constitution of the Democratic Republic of Timor-Leste, as the supreme law (*suprema Lex*) in Timor-Leste.

Based on UNTAET regulation no. 2/2001 Article 20 states that political parties have registered themselves and submitted candidates to compete in elections. And in the UNTAET regulation No.1/1999 Articles 2 and 3 provide the right to freedom... constitutionally that the election of members of the national parliament and its composition are contained in Article 92 and Article 93 of the RDTL Constitution, this is further regulated in the Law on the election of Parliament National (*Lei eleitoral para o Parlamento Nacional*) no. 06/2006 no.7/2011, no.1/2012, and No.9 2017. The National Parliament of Timor Leste as a legislative body or one of the sovereign bodies located in the Unitary State of the Democratic Republic of Timor-Leste, the representative body for all people in The State of Timor-Leste with the task of making laws, supervising or fiscalizing and making political decisions as regulated in Article 92 of the RDTL Constitution " *O Parlamento Nacional é o orgão de Soberania da República Democrática de Timor-Leste, representative de todos os cidadãos timorenses com poderes legislativos, de fiscalização e de decisão política* .

According to the regulations/ laws for the election of Parliamentary elections, paragraph (2) states that members of Parliament are elected directly, publicly, freely, privately, and gradually, members of parliament are elected according to the duration of the legislature, which is once every five years (representative of political parties). In the Democratic Republic of Timor - Leste there has been a very *extraordinary election,* namely, there has been an anticipatory election, meaning that in two consecutive years there have been two elections for members of the Legislature, namely, on July 13, 2017, the normal Parliamentary elections and on May 12, 2018, were held again. general elections for Parliament called " *Eleisaun Antisispada* " or anticipatory elections based on the RDTL Constitution article 66 paragraph 2 which reads " *Refendo" are* held by the President of the Republic, at the suggestion of 1/3 of the members of the National Parliament and approved by 2/3 of its members or on a basic proposal from the Government.

The National Parliament has the competence to make laws, fiscalization or oversight, and make political decisions. Making legal projects (*projektu de lei*) and approving law proposals and appreciating and ratifying statutory products.

Formation of the Permanent Commission of the National Parliament based on Article 102 of the RDTL Law, the Regimento of the National Parliament of Timor-Leste Chapter III Articles 38-40 and Article 46, a permanent commission was formed after hearing the proposal from the results of the conference of the Representatives of the Fraction Leaders (*bancadas Parlamentares*),

at the plenary session at the beginning of each legislature as needed.

The members of the permanent commission of the National Parliament come from representatives of factions that have positions in the National Parliament and the number of members of their representatives is proportional.

1. The structure of the National Parliament Plenary session is the highest forum based on the internal regime of the National Parliament / *Regimento Parlamento Nacional de Timor-Leste* article 18presidential table: 1 Presidente, 2 vice presidents and, 1 secretary and 2 deputy secretaries.
    1. Parliamentary Fractions / *Bancadas parlamentares*
    2. Permanent Commission / *Special Commission Permanente*
    3. Fixed commission / *permanent commission*
    4. Temporary commission / *eventual commission*
    5. Secretariat / *Secretariat* :
        a. Plenary assistant section/ *Dirasaun ba apoiu plenaria*
        b. Research and Information Engineering Section / *Dirasaun peskiza no informasaun Teknika*
        c. Administration Section / *Dirasaun administrasaun*
        d. Cabinet Secretariat General / *Gabinete secretario geral*

2. The parliamentary factions listed in article 11 of the parliamentary regime / parliamentary factions are a collection of parliamentary members whose names are on the list of political parties or coalitions with several parties having representatives in the national parliament, the composition of the parliamentary faction consists of one faction leader and one or two Deputy Chairpersons of the Faction depending on the number of members and the needs of the faction and must communicate to the President of the National Parliament, every change that occurs in the Faction must be known by the President of the National Parliament. Article 12 *of the Parliamentary Regime* also includes members of the Independente Parliament, the independent Parliamentarians are not included in the factions in the National Parliament.
3. The Permanent Commission of the National Parliament consists of three types, namely:
    1) special Permanent Commission,
    2) Temporary commission (Eventual commission) and
    3) Permanent Commission.

a. Permanent Especial Commission or *Comisses Especializadas permanentes* which is owned by the national Parliament in each legislature and is divided into several permanent special commissions following the existing government structure, its members come from representatives of parliamentary factions Article 26 Regulation of the National Parliament The structure of the permanent special commission consists of one person the president, one deputy and the secretary of Article 31 paragraph (1) of the Parliamentary regulations. The functions and competencies of the permanent special commission are as stated in Article 92 of the RDTL Constitution and Article 35 of the regime Parlament which include

discussing legal products, giving *pareser* /opinion on proposals or products of legislation proposed to parliament, appreciating petitions and mediating political and administrative issues related to the competence of special permanent commissions.

b. The Provisional Commission (eventual commission) of the National Parliament can form an Eventual commission based on Article 36 of the Parliamentary regime which consists of a minimum of 10 people and can be from representatives of parliamentary factions and can invite techniques according to material needs or relevant topics. it is up to the eventual commission to appreciate the k -topics raised and report the results or dealers promptly.

c. The Permanent Commission, based on article 102 of the Constitution of the Democratic Republic of Timor-Leste and article 38 of the Parliamentary regime, describes the existence and function of the permanent parliamentary commission. The composition of this permanent commission is chaired by the President of the National Parliament and its membership consists of Vice Presidents and by members appointed by Political Parties, under their representation in the Parliament. This commission functions when the Parliament is dissolved and during a period of recess or *intervalvos das sessões.* the powers of the Standing Committee, respectively:
    a) Participate in government activities and government administration activities;
    b) Coordinate the activities of the National Parliamentary Commissions;
    c) Initiating summons to the National Parliament, if deemed necessary;
    d) Prepare and organize sessions of the National Parliament;
    e) Authorize the travel of the President of the Republic under Article 80;
    f) Directing relations between the National Parliament and analogous parliaments and institutions from other countries;
    g) Approving the statement of the State in a state of alert or the State in a state of emergency.

The activities of parliamentarians are regulated in Article 46 of the Internal Regime of the National Parliament, which in detail regulates all activities of the members of the National Parliament of Timor Leste. The activities carried out by the Members of the National Parliament of Timor Leste in one week are as follows;

1) Plenary sessions are held every Monday and Tuesday based on article 46 no 1a regime Parlamento ' *As reuniesdo plenário decorrem `as segundas e terças Feiras* ", if there are important matters that need to be resolved, the Plenary Extraordinario can be done or carried out on days other than Monday and Tuesday,
2) Special permanent commission sessions are held on Wednesdays and Thursdays based on article 46 no 1b regime Parlamento ' *As reuniesdas comissões têm Lugar s quartas e Quintas-feiras"* and on the days of the activities of this committee if there is

no law discussed in the Committee or the Commission, the members of the commission carry out supervision or fiscalization in the field regarding the implementation of projects or physical construction related to the state budget which is approved by members of Parliament every year.

3) Meetings with eleitores or voters or supporters of each party were held on Friday article 46 no 1c regime Parlamento ' *os contactos dos deputados com os eleitores e as reunies das bancadas e interbancadas são s sextas-feiras"* . In carrying out his duties as a Member of the National Parliament there is also a recess period in one legislative period, starting from July 15 to September 15, Article 45 no.1 Regime Parliament, and the activities carried out during the recess are that each member of the committee conducts comparative studies in other countries. related to the work of the commission, so that it can be used as material to be suggested to the government to implement it according to conditions. During recess, parliamentarians are given time to visit their voters inDistricts reach remote areas and during the interkala entre sesaun Rua (*interkala entre sesaun rua*) the National Parliament does not function as it should, only the Commission continues to function.

Each state institution runs it according to its duties and functions based on the principle of separation of powers (*separação de poderes*). The administration of the RDTL government is constitutionally divided into 4 (four) state institutions including 1). President of the Republic, 2).National Parliament, 3).Government, and 4). Court.Running the government is regulated in Article 67 of the C-RDTL 2002.

Horizontally the position of state sovereignty institutions, the arrangement in carrying it out is that each is subject to the principle of separation of powers where there is a separation between the four state sovereignty institutions, from the four state institutions the acquisition of authority and position in the form of a hierarchy both horizontally and horizontally. vertically, with that, the administration of government by state institutions or agencies is *interdependen*t. The horizontal separation of powers by state institutions regulates the limitation of power and prevents any inequalities or gaps that can lead to arbitrary actions. Therefore, there is a division of power as a form of limiting power and authority, which is one element that is like supervision and balancing between duties and functions and positions by state institutions and other government agencies.

In the function and position of the legislative body (National Parliament) the relationship fundamentally includes the function of legislation, the function of supervision, and the function of policymakers, as well as the interaction between state institutions, the regulation of which is regulated by the constitution, and the relationship is largely determined by the style of the representation system and the system of government.

The National Parliament of Timor-Leste is a legislative body or is one of the bodies of state sovereignty (*orgãos de soberania*) which is constitutionally regulated and its existence is a representative institution that obtains power and authority constitutionally through a democratic process, formally and procedurally carried out through a representative mechanism. Representatives are implemented in the form of direct elections (elections) by the people. This is stated in Article 93 paragraph (1) which

stipulates that: " *O Parlamento Nacional é eleito por sufrágio universal, livre direto, igual secreto e pesjual* " and paragraph (3) *Os deputados do Parlamento Nacional tem um mandato de cinco anos* .

The term of service of the legislature has been constitutionally stated for 5 years, Article 93 no.4 of the 2002 RDTL Constitution and Article 44 of the National Parliament regime, but in the administration of government, there are legal imbalances that can lead to disputes between state institutions so that legal actions can occur. constitutionally allows the dissolution (*dissolver*) by other state institutions, of course, it is a feature of the existence of *interdependencies* or interdependence, this happens for example in the case, the dissolution of the National Parliament in 2017 is a general election period usually held in the last five years, after the formation of the national parliament, only up to 6-7 months, the national parliament was dissolved by the President of the Republic so that the next general election was held again in 2018 with the term ' *Eleisaun Antesipada* ' due to a vote of no confidence from members of the national parliament against the progr am government rejected a second time.

Judging from the juridical aspect, the position and authority of the National Parliament have legal force, because it is directly elected, and vice versa its formation through a majority of election winners or coalitions, so that it can form the government as an executive body that has the function to implement policies approved by the National Parliament. and ratified by the President of the Republic for publication in the State Gazette (*Journal da Republika*).

RDTL Constitution stipulates that: *decisão politica* ." is furthermore related to the authority that is focused on rights and obligations as well as the division into factions (*bankada parlamentares*) and commissions.

Structurally, the National Parliament in the plenary session is the highest forum based on the *Regimento Parlamento Nacional de Timor-Leste* N.o 1/2016 in Article 18 *the presidential table* consists of the Presidente, 2 vice presidents, and secretaries, and 2 deputy secretaries. The establishment of a special Permanent Commission (*Komisaun espesializadas Permanente*) and Parliamentary factions (*Bancadas parlamentares*) as well as a permanent commission (*Komisaun Permanente*) and a temporary commission (*eventual komisaun*). this is regulated in Law no. 06/2006 article 16, no.7/2011, no.1/2012, and no.9 2017.

From the sociological aspect, the position and authority of permanent and special commissions for government administrators are to represent voters or the community to voice any problems faced by the general public to the government through fiscalization of financial results or state budgets used for development from the village level to the national level but not all recommendations and suggestions from the special commissions and the permanent commissions of the National Parliament can be heeded or followed up according to the urgency of each issue raised and the Government is always late in responding to the people's needs. However, the public continues to voice it through their representatives in each permanent commission and special commission in the National Parliament. The position and authority of the permanent commission and the special commission of the National Parliament as a legislative body should have a legislative function, a policy-making function, and a fiscalization function, and

the process of obtaining it through a general election responsible for representing the people by exploring the wishes and needs of the people by setting the state budget and revenue as a concretization in its realization of achieving state goals (*Objetivo do Estado*) which directly returns to the community through mechanisms from the people, by the people and for the people, efficiently carried out through consultation, interaction and discussion between members of the National Parliament and in general and respecting minority opinions, including those related to gender and vulnerable groups.

From the theoretical aspect, in Timor-Leste, there are four (4) State Institutions namely the President, National Parliament, Government, and Courts, following Article 67 of the 2002 RDTL Constitution. The division of authority and institutions has a different style from other state institutions as stated in Article 69 of the 2002 RDTL Constitution on the principle of separation of powers which stipulates that: the principle of separation of powers and interdependence set out in the Constitution". This shows that *interdependence* is a principle that is carried out in the administration of government, meaning that decision-making is not absolute from one state organ, but there is coordination and supervision by principal state institutions. In other words; no single state institution autonomously/independently carries out state administration in the sense of interconnectedness, this can be said to be a *distribution of power*, even though the topic of article 69 contains *separation of power*. So in Timor-Leste, in running the state administration, two principles/principles are adopted at the same time the separation of powers and the sharing of powers.

The national parliament has the competence to make laws, fiscalization or oversight, and make political decisions, as stated in the 2002 RDTL Constitution, Article 92. One of them is the content of laws and regulations by making a legal project called *projektu da lei*), and also carries out fiscalization of its implementation by the executive agency. Fiscalization is carried out to determine progress or achievements both in real and physical terms from the implementation of materials and statutory regulation. Of course, interdependence is a form of decision-making that has a public nuance or public interest that is coordinated in making and making political decisions for the national interest.

The National Parliament has obligations and responsibilities based on the vision and mission as stated in the constitution and as an *orgãos de soberania* must make it a dynamic, transparent, and open state institution for everyone to participate so that the delivery of people's aspirations is realized to achieve the welfare and prosperity of the state. and a democratic nation by adhering to the values of mutual humanism, especially the constitutional rights of all national and state entities of RDTL.

1.1.Formulation of the problem

Based on the title and background of the problem above, the writer formulates the problem in this paper as follows:

1. How does the permanent commission of the National Parliament of Timor-Leste as a Legislative Body function in carrying out its functions?
2. What are the factors that hinder the function of the Permanent Commission of the National Parliament of Timor-Leste in carrying out its functions?

RESEARCH METHODS

Method Research is a tool used by humans to strengthen, foster, and develop knowledge. Science which is the knowledge that is systematically arranged by using the power of thought, knowledge which can always be examined and critically studied, will continue to develop based on research conducted by its caregivers.

From the existing formulation, the research carried out includes normative research. Thus, the method is the core of the methodology in any research is to describe how the procedures for research should be carried out.

The methodology can be interpreted as one of the knowledge or knowledge about certain ways. The above definition of the methodology gives the following definition:

1. The logic of scientific research;
2. Study of research procedures and techniques;
3. A system of research procedures and techniques.

Types of research

In this research, the type of research used is normative legal research which is descriptive and argumentative about the position and function of the Permanent Special Commission of the National Parliament of Timor Leste. *On the problems studied,* because, in the author's point of view, the legislature gains power as an institution that has a legislative function, a fiscalization function, and general policy-making for the national interest. By Article 92 of the RDTL Constitution.

Approach Type

In legal research, there are several types of approaches, as stated by Peter Mahmud Marzuki, there are 5 approaches, namely:

1. Legislative approach (*statute approach*)
2. (*Conceptual Approach*)
3. (*Comparative Approach*)
4. Case approach (*case approach*)
5. approach (*Historical Approach*)
6. Another approach is the *fact approach*.

The legal approach is one of the elements of normative legal research, so in this study based on the legal approach described above, in this research, the approach method in this study uses a legal approach, a conceptual approach, and a comparative approach in assessing the position and authority of the permanent commission of the National Parliament. Normatively and conceptually and comparatively with several countries, especially CPLP countries.

Primary legal materials

Primary sources or authoritative, which is carried out by library research on several sources of legal material, legal principles, and legal rules through searching documents and scientific books and laws and regulations, related to the object of research such as:

a. RDTL Konstitusi Constitution
b. Law no. 06/2006
c. Law no.7/2011,
d. Law no.1/2012, and
e. Law no. 9 2017.

Secondary legal material

Legal materials were obtained from various kinds of literature, books, official documents, legal papers, the internet, legal dictionaries, and other supporting materials related to the research title.

Legal Material Collection Techniques

The procedure for collecting legal materials that are applied or used in the collection of legal materials in this research is research in

the form of a literature study, namely a search to find primary legal materials and secondary legal materials relevant to the problem, this research is carried out by collecting legal materials, through a card system. *(card system)*. Soerjono Soekanto and Sri Mamudji suggested that the cards that need to be prepared are "Quote Cards" which are used to record or quote data along with the source from which the data was obtained (name of author/author, the title of book, or article, empire, pages, and so on).

Based on the procedure for collecting legal materials proposed by Soerjono Soekanto and Sri Mamudji, researchers will conduct research by identifying and conducting an inventory of legal theories, concepts, and principles related to legal materials to explain the truth.

Legal Material Analysis Techniques

In analyzing legal materials, researchers collect legal materials in several ways that are used from sources of legal materials and methods of collecting legal materials, so that researchers can analyze with one system of several things used in the analysis. To analyze the legal material that has been collected, the following analysis can be carried out:

1. Description of legal material, legal material is described as it is against a condition or position of legal or non-legal propositions;
2. Systematization is looking for the relationship between the formulation of a legal concept or legal proposition between equal and unequal laws and regulations;
3. Interpretation, interpreting existing legal materials by using the types of existing interpretations; (grammatical, historical, systematic, teleological, contextual, etc.)
4. Construction, by establishing legal constructions by way of analogies and/or reversal of propositions (*a contrario);*
5. Evaluation, assessment in the form of right or wrong, agree or disagree, right or wrong, legal or invalid by the researcher on a view, proposition, statement of formulation of norms, decisions both listed in primary legal materials and secondary legal materials;
6. Arguments cannot be separated from the evaluation process, because the assessment must be based on reasons that are legal reasoning. In discussing legal issues, more arguments are generated, indicating the depth of the study.

From one component of the analysis used in this study, the researcher will carry out based on the existing stages, by describing the legal and non-legal propositions, by systematizing legal concepts in regulations relating to the division of authority internally in institutions, especially legislative institutions in In this case the National Parliament, by relying on the hierarchy of laws, researchers will also use interpretations through several things contained in the interpretation of the legislation.

THEORETICAL FOUNDATION

In this chapter, several theories and concepts related to legal issues raised as issues to be studied are described, related to the position and function of the permanent commission of the national parliament, the use of theories and concepts in these topics, and sub-topics as a basis for justification or used as a knife. analysis of the legal issues raised. The theories and concepts can be described as follows:

1. Constitutional Theory

2. Democracy Theory
3. Theory of the House of Representatives (theoria representação)
4. Theory of Parliamentary Structure Typology
5. Theory of imputation (duties and responsibilities)
6. State Institutional Theory
7. Authority Theory

Constitutional Theory

The term constitution comes from the French language *(Constituer)* which means to form. The use term constitution is meant to establish a state or to compose and declare a state.

According to political science, the Constitution in English (Constitution) has a very broad meaning, namely the whole of the written and unwritten rules that govern how the government is carried out in society.

Furthermore, in Latin, the word constitution is a combination of two words, namely *Cume* and *Statuere*. *Cume* is a preposition that means "together with ...", while *statuere* comes from the word *sta* which forms the main verb *stare* which means to stand. On that basis, the word *statuere* means "to make something stand up or to establish/set". Thus, the singular form of *Constitutio* means to determine something together and the plural form of *constitutiones* means everything that has been determined. Furthermore, the constitution, translated into Portuguese *"constituição"* which means legally, *DIREITO acto de estabelecer legalmente; instituição* , whereas politically, *política texto fundamental que regula os direitos e garantias dos cidadãos ea organização política de um Estado* .

The term constitution in Portuguese was adopted by the RDTL state where the RDTL constitution is the 2002 RDTL constitution which is a written document consisting of a preamble and a body consisting of 170 articles, which the constitution mentions in Article 2 paragraph (4) that "The State will recognize and respect Timor-Leste's norms and customs which do not conflict with the Constitution and any other laws that are particularly relevant to customary law". Although the article states that it recognizes norms and customs, in constitutional practice Timor-Leste recognizes written law and does not follow unwritten customs.

The term constitution is a translation of the Dutch language, namely *Gronwet*. The translation of *wet* in Indonesian is UU, and *Grond* means land/base.

Based on the two terms above, namely the constitution and the basic law, LJ Van Apelddorn clearly distinguishes between the two, if the Gronwet (basic constitution) is a written part of a constitution, while the constitution (constitution) contains both written and unwritten regulations. written.

According to ECS Wade, in his book *Constitutional Law*, the basic constitution is a text that describes the framework and main tasks of the government agencies of a country and determines the main points of how these bodies work.

Constitutions in politics are often used in at least two senses, as stated by KCWheare in his book *Modern Constitutions*. *First*, it is used in a broad sense, namely the system of government of a country, and is a set of rules that underlie and regulate the government in carrying out its duties. As a government system, there is a mixture of regulations, both legal (legal) and non-legal (*non-legal* or *extra-legal*). to describe the

entire constitutional system of a country, a collection of various regulations that form and regulate or direct the government.

These regulations are partly legal, in the sense that courts of law recognize and apply these regulations, and some are non-legal or extra-legal, in the form of customs, understandings, customs, or conventions, which are not recognized by the courts as law but is no less effective in regulating the state administration compared to what is standardly called law. In almost all countries, the constitutional system contains a mixture of these legal and non-legal regulations, so we can refer to this collection of regulations as 'constitutions'. Even when we talk about the (British) constitution, this is the usual meaning, or perhaps the only meaning, of the word. The British Constitution is a collection of legal and non-legal rules that govern the British constitution.

But secondly, in almost every country, except England, the word 'constitution' is used in a narrower sense than the above. This word is used to describe not the entire set of regulations, both legal and non-legal, but rather a collection of regulations that are usually collected in one document or several closely related documents. Not only that, the results of this selection are almost always a selection of mere legal regulations. Thus, the constitution, for most countries in the world, is the result of a selection of the legal regulations governing the government of that country and has been compiled in a document.

The second idea is that the regulations compiled in one or more of these documents are adopted by the RDTL state, namely, Timor Leste has the 2002 RDTL constitution which as a basic law has organic laws that are always following the basic principles that have been established. provided for in the basic law.

Countries in the world are distinguished based on variations in the composition and relationships between the three governmental powers. A modern constitutional state is a state that has produced laws and conventions that have been recognized to carry out the functions of the three governmental powers of a modern constitutional state.

James Bryce defines the constitution as "a framework of political society (state) organized by and through law. In other words, the law stipulates the existence of permanent institutions with recognized functions and assigned rights.

The constitution can also be said as a collection of principles that govern the power of government, the rights of the governed (the people), and the relationship between the two. The constitution can be a written record; the constitution can be found in the form of documents that can be changed or amended according to the needs and developments of the times, or the constitution can also take the form of a separate set of laws and have special authority as constitutional law. Or, it could also be that the basics of the constitution are set out in one or several constitutions, while the rest depends on the authority of the power of customs or habits. Meanwhile, according to Herman Heller's constitution, it can be seen from three aspects, namely the social aspect, the political aspect, the legal aspect, and the aspect of the rule of law.

For clarity, each aspect will be described as follows:

First, the constitution is not yet a legal definition, it just reflects the socio-political situation of a nation itself. Here the meaning of the law is

secondary, the primary is community buildings or community buildings' *political desire*s. These buildings are the decisions of the people themselves, for example, who is the chief of the tribe, assistants, and so on.The first aspect is related to the title of the position and authority of the permanent commission of the Timor-Leste national parliament, before the formation of the national parliament, the people of Timor Leste had customary laws (customs) which were always followed by community members, among community members, some violated the rules. custom, then there is a customary elder who sits as a judge to decide the case under the provisions of the existing customers which is done through *nahebiti bo ' ot*. This is related to the theory of the school of history pioneered by Carl Von Savigni that the law is not made, but grows and develops together with society *(volksgeist).* The intensity of this theory is what happens in people's habits. that before any laws were adopted from colonial countries such as Indonesia and Portugal, there was already customary law that was binding since the existence of the ancestors.us.

Second, the decisions of the community are made into a normative formulation, which then must apply *(gehoren).* The definition of politics is defined as *(eine seine)* which is a fact that must apply and a sanction is given if it is violated. This second form then contains legal meanings *(Rechtsfervassung).* *Rechtsfervassung* is not always written, for example, customary law. Here we see what is called abstraction (construction), which is a way in legal science to draw legal elements from social reality which are then used as legal formulations as well as exchanges, then made into buying and selling (part of the law). contract law). There is also a written *Rechtsfervassung, this arises as a regulator of the flow of codification, which requires that some laws be written with the intention of:*

a) Achieve legal unity *(rechtsieneheid).*
b) The simplicity of law *(rechtsvereenvoudiiging).*
c) Legal certainty *(rechtszekerheid).*

*third,*a written legal regulation. Thus, the basic law is a part of the constitution and not a safeguard for understanding according to previous assumptions. The equation of understanding is a wrong opinion, and if there is a common understanding then this is the result of the influence of the codification flow (modern school). The third aspect is that if it is related to the title above, the 2002 RDTL Constitution is the basic law that gives birth to all existing and future regulations according to the constitutional mandate.

About the concept of the constitution *Lasalle* divides the constitution into two senses, namely:

1) The constitution is between the powers that exist in society (real power factors), for example, the President, the Armed Forces, Parties, *Pressure groups*, workers, peasants, and so on.

2) The constitution is what is written on paper about the institutions of the State and the principles of government of a State. Same with understanding codification.

According to Lasalle's constitutional concept above, if it is related to the conditions in RDTL, the real factors above are state institutions listed in article 67, namely the President of the Republic, National Parliament, Government and Tribunal, F-FDTL, PNTL, parties in RDTL and ONG as *pressure groups*. In contrast *Carl Schmitt* in dividing the constitution into 4 meanings, namely :

1. Constitution in the absolute sense has 4 submeanings, namely:
   a) A constitution is an organizational unit that includes the law and all existing organizations in the State.
   b) Constitution as a form of State
   c) Constitution as an integration factor
   d) The constitution is a closed system of the highest legal norms in the State.
2. Constitution in a relative sense is divided into two senses, namely:
   a) The constitution is a demand from the bourgeoisie so that their rights can be guaranteed by the authorities.
   b) The constitution is a constitution in a formal sense (the constitution can be written) and a constitution in a material sense (the constitution in terms of its content).
3. The constitution in a positive sense is a supreme political decision so that it can change the order of state life.
4. Constitution in the ideal sense, namely: the guarantee of human rights and their protection.

Furthermore, according to *AAH Struicken* 's constitution, the basic law *(Grondwet)* as a written constitution is a formal document that contains:

a) The result of the nation's political struggle in the past;
b) The highest levels of development of the nation's state administration;
c) The views of the national figures who want to be realized, both now and in the future;
d) A desire, by which the development of the nation's constitutional life will be led.

In paragraph (a) that the constitution is a formal document containing the results of the nation's political struggle in the past which, if associated with the *preamble* of the constitution of the Democratic Republic of Timor Leste, paragraph 2 that:

> *"The drafting and promulgation of the Constitution of the Democratic Republic of Timor Leste is the culmination of centuries of resistance by the East Timorese people, which was intensified after the invasion on 7 December 1975".*

Based on the contents of paragraph 2 above which states that the culmination of the resistance of the people of Timor Leste shows that the constitution is a formal document that contains the wishes of the people of Timor Leste which was fought for during the people under Portuguese and Indonesian colonial rule. Then in letter (b) of the theory above, if it is related to the 2002 RDTL constitution, it is stated in article 67 that the high institutions of the State are the President of the Republic, the National Parliament, the Government (*Governo*), and the Courts (Tribunais).

In the letter (c) that " the views of national figures are to be realized, both now and in

the future", this is related to the 2002 RDTL constitution, in the Preamble of the 2002 RDTL constitution, paragraphs 13 and 14 that:

> *By interpreting the deep feelings, ideals, and belief in God of the people of Timor Leste; Seriously reaffirming its determination to fight against all forms of tyranny, oppression, social, cultural, and religious domination, and separation, to defend national independence, to respect and guarantee human rights and the rights of citizens, to guarantee the principle of separation of powers. in the organization of the State, and to establish the fundamental core rules of multi-party democracy, to build a just and prosperous State, and develop a united and friendly society.*

If the content of paragraph (c) is related to the 2002 RDTL constitution, this theory describes the aspirations of the people during the struggle against the colonialists to gain independence and ensure a free and prosperous society. From the views or ideology of the RDTL state, the researcher concludes that the ideals of the people of Timor Leste are:

1. To defend national independence,
2. Respect and guarantee human rights and the rights of citizens,
3. To guarantee the principle of separation of powers in the arrangement of the State,
4. To establish the basic core rules of multi-party democracy.

Of the four ideals summarized above, especially regarding the separation of powers within the RDTL unitary state, it can be seen in the RDTL Constitution.2002 article 95 is clearly stated regarding the Authority of the National Parliament which reads:

1. It is the authority of the National Parliament, to make laws on principle matters concerning the nation's domestic and foreign politics.
2. It is the exclusive authority of Parliament to make laws regarding:
   a) the borders of the República Democrática de Timor Leste, in accordance with Article 4;
   b) Borders of territorial waters, exclusive economic zones, and Timor Leste's rights to the wealth of the surrounding seabed;
   c) National symbols, based on number 2 Article 14;
   d) Citizenship;
   e) Rights, freedoms, and guarantees;
   f) Individual status and abilities, family rights, and heirs' rights;
   g) Territory division;
   h) Laws on elections and the referendum system;
   i) Political parties and political associations;
   j) Law on membership of the National Parliament
   k) Laws concerning the power holders of state institutions;
   l) The basics of the education system;
   m) Fundamentals of social and health protection systems;
   n) Suspension of constitutional guarantees and statements of the state in a state of alert and the state in a state of emergency;
   o) Defense and Security Politics;
   p) Fiscal Politics;

    q) Budgeting system.
3. It is also the authority:
    a) Ratify the appointment of the Chief Justice of the Supreme Court and the Chair of the High Administrative, Fiscal and Audit Court;
    b) Considering reports on Government activities;
    c) Appoint a member to the Superior Council of the Judiciary and
    High Council of Prosecutors;
    d) Consider the State Budget Plan and its implementation report;
    e) Supervise the implementation of the state budget;
    f) Ratify and promulgate treaties and ratify international treaties and conventions;
    g) Grant amnesty;
    h) Approving the visit of the President of the Republic in the context of a state visit;
    i) Pass revisions to the Constitution by a majority of two-thirds of the members;
    j) Approving and confirming the statement of the state in a state of alert and the state in a state of emergency;
    k) Propose to the President of the Republic to implement, through a referendum, matters in the national interest.
4. Still under the authority of the National Parliament:
    a) Appoint the President of Parliament and other table members;
    b) Appoint five members to the State Council;
    c) Prepare and ratify the Code of Conduct;
    d) Establish a Permanent Commission and other commissions in the Parliament.

DEMOCRACY THEORY

The Concept of Democracy: Government by the people and the majority

The definition of democracy according to Jack Lively's book departs from the meaning of *demos* as the majority, equality, or *political equality*. According to him, people's sovereignty is often used by political authorities who want to fight for interests on behalf of the people. On this basis, Lively argues about the understanding of *the majority principle*, namely: "There has never been a government that purely reflects the will of every member of society. The principle of sovereignty was shifted to sovereignty not on behalf of the people, but the sovereignty of the majority." Furthermore, the people's government based on the above is not strong enough to realize the ideal concept of democracy. Lively agreed with Rousseau that it was *the sovereign* who ruled. In his mind, Lively analyzes five minimal procedures for making joint decisions, namely:

1) unanimity. Individuals have the right to veto in the public interest and debate is conducted openly;
2) absolute majority;
3) in democratic decisions, minority votes can determine victory;
4) combined minority (*interested minorities*);
5) a simple majority (*simple majority*), namely the conception of the largest number of votes that wins. The concept of a trilogy, is distinguished from monopoly, oligopoly, and *equality*, with the expansion of the meaning of equality.

When compared with the opinion of David Beetham and Kevin Boyle who put forward five things that must be upheld. First, to treat everyone as equal and equal. Second, meet the general needs. Third, for the sake of pluralism and compromise. Fourth, guarantee basic rights. Democracy guarantees basic freedoms. Fifth is the renewal of social life. Democracy allows the pursuit of social life and smooths the process of generational transfer, without the massive upheavals or government chaos that usually follows the dismissal of key figures in non-democratic regimes. Based on J. Lively's view, he concludes that there is no standard variation of democracy so the power of the majority is very likely to limit the movement of the minority which is clearly out of the essence of the ideal values of democracy.

From the description of J. Lively's opinion above, it is very closely related to the title of the author's thesis regarding the position and authority of the National Parliament Permanent Commission as stated in the 2002 RDTL Constitution article 95 concerning the authority and function of the National Parliament Permanent Commission as stated in the National Parliamentary Regime Article 26 and The function of the permanent committee of the national parliament is as stated in article 38 of the Timor-Leste parliamentary regime, and every decision made in the permanent minority commission must comply with the decision of the majority and every argument that is presented, even though it is good, is not heeded.

According to Paul Broker, the definition of democracy [1] has a lot of terminologies, among others, concerning human rules, assembly rules, party rules, general rules, the dictatorship of the people proletarian, maximum political participation, elite competition in gaining votes, multiparties, social and political pluralism, equal rights, political and civil freedom, a free society, and so on.

David Beetham and Kevin Boyle argue that democracy is part of the treasures in making collective decisions. Democracy seeks to realize the desire that decisions that influence the association as a whole must be taken by all members and each member has the same rights in the decision-making process, in other words, democracy has twin principles as people's control over the decision-making process collectively and have equal rights in controlling it.[2]

From the definition of David Beethan and Kevin Boyle, two things are seen that are essential. First, democracy is a manifestation of the will of all members and in this case, all members have equal rights. Second,When compared with the opinion of David Beetham and Kevin Boyle who put forward five things that must be upheld. First, to treat everyone equally and equally. Second, meet the general needs. Third, for the sake of pluralism and compromise. Fourth, guarantee basic rights. Democracy guarantees basic freedoms. Fifth is the renewal of social life. Democracy allows the pursuit of social life and smooths the process of generational transfer, without the massive upheavals or government chaos that usually follows the dismissal of key figures in non-democratic regimes. Based on J. Lively's view, he concludes that there is no standard variation of democracy so the power of the majority is very likely to limit the movement of the minority which is clearly out of the essence of the ideal values of democracy.

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From the definition of David Beethan and Kevin Boyle, two things are seen that are essential. First, democracy is a manifestation of the will of all members and in this case, all members have equal rights. Second, democracy is an indicator of the extent to which the principle of people's control and political equality can be realized and how people's participation can be more real in realizing collective decision-making.

These definitions are not all complementary. so the concept of democracy becomes quite confusing. In its application, the concept of democracy contradicts each other. This contradiction concerns that democracy is a prescriptive or descriptive concept; democracy as an institutional procedure or normative idea; representative democracy versus direct democracy; participatory democracy versus elite democracy; liberal versus nonliberal democracy (Populist Marx, redical); social democracy versus political democracy; democracy as a human right or collective good; democracy as realizing equality or compromising differences. These contradictions have caused the definition of democracy to be the subject of debate.

Democracy is believed to be a political mechanism that can protect the freedom of the people by giving the government a duty to protect the people in enjoying their freedom.

According to David Beetham and Kevin Boyle, there are five reasons democracy should be upheld.

First, to treat everyone as equal and equal." Everyone is seen as one and no one is seen as more than one."

Second, meet the general needs. Compared to other types of government, democratic government is more likely to meet the needs of the people. The greater the voice of the people in determining policy, the more likely it is that the policy will reflect their wishes and aspirations.

Third, for the sake of pluralism and compromise, democracy implies

diversity and plurality in society as well as equality of position among citizens.

Fourth, guarantee basic rights. Democracy guarantees basic freedoms. Open discussion as a method for expressing and overcoming the problems of differences in social life, cannot be realized without the customs established in the conventions on civil and political rights.

Fifth,renewal of social life. Democracy allows the renewal of social life and smooths the process of generational transfer without major upheaval or government chaos.

The democratic system is considered superior. There are ten advantages of democracy put forward by Robert A. Dahl namely.

1. Democracy helps to prevent the growth of cruel and cunning autocratic rule.
2. Democracy guarantees its citizens some human rights that are not granted by an undemocratic system.
3. Democracy guarantees its citizens greater personal freedom than any other possible alternative.
4. Democracy helps the people in protecting their basic interests.
5. Only a democratic government can provide the greatest opportunity for people to exercise their freedom of self-determination, namely to live under the laws of their choosing.
6. Only a democratic government can provide the greatest opportunity in carrying out moral responsibilities.
7. Democracy helps human development more than any other possible alternative.
8. Only a democratic government can foster a relatively high level of political equality.
9. Modern representative democracies do not stick to each other.
10. Countries with democratic governments tend to be more prosperous than countries with undemocratic governments.

Democracy demands the active participation of the people in the political policy-making process. The people are involved in making decisions made by the government so that the interests of the people can be reflected in the policies of the government. Every government policy is a reflection or representation of the interests of the people.

The theory of democracy is very important and closely related to the author's thesis because the people's representatives are democratically elected in elections every five years in the RDTL country and these people's representatives have the authority to prosper the people through political decisions, fiscalization and drafting laws that regulate the lives of its people through the Permanent Commission of the National Parliament as stated in the 2002 RDTL Constitution Article 95 no.4 c and d.

Principles of Justification for Democracy

The principles of justification for democracy are quite diverse. The most basic thing is the principle of equality of human dignity, that a person has autonomy in determining his life path.

In this case, democracy has the same justification for liberalism, except if

autonomy is understood collectively in terms of making rules.

In collective decisions, one's autonomy means that one's voice is respected and one's views have influence in the decision-making process.

Majoritarianism (Understanding the majority), Representation, and the general good

The principles of democracy in realizing the general good produce two important things. First, there are no definite rules for making decisions based on the principle of political equality. Second, it does not create effective conditions in considering all citizens who in practice require a representative government system and in turn, violates the principle of political equality through the implementation of autonomy.

From the two sub-topics above, the author agrees with David Beethan and Kevin Boyle that the Democracy that is carried out in the Democratic Republic of Timor-Leste is a participatory and representative/representative democracy so that the representatives of the people or members of the National Parliament of Timor-Leste are elected directly by the people but through political parties and in carrying out their duties, members of the National Parliament, especially the Permanent Commission, carry out their functions to represent the people or voters through political parties as stated in articles 95, 102 of the 2002 RDTL Constitution and the Timor-Leste National Parliament Regime article 26 concerning competence or authority and permanent commissions. The National Parliament, although in reality, the function of the permanent commission is the National Parliament of Timor-Leste has not yet received an adequate response from the executive because everything depends on the priorities and the majority of programs that must be carried out for the benefit of the community and the interests of the majority government.

Theory of the House of Representatives

The importance of the theory of the People's Representative Council because it is closely related to the title of the author's thesis and also as a reference for ideas to be recommended if there are things that do not match the reality and opinions of experts so that the author cites several opinions from experts as follows;

The People's Representative Council according to Izzatul Ulya Umi Azizah Tahta Almuna Silvi Maulida Representative Institution Theory/Concept Perspective 1.People's representative institutions as a means to limit the power of the king. 2. replace the direct democratic system, so that through its representative institutions the public can participate in determining state problems. Theory of Relation between Representatives and those represented by Free Representative Mandate Theory Imperative Organ Theory Sociology of objective legal theory According to Gilbert Abracian representatives are considered to sit in representative institutions because they have a mandate from the people (mandataris) Divided into 3 namely:

1. mandate: the representative acts following the orders given by the one he represents.
2. Free Mandate: the representative acts without depending on the orders of the one he represents
3. Representative Mandate: those who are represented elect and give the mandate to representative institutions, so that representatives of individuals have nothing to do

with the voters, let alone hold them accountable.

Mandate theory is an organism that has an executive, parliament, and people, which have their functions but have mutual interests. representative institutions are not political buildings, but social community buildings. Voters choose their representatives who are considered experts in the field of state and defend the interests of the voters. So that it is formed consisting of community groups.

Sociological Theory The relationship between the people and parliament is solidarity. People's representatives carry out their duties only on behalf of the people. On the other hand, the people will not be able to carry out their state duties without providing support to their representatives in determining the authority of the government.

1. Objective Legal Theory Representative acts as a trustee
2. Representatives are free to act according to their discretion
3. Representatives act as delegates
4. The representative acts as a political
5. Representatives act as partisans

Meanwhile, according to Gilbert Abracian is divided into 4 functions of authority:

1. Absorb and articulate people's interests
2. Aggregating the interests of the people
3. Political recruitment
4. Controlling or supervising executive performance.

The idea of direct democracy, a political system that involves citizens directly involved in decision-making, faces many fundamental obstacles to practice in modern political life. The large area and the growing population have 'forced' the citizens to channel their opinions and desires through an institution consisting of people they choose. In the concept of representative democracy (indirect democracy), citizens are divided into two groups, namely the group that represents the representative and the group that is represented called the representative. Representatives are a group of people who have the ability/obligation to speak and act on behalf of a larger number of representatives.

Regarding the relationship between MPs as representatives and voters as representatives, Ranney put forward two different perspectives, namely the theory of freedom and the theory of mandates.First, the theory of freedom sees that the representative is chosen because it is assumed that he is a person who can identify and formulate the interests of the represented. Therefore, the representative gets the trust to take the action that he thinks is best and does not need to consult all matters with the representative. The representative may behave and act without being strictly bound to the representative because the representative has given the trust of the representative. Second, the mandate theory posits that the power of the representative exists because of the mandate of the representative. Therefore, the actions he takes in parliament must be following the wishes of the representatives. In this case, consultation with constituents becomes important.

There are several terms commonly used to refer to representative institutions, including the legislature, assembly, and parliament. The term legislature or legislature reflects one of the main functions of the institution, namely the making of laws (legislation), while the term *assembly* refers to the understanding that the institution is a

gathering place to discuss public issues. The term parliament has almost the same meaning as the term assembly. With the origin of the word parler, which means to speak, parliament is considered a place to talk or negotiate state issues. These terms refer to the history of the development of representative institutions in the world, where the term legislature is commonly used in the United States (US), while the term parliament or assembly is more widely used in European or non-US countries. Parliament formed in England in the Middle Ages is the first parliament in the world. Initially, this institution had a function and role that was much different from the current parliament. Parliament at that time only consisted of kings, nobles, landlords, and religious leaders. In the unitary state of the Democratic Republic of Timor-Leste, there are a minimum of 55 and a maximum of 65 Members of the National Parliament as stated in Article 93 paragraph 2 of the RDTL Constitution which reads “The National Parliament consists of a minimum of fifty-two members and a maximum of sixty-five members"

Theory of Parliamentary Structure Typology

Parliamentary Structure

According to Rod Hague, et al, there are three important aspects related to the structure of parliament in the world, namely the size of the institution or the number of its members, the number of assemblies in it, and the commission system. First, in terms of size, in general, there is a tendency that the size of representative institutions to be positively correlated with the population.

Small countries with a small population usually have a parliament with a small number of members, for example, Tuvalu in the South Pacific. In a country with a population of 8,624, there are only 12 members of parliament. In China, which has a population of more than 1 billion, there are 3,000 members of the Chinese People's Congress. Second, is the commission system in parliament? In general, there are three types of commissions, namely standing committees, select committees, and joint committees. A standing committee is a permanent body to handle the legislative functions of parliament in areas considered fundamental. The select committee was formed to carry out the function of supervision or investigation of the government, while the joint committee was formed in a bicameralism system to mediate differences between the two houses of decision-making. These commissions have a more prominent function in countries that do not have a system of party dominance, such as in the United States. Third, in terms of the number of assemblies, there are two systems in use today, namely the unicameral system (*unicameralism*) and the bicameral system (*bicameralism*).

In the unicameral system, power is concentrated in one central unit, while in the bicameral system the powers of representative institutions are exercised by two assemblies, which are commonly known as the lower house (*lower house*) and the upper house (*upper house*). The choice of unicameralism is based on reasons, one of which is that this model minimizes the occurrence of political maneuvers that interfere with decision-making so that it can 'obstruct' the government. Proponents of bicameralism usually express the need for internal checks and balances in representative institutions. The upper house is expected to defend individual, group, or regional interests against potential coercion of the will or interests of the majority in the lower house. The number of members of the lower house is usually proportional, where the number of representatives is proportional

to the number of citizens it represents, while the upper house is partly based on descent, such as the UK and some reflect the division of territory, such as in the US.

With a few exceptions, the unicameral system is usually applied in geographically small countries, that have a homogeneous population, and are not large, generally less than 10 million people. Meanwhile, the bicameral system is usually practiced in countries with a federal system.

Some Legislative Structures in Several Countries

In practice, bicameralism can be divided into two, namely weak and strong bicameralism. This division is based on the relationship between the two houses of parliament. If both houses have more or less equal powers then this is called strong or hard bicameralism. For example, in certain matters or fields, there are differences in authority, various policies produced by the US Congress in the process involve the Senate and the House of Representatives; while weak or soft bicameralism is characterized by the dominance of the lower house over the upper house, such as the *House of Commons over the House of Lords* in England.

Parliamentary Functions

According to Rod Hague, et al. Modern parliaments carry out several main functions, namely the function of representation, the function of deliberation, and the function of legislation. In addition, some parliaments have other functions, namely forming a government, passing budgets, supervising the executive, and providing facilities for elite recruitment and socialization.

I. function. Parliament is simply understood as a microcosm of society. It is considered to represent different interests in society. However, this illustration is often considered too utopian. The reality is that parliamentarians are at a crossroads between the interests of the party, constituents in the electoral district, and the interests of the national population. In this case, the electoral system and the party system are two important things that largely determine the tendency of a representative's loyalty.

II. The second is the deliberation function. The essence of this function is the dissemination of information through public discussions regarding national issues that occur in parliament. This function cannot be separated from the representative function. However, part of this deliberation process is more theatrical. Even if the public has access to the policy-making process in parliamentary institutions, they often do not influence the decisions or policies taken by the parliament. Therefore, there are demands for the expansion and deepening of public participation in the making of various public policies, in the form of arrangements that guarantee the rights and obligations of the community in making public policies as well as the mechanisms and procedures that must be followed. In this regard, several countries in Latin America have gone further by implementing deliberative democracy, particularly in budgeting at the local level. So far this breakthrough has had a positive impact on realizing *good governance* in these countries. The importance of public participation is at least based on the 'limitations' of representative democracy today. In almost all

countries that run a government based on representative democratic systems, there is a tendency that people elected as representatives to be elite groups who often have no direct relationship with their constituents. This process is often referred to as the hijacking of democracy by elite groups. In addition, the representative democracy mechanism also has weaknesses over time where there is a fairly long distance between one election and the next election, namely between 4-5 years on average. This long-distance allowed the representatives of the people to forget the promises they had made during the campaign. Institutional instruments that allow direct public participation are not a substitute for representative democracy but are instruments for *democratic deepening*.

III. Third, is the function of legislation. Most constitutions in the world explicitly define the legislative function that is owned by parliament. Liberal democracies deny the absolute power of the executive branch giving it the power to make laws. In countries with presidential systems, parliamentary autonomy in law-making is relatively greater than in countries with parliamentary systems. However, the function of parliament in terms of legislation is currently getting smaller because in practice the legislative process is dominated by the executive, especially in terms of drafting laws.

IV. Fourth, is the *budgeting function*. The budget function is one of the very first functions of the parliament, especially the lower house. As discussed at the beginning of this paper, the presence of parliaments in Europe stems from the royal need for financial support from the nobility. They made demands on the king before they gave what the king asked for. However, as with the legislative function, the draft budget that will be approved generally also comes from the executive branch. However, budget drafts usually require parliamentary approval of the draft submitted by the executive.

V. Fifth is the supervisory function (*fiscalizasaun*). This function is one of the most useful functions of modern parliaments. This function allows parliament to monitor government activities and oversee the quality of governance. This oversight function emphasizes the separation of powers that the executive, not the parliament, should run the government. Parliaments are usually provided with several key ways to carry out this function, including asking questions and interpellation, holding debates, and conducting investigations.

VI. Sixth is the function of forming a government. In a parliamentary system, the formation or fall of a government is determined through the political dynamics in parliament. The power to form a cabinet is given to the majority group in parliament, either consisting of one party or a coalition of several parties. Although the cabinet has a certain normal term of office, it can be dissolved at any time if it no longer has the support of a majority in parliament.

VII. Seventh is the function of elite recruitment and socialization. Parliament is a place where the talents of prospective decision makers are formed. This function is

seen in countries with a parliamentary system of government, where ministerial posts and other important positions in the executive branch must be filled by members of the parliament. In parliament members from opposition groups (*backbenchers*) also shape their careers and reputations to prepare for the fall of the existing government.

Miriam Budiardjo believes that there are two main functions of the legislature.

First, determine policies and make legislation (legislation function). To carry out this function, the legislature is given the right of initiative, the right to amend draft laws proposed by the government, especially in matters of budget or budget.

Second, control the executive agency. To exercise this authority, the legislature is equipped with some rights, including the right to ask questions, the right of interpellation or the right to request information, the right of inquiry or the right to conduct an investigation, and the right of motion.

Membership of Parliament

Members of parliament in the world in general, especially for the lower house in countries with a bicameral system, occupy their positions through a general election process. Meanwhile, to fill the seats of the upper house, several ways are used, including:

1) direct election by the people;
2) an appointment by the government, which is sometimes valid for life;
3) indirect election by local government or local level; and
4) inheritance.

Relations Between Members of Parliament And Constituents

Regarding the relationship between MPs as representatives and voters as representatives, Ranney put forward two different perspectives, namely the theory of freedom and the theory of mandates. *First*, the theory of freedom sees that the representative is chosen because he is assumed to be a person who can recognize and formulate the interests of the represented. Therefore, the representative gets the trust to take the action that he thinks is best and does not need to consult all matters with the representative. The representative may behave and act without being strictly bound to the representative because the representative has given the trust of the representative. *Second*, the mandate theory posits that the power of the representative exists because of the mandate of the representative. Therefore, the actions he takes in parliament must be by the wishes of the representatives. In this case, consultation with constituents becomes important.

2.1.1. Future of Parliament

Parliaments never really 'rule', even in countries with presidential systems, where there is no 'close' link between the legislature and the executive, as there is in a parliamentary system. This happens in the function of legislation whose initial idea became the reason for the presence of a parliamentary institution. Currently, the proposal for the draft law as a whole comes mostly from the executive.

Hague, et al. recorded that the percentage reached 90%. Parliament is seen as more of a role to discuss the proposals put forward by the executive. (Hague et al.: 192) On the one hand, the dominance of the executive in drafting regulations can be understood by taking into account the position and role of the executive agency. Wherever executive

agencies in the world have a direct role in dealing with people's daily lives. Therefore, it is equipped with a more complex institutional structure from the center to the smallest units in the regions with much-skilled staff. This gives the executive more information that will enable him to formulate draft regulations or policies. However, on the other hand, this situation still raises questions about the future and relevance of parliament's existence. Will the existence of parliamentary institutions become irrelevant? Alan Balls and B. Guy Peters argue that parliament will remain relevant in modern politics. No matter how big the role the government plays, this institution needs a representative council to provide legitimacy, especially in making difficult and basic policies. Cutting social benefits and economic and monetary unification in Western European countries are examples of policies that desperately need legitimacy from the legislature.

Hague, et al. also agree that parliament will remain important, especially because of its function as a symbol of the people's representation in the legal structure of state authority. Parliament also continues to carry out several functions as a means of recruitment. So, the role of parliament is not disappearing but changing. After you have studied the material about the functions of the legislature, you should make a summary or small notes to make it easier for you to understand the material.

State Institutional Theory

The term state organ or state institution can be distinguished from the words private organs or institutions, community institutions, or what is commonly called NGOs or Non-Governmental Organizations which in English are called *Non-Government Organizations* or *Non-Governmental Organizations (NGOs).* State institutions can be in the realm of the legislative, executive, judicial, or mixed.

This conception of state institutions in Dutch is usually called *staatsorganan*. In Indonesian, it is synonymous with state institutions, state bodies, or what is called state organs. In the Big Indonesian Dictionary, the word "institution" is defined as:

i. the origin or future (which will be something);
ii. original form (rupa, form);
iii. reference, bond;
iv. bodies or organizations that aim to conduct scientific investigations or carry out a business; and
v. the pattern of behavior consisting of structured social interactions.

Before Montesquieu in France in the sixteenth century, which is generally known as the functions of state power, there were five. The fifth is the function of *diplomacy*; the function *of defense; the Nancie* function; the *justice* function; and the *policy function*.

While John Locke later, the conception of state power is divided into four, namely: the legislative function; executive; federative function.

Furthermore, John Locke, the judicial function is included in the executive or government function. However, by Montesquieu, it was separated by itself, while the federative function was considered as part of the executive function. Therefore, in Montesquieu's *trias politica*, the three functions of state power consist of (i) legislative functions; (ii) executive functions; and (iii) judicial functions.

According to Montesquieu, in every country, there are always three branches of power that are organized into the government structure, namely legislative power and executive power related to the formation of state laws or laws, and executive power branches related to the application of civil law.

In every discussion about state organization, there are two main interrelated elements, namely *organs* and *functions*. Constitutionally, K-RDTL, the institutions in question, have names that are explicitly mentioned and some only have their functions explicitly stated. This can be seen in Article 67 of the RDTL Constitution which stipulates the *Orgãos de Soberania* and each has a different function, but in its implementation it is interdependent.

According to Jimly Asshiddiqie, these institutions can be distinguished in two aspects, namely in terms of function and in terms of hierarchy. Furthermore, Asshiddiqie, expressed the institutional hierarchy, if it is related to his theory, namely the theory of the norm of sources of legitimacy. For that two criteria can be used, namely:

i. hierarchical criteria of normative source forms that determine their authority, and
ii. the quality of its main or supporting functions in the state power system.

Based on this theory, state institutions can be divided into 3 layers of state institutions, namely the first layer of institutions called "high state institutions", namely state institutions that are primary (primary) whose formation is authorized by the Constitution; there are second-tier institutions called "state institutions" which have their authority explicitly from the Constitution, but there are also those that have authority from the Law, and third-tier institutions called "regional institutions".

Conceptually, the purpose of holding state institutions or often called state equipment is in addition to carrying out state functions, but also to carry out actual government functions. In other words, these institutions must form a unified process that is interconnected with each other in the context of carrying out state functions or the term Sri Soemantrii often uses is the actual *governmental process*. Thus, although in practice the types of state institutions adopted by each country may differ, conceptually these state institutions must work and have relations in such a way as to form a unity to practically realize state functions and ideologically realize long-term state goals.

Talking about state institutions is a tool for realizing the goals and desires of the state (*stats will*). State complementary tools can be called state organs, state institutions, or state bodies. State institutions are not concepts that have a single and uniform term in terminology.

Thus, it can be concluded from the above opinion that based on normative sources it can be said that the state institutions listed in Article 67 of the RDTL Constitution determine the existence of 4 state institutions, namely:

1. President of the Republic,
2. National Parliament,
3. Government, and
4. Court,

Of the four state institutions, they are horizontally parallel in carrying out their respective duties, functions, and authorities based on the principle of separation of powers. In addition, there are state

institutions that have functions independently, including; The ombudsman, Bank Negara, Falintil-Forsa Defesa Timor-Leste (F-FDTL), and National Police of Timor-Leste (PNTL) are auxiliary state organs (*Auxiliary State's Organ*). And the Provedor Director of Humano e Justica (PDHJ).

Regarding the position and function of state institutions, Philipus M. Hadjon stated that; The meaning of the position of a State institution can be seen from two sides, namely; First, the position is defined as the position of a state institution compared to other state institutions. Second, the position of state institutions is defined as a position based on its main function.

Thus, the essence of the idea of trias politica is the separation of powers based on the main functions of the State; legislative, executive and judicial, each state institution carries out its functions and duties, namely; legislature, making legal provisions to exercise power; The executive body functions to carry out government power, and the judicial institution functions to adjudicate violations of the legal provisions that have been made. the principle of the horizontal separation of power functions is called *separation of power*, while the vertical division of power is intended as federalism. The principle of trias politica is implemented with a system of *checks and balances*, which means as follows:

> *"System that ensures that for every power in government there is an equal and opposite power placed in a separate branch to restraint there force checks and balances are the constitutional controls whereby separate branches of government have limiting over each other so that no branch will become supreme".*

The implementation of the functions and duties of the government must refer to the objectives of the State as stated in the constitution. From this basic objective, the functions are defined; these functions are then translated into tasks; These tasks are then formed by implementing organs (institutions). State institutions and day-to-day government can be set according to the basic objectives of the State.

The state administration system is divided into two groups, namely regulations with a legal level (law) and regulations with a non-legal level. James Bryce, quoted by Sri Soemantri. that: *"Constitution is a frame of political society, organized through and by law, one in which law has established* permanent institutions which recognized functions and definite rights.", namely legislative functions, executive functions, and judicial functions.

In addition to CF Strong, the constitution is a collection that regulates and establishes the powers of government, the rights of the governed, and the relationship between them or between the government and the governed; "A *constitution is a collection of principles to which the power of the government, the rights of governed, and the relations between the two are adjusted".*

Starting from the terms and understandings and opinions related to state institutions, it can be said that the formation of state institutions as an instrument to run the government and to achieve the goals of the state is carried out both with functions and organs of state sovereignty. Furthermore, state institutions are divided and the duties and functions as well as the acquisition of authority are to create *checks and balances* in the administration of government to avoid the absolutism of power and acts of abuse of authority.

Authority Theory

The division of authority between state institutional organs is following their respective functions and duties, this is because there is a division of authority by the legislature, especially the national parliament after being formed through the general election, both in the parliamentary majority and in coalition by political parties. Thus, the structural formation of parliamentary members who are divided into factions and permanent commissions is very important and is related to the authority of the permanent commission of the National Parliament of Timor-Leste.

Terms and Concepts of Authority

According to *HD Stout,* that authority is an understanding that comes from the law of government organizations, which can be explained as a whole set of rules relating to the acquisition and use of government authority by subjects of public law in public legal relations. Furthermore, he is driving *Goorden 's*opinion which states that authority is the total rights and obligations that are explicitly given by lawmakers to public legal subjects.

The authority which contains rights and obligations, according to *P. Nicolai* are as follows: the ability to take certain legal actions, namely actions that are intended to cause legal consequences, and include the emergence and disappearance of legal consequences. Rights contain the freedom to do or not to take certain actions or to demand other parties to take certain actions, while obligations contain the obligation to do or not to take certain actions.

Sources and Methods of Obtaining Authority

In theory, the authority that comes from laws and regulations is obtained in three ways, namely attribution, delegation, and mandate. The definitions of the three methods according to *HD Van Wijk / Willem Konijnenbelt* are as follows:

a) Attribution is the granting of government authority by legislators to government organs.
b) Delegation is the delegation of government authority from one government organ to another government person.
c) Mandates occur when a government organ allows its authority to be exercised by another organ on its behalf.

Based on the definition of authority above, the researcher concludes that the authority referred to above must be carried out by public legal subjects which are people or state officials who have the authority according to existing laws. So if it is associated with the authority possessed by officials from state institutions such as the legislature, executive, and judiciary, it is regulated in the constitution. The three state institutions get their authority by attribution because their competence is directly regulated in the RDTL constitution.

About the legislative authority, it lies with the Legislative Body (National Parliament) which is regulated in article 95 of the RDTL constitution, and the National Parliament also gives authority to the government (Governo) to make laws based on article 96 and the government *(Governo)* itself has exclusive legislative authority. given by the constitution, namely article 115 number 3.

In this section, it should be possible to give some understanding of the authority and authority of several scholars who gave their opinions regarding the theory of authority, namely: FAM Stroink and JG Steenbeek. Stated that authority is "a right which contains the freedom to do or not to take

certain actions or to demand other parties to take certain actions and obligations contain the obligation or not to take action".

Philipus Mandiri Hadjon argues that: "The term authority or authority is often equated with the term *bevoegdheid* (authorized or powerful). In Indonesian law, authority or authority is used as a concept of public law, while bevoegdheid is used in the concept of public law and private law. As a concept of public law, authority or authority consists of at least three components, namely influence, legal basis, and legal conformity.

Thus, the difference between authority and authority is difficult to determine, but there is a difference between the two: authority can be called "formal power" meaning the power given by law or legislative from executive or administrative power to issue orders and make regulations. Therefore, it is the power of a certain group of people or the power over a certain area of government or government affairs that is unanimous. Meanwhile, authority only concerns a certain *onderdeel* (part) of authority. Apart from Philipus Mandiri Hadjon, JG Brouwer and AE Schilder in Suyartha stated that:

1. *Whit attribution, power is granted to an administrative authority by an independent legislative body. The power is initial (organair), which is to say that is not derived from previously existing power. The legislative body creates independent and previously nonexistent power and assigns them to an authority;* (withattribution, authority is given toauthorityadministrativeby bodylegislativeindependent ones. Initial power (organic), whichsays thatnot froma pre-existing power. Legislatureindependence creates a powerpreviouslynothere isandgives theyauthority;)
2. *Delegations are the transfer of an acquired attribution of power from one administrative authority to another, so that delegate (the body that has acquired the power) can exercise power in its name;* (Delegation is delegating or distributing attribution obtained fromone 's authority administrative authority to another so that the delegation (by the administrative authority that has obtained the power can exercise power own name) ;
3. *Whit mandate, there is no transfer, but the mandate giver (Mandans) assigns power to the other body (mandataris) to make decisions out take action in its name.* (With the mandate, notransfer, butgivermandate (Mandans) to giveto the power to run on his behalf (mandatory) to make decisionsor take actionon his behalf) .

Theoretically, the acquisition of authority sourced from legislation can be obtained in three ways: by HD Van Wijk and Willem Konijnenbelt, which defines as follows:

1. Attributes are the granting of government authority by legislators to government organs.
2. Delegation is the delegation of government authority from one government organ to another.
3. The mandate is: occurs when a government organ allows an authority to be exercised by another organ on its behalf.

Based on the acquisition of the authority referred to above, it shows a delegation or

delegation of authority related to the functions and duties of each parliamentary faction and parliamentary commissions, based on the authority possessed following *Regimentu dos Parlamentares* N.o [1/2016]. Each function and task is regulated so that there is no overlap of authority by the factions or commissions formed.

Following the division of authority, through law as the basis for exercising authority, the authority is different from attribution, in this regard, as stated by Suermondt in Mustamine Daeng Matutu, et al, provides an overview of the differences between delegation and attribution, namely, among others :

1. Whereas the delegation has delegated authority from the party itself that has been appointed to carry out that authority;
2. Meanwhile, in the attribution authority, there is the granting of authority from the party who is himself (without) being appointed to carry out that authority.

That the authority possessed by state institutions, especially legislative institutions, namely the National Parliament, in which there is a division of authority carried out based on functions and duties so that the authority given is unequivocal, and to obtain legitimacy or legal validity for the authority obtained, the said authority must be based on statutory regulations.

2.2.Power Sharing Theory

The theory of power-sharing in this writing as a concept has a function to serve as a reference in justifying the procedures and mechanisms for sharing power both horizontally and vertically in an internal state institution or institution. It can refer to these 2 things:

1. Substantial, namely the values that underlie how the rule of law exists.
2. Explain the legitimacy of the existence of an institution, its position, duties, and authorities.

The theory of power sharing is an element of the principle of the rule of law because as a buffer in the administration of government by state organs or institutions, this has been confirmed in article 69 of the 2002 RDTL Constitution, that; The institutions of state sovereignty, in their mutual relations and the exercise of their functions, are subject to the principles of separation of powers and functional interdependence following the Constitution. What is meant by the RDTl State institutions as follows, the President, the National Parliament, the Government, and the Judiciary, it is affirmed in article 67 of the 2002 K-RDTL, that; State Sovereignty Institutions consist of the President of the Republic, the National Parliament, the Government, and the Court.

Thus, based on the substance of the two articles above, it can be said that if it is related to the trias politica theory; Montesquieu divides the power of government into three branches, namely legislative power, executive power, and judicial power, according to him these three types of power must be separate from each other, both regarding tasks (functions) and regarding the equipment (organs) that carry them out, especially the freedom of the body. Judicial power is emphasized by Montesquieu who has a background as a judge because this is where individual independence and human rights need to be guaranteed and at stake, according to him, legislative power is the power to make laws,

and executive power includes the implementation of laws (preferably foreign policy actions), While judicial power is the power to adjudicate for violations of the law. Montesquieu argues that independence can only be guaranteed if the three functions of power are not held by one person or entity but by three separate persons or entities.

Furthermore, the Trias Politica Theory, The first time the functions of state power were known in France in the sixteenth century, generally recognized five, namely: (i) the function of *diplomacy* ; (ii) *defense function* ; (iii) *financial function* ; (iv) *justice function*; and (v) the function of *policies.20* By John Locke (16321704) in his book *Two Treatises on Civil Government* (1690) then he divided the conception of the function of state power into three, namely (i) the legislative function; (ii) executives; (iii) federative functions (foreign relations), each of which is separate from the other. For John Locke, the judicial function is included in the executive or government function. John Locke views the trial as *littering*, which includes the implementation of the law,

Thus, the implementation of the RDTL State government does not necessarily use the principle of pure separation of powers but applies the principle of material separation of powers or division of power. Borrowing from Ivor Jenning's theory, it can be seen that the separation of powers in a material sense in the sense of the division of powers is maintained on a real principle. in the functions of the state which characteristically show the existence of three parts.

About the three branches of state power, the RDTL cannot be separated from each other, because of mutual supervision and cooperation that emphasizes the function of *checks and balances*, as explained in James Medison's *theory of "Chek's and Balance theory"* which is based on four main elements, namely; separation of powers, sovereignty is shared between the center and the states, human rights, as well as members of Congress and the President, are directly elected by the people.

Referring to the *Check and Balance function,* RDTL state institutions, have a relationship with each other; the function of forming laws and regulations is the authority of the legislature (National Parliament) and the government as regulated in articles 95 and 96 of the 2002 K-RDTL, which jointly approves the draft or draft law, and is then ratified by the President in article 85 paragraph (1) KRDTL 2002; if a bill or draft law is not approved by the President or by using a veto to be returned to the National Parliament, it is regulated in article 88 paragraph (1) and paragraph (4) of the 2002 K-RDTL, but after being submitted to the President twice, it remains refuses, then the National Parliament by a majority of 2/3 of the members present to ratify the law; please

Vicarious liability implies that the employer is responsible for the loss of another party caused by the person or employee under his supervision. *Corporate liability* has the same meaning as *vicarious liability*. According to this doctrine, the institution that oversees a group of workers has responsibility for the workers it employs.

This kind of problem is not simple, because in practice not every carrier is willing to admit his guilt. If so, then the passenger, shipper or consignee, or third party must not act unilaterally and must be able to prove that the loss occurred due to the fault of the carrier. The evidence is carried out in court for a judge to decide.

The Presumption *of Liability Principle*

This principle states that the defendant is always held responsible until he can prove his innocence. So, the burden of proof is on the defendant. If the defendant cannot prove the fault of the carrier, no compensation will be given.

In connection with this principle of responsibility, in the doctrine of the law of carriage there are four variations:

1. The carrier can absolve himself of responsibility if he can prove that the loss was caused by things beyond his control.
2. The carrier can absolve himself of liability if he can prove that he takes the necessary measures to avoid the loss
3. The carrier can absolve himself of responsibility if he can prove that the losses incurred are not due to his fault
4. The carrier is not responsible if the loss is caused by the fault of the passenger or the quality of the goods is not good.
5. Presumption of *Non-Liability Principle*

This principle is the opposite of the presumption of being responsible. This principle is more applied to cases such as cases where in the event of an error that has an active role in proving it is the plaintiff who is responsible for the loss suffered unless it can prove that the loss was caused by a general error so that he can claim compensation. the loss he suffered.

Principle of *strict liability*

The principle of absolute responsibility is often identified with the principle of absolute responsibility. Some say absolute responsibility is the principle that establishes error, not a determining factor. On the other hand, absolute responsibility is responsibility without fault and exception.

The principle of absolute responsibility is one type of *Civil Liability*. Liability is a legal instrument in the context of law enforcement to obtain compensation in the case.

From the description of several principles as stated above, the author feels that there is relevance to the title of the thesis so that every member of the National Parliament's permanent commission representing the people can carry out their functions and authorities following the mandate that is placed on their shoulders, namely prioritizing the interests of the people above the interests of the party so that the voters feel there is accountability for every activity carried out following the functions and authorities as stated in the 2002 RDTL Constitution and the Timor-Leste National Parliament Regime.

FUNCTIONS AND AUTHORITIES OF THE SPECIAL COMMISSION AND THE PERMANENT COMMISSION OF THE NATIONAL PARLIAMENT OF TIMOR-LESTE

The discussion in this chapter is related to "functions and authorities", namely to examine legal issues related to the functions of special commissions and permanent commissions and the authority obtained following the laws and regulations, basic functions and authorities are a responsibility developed by an institution, both state institutions in principle and auxiliary state institutions. In particular, the study is intended to examine the functions and powers of the National Parliament, especially the Special Commission and the Permanent Commission.

Following up theoretically and juridically, this study was carried out following the topics listed above, as a manifestation of the implementation of the functions and powers of the legislature which are specifically related to the permanent commissions of the National Parliament. In this discussion, several main topics and sub-topics of discussion related to functions and authorities will be studied, namely as follows;

1. Powers of the National Parliament
2. Establishment of a permanent commission for the Timor-Leste national parliament
3. Powers of the Standing Committee of the National Parliament
4. Comparison of the National Parliament of Timor-Leste with the State of Indonesia

Authority of the RDTL National Parliament

The implementation of democratic understanding is very possible to be carried out directly because democratic understanding is formally and procedurally carried out through a representative mechanism. The people's representation which is implemented in the representative institutions (National Parliament) is of course very dependent on the interests of the people who are the connectors for the people's aspirations.

In the people's representation system, there are two systems of people's representative institutions, namely:

1. People's representative institutions with a 1-room system (one *camera system)*. It is called a one-chamber institution because in this people's representative institution there is only one area of people's interests that this institution will fight for. The areas of people's interests that are fought for are generally related to the political interests of the people as a manifestation of the people's political rights, therefore the members who sit in it come from representatives of political parties participating in the general election.
2. People's representative institutions with a 2-chamber system (*bicameral) systems*). It is called so, because, within the structure of the people's representative institution, there are 2 components (chambers) in which each room fights for the interests of the people in a different realm. The people's interest, in general, is in the field of policy making.

Based on the representation system mentioned above, it can be said that in the State of Timor-Leste the administration of the State is carried out through a democratic process and in its representative system, namely the one-chamber (*unicameral*) system, therefore, there is only a source of representation in the central government and its representatives. only in the National Parliament, to voice the people's political interests and people's rights through representatives of political parties obtained from general elections.

State institutions and their authorities can be interpreted through the provisions in the RDTL constitution, the provisions regarding the National Parliament are regulated as follows:

1. The National Parliament is the representative body of the people in general.
2. The national parliament has a legislative function (making laws).
3. The national parliament has the function of fiscalization or oversight of the running of the government, especially those related to the implementation of the state budget of opinion and expenditure (*Orsamentu).GeralEstado*).
4. The national parliament has the function to issue general policies for the benefit of the state and nation.

The above provisions provide a constitutional basis for the National Parliament in carrying out the mandate of democracy and people's sovereignty. Such a strategic function of the national Parliament must of course be balanced with the quality of the members of the National Parliament itself. Therefore, it is necessary to refer to increasing the capacities of members of the National Parliament, so that all legislation, supervision, and general policies produced have quality weight to ensure the rights of the people and the State of Timor-Leste.

In the administration of the State, especially State institutions which are constitutionally regulated to be implemented, in this regard, Timor-Leste as a country with a sense of law, all government actions and needs must be based on law, as a form of action which is the principle of "*doelmatigheid* ". or what is called the principle of legality.

In its development, the concept of representative institutions varies according to socio-political developments that occur in each country, however, the duties and authorities of these representative institutions are grouped into;

1. As a people's representative institution that oversees the running of government carried out by the executive body, government power does not act outside the provisions of the rules that give it, and government power is not exercised arbitrarily.
2. As the holder of legislative power to run it following the wishes of the people, and interpreted in the law and also as a legislator and making general policies for the benefit of his people and the State.

Theoretically, it can be said that in a democratic country every citizen and the political unit must be represented and represented. These representative bodies are commonly called parliaments, one of the fundamental issues is the determination of several commissions in the parliamentary body and how the decision-making process and the legislative process, and in the event of the dissolution of parliament so that the representative body continues to exist until a new national parliament is formed.

Thus, it is necessary to establish an agency or commission that can carry out a procedure and grant authority following the laws and regulations. To obtain legitimacy and authority by juridical attribution following Article 95 of the RDTL Constitution, which means that legally representative democratization is a legitimate procedure to carry out. However, in carrying it out, it must obtain the authority as stated in the RDTL Constitution which stipules that:

1) The National Parliament has the authority and responsibility to make laws on basic issues concerning domestic and foreign policy,
2) The National Parliament is exclusively authorized and responsible for making laws regarding:
   a) Borders of the Democratic Republic of Timor Leste, under Article 4;
   b) The boundaries of territorial waters, the exclusive economic zone, and the rights of Timor Leste to the surrounding area and the continental shelf;
   c) State symbols, following paragraph (2) of Article 14; (d) Nationality;
   d) Rights, freedoms, and guarantees;
   e) The individual position and ability, family law, and inheritance law;
   f) Territory division;
   g) Laws on general elections and polling systems;
   h) Political parties and political associations;
   i) Position of Members of the National Parliament ;
   j) Position of office holders in state institutions;
   k) The basics of the education system;
   l) Fundamentals of the health system and social security;
   m) Suspension of guarantees by the Constitution and the announcement of a state of war and a state of emergency;
   n) Defense and Security Policy;
   o) Tax policy;
   p) Budgeting system.
3) National Parliament is also authorized and responsible for:
   a. Ratify the appointment of the Chief Justice of the Supreme Court and the election of the Chairperson of the High Court of Administration, Taxation, and Audit;
   b. Taking into account the progress reports of activities submitted by the Government;
   c. Elect a member of the Superior Council for the Judiciary and the Superior Council for Prosecutors;
   d. Taking into account the State Plan and the State Budget and Revenue and implementation reports;
   e. Supervise the implementation of the state budget;
   f. Ratify and cancel treaties and ratify international treaties and treaties;
   g. Giving forgiveness;
   h. Approving the visit of the President of the Republic in the context of a state visit;
   i. Passed the Review of the Constitution by a two-thirds majority of the Members of Parliament;
   j. Permit and ensure the declaration of a state of war or emergency;
   k. To propose to the President of the Republic that a public opinion be held on matters concerning the interests of the State,
4) It is also the authority and responsibility of the National Parliament to:

a) Appoint the President of Parliament and other members of the Chair;
b) Appoint five members of the State Council;
c) Drafting and ratifying the Parliamentary Code of Conduct;
d) Establish a Standing Committee and establish other Parliamentary committees.

The authority of the representative institutions of Timor-Leste is the authority of attribution, said to be attribution, because the acquisition of authority is *supremelex* is granted by the constitution which incidentally is the highest law, thus the national parliament is one of the high institutions of the state that has the authority to make laws, carry out fiscalization and make public policies for the benefit of the state and nation.

Establishment of the Standing Committee and a special commission of the National Parliament of Timor-Leste

The dynamics of Timor-Leste's current state administration experience quite escalating political and legal turbulence in all segments of life. Theoretically, the context of the national parliamentary institution starts from the development of an increasingly complex society, the grouping of people is getting bigger, and thus a community organization is needed to protect and regulate it. In this regard, the Philosopher Aristotle said that the community association that would later become the state was an association of living politically, or called " *Heikonona Politica* ".

The thought above more or less has given birth to a basic view of the democratization of the state. This is in line with the socio-cultural development of the community which ultimately gave birth to representative *democracy*. Because at this time all the people can't gather to determine their wishes at any time. *Direct democracy* is used as a form of government in which the right to make political decisions directly by all citizens who act based on majority procedures, due to population factors that do not allow it to be carried out in one place and at a time, so that a settlement called the representative democracy is practiced in every modern country today.

Representative democracy is an ideal form of organizing a country that adopts the notion of democracy in forming a state institution as a form and concretization, then forms an institution called a legislative body with its functions and authorities as an aspirator. This is the case in Timor-Leste, after restoring independence as an independent state, to fulfill the requirements as a sovereign state, state institutions were formed following the *Supremacy ofLaw*, namely the 2002 RDTL Constitution, and the institution referred to as a representative institution with the functions of legislation, fiscalization and general policy, which is located in the National Parliament.

The national parliament is a state institution on behalf of the state to carry out the functions and powers obtained following the attribution authority, meaning that the authority is obtained based on the Constitution. According to Robert Paul Wolf, the role of state institutions on behalf of the state is defined as "a group of people who have the highest authority in a certain area over a certain population. Thus, it is said that state institutions on behalf of the state must be the result of the will of the majority of people through a representative democracy so that the representative becomes the goal of an aspirator.

Accordingly, it is said that the establishment of a permanent commission with members in the National Parliament must procedurally be proposed through the factions in the Timor-Leste National Parliament, namely the members of parliament from each political party faction who gain seats in the National Parliament. The composition of the permanent commission is as follows:

1. President of the National Parliament,
2. Vice President of the National Parliament and
3. Members of the National Parliament are elected through factions from political parties that have representatives in the National Parliament.

Juridically, the running of the National Parliament is based on the Regiment do National Parliament as a legal instrument and foundation so that the implementation of the legislative body is following its function. In accordance with the bodies or factions and commissions in the structure of the National Parliament and specifically related to permanent and special commissions, this is regulated in Article 39 of the RDTL National Parliament Regimento which stipulates that: " *A Comissão Permanente é composto pelo Presidente do Parlamento, que president, pelos vice president e por deputado indicados por todos os pertidos politicos, de acordo com a respectiva representatividade no Parlamento, nos termos do artigos 102 da Constituição República Democrática de Timor-Leste."*

The legal basis or basis for the establishment of state institutions, following the principle of state law, every state activity must be based on applicable legal norms, including the establishment of state institutions or state bodies/organs. Thus, the legal basis for the establishment of the National Parliamentary State agency, especially the Permanent Commission, is the influence of the national Legislative Regimentu, which is the source of the highest legal norm, namely the RDTl Constitution which is used as the basis for the establishment of the Permanent Commission.

If viewed theoretically, the functions and authorities obtained by the legislative body which incidentally is referred to as the National Parliament are the attribution authority, because constitutionally and in the hierarchy of laws and regulations, the Constitution is the highest source of law that is used as a reference and gives birth to the delegation and granting of authority both horizontally and vertically. Thus, in the implementation of state institutions, especially the state institutions of the National Parliament, by attribution they obtain absolute authority and functions to form bodies, factions, and commissions based on statutory regulations.

As for the function of the permanent commission of the national parliament following the National Parliamentary Regimentu after the Legislative Institution (National Parliament) is declared disbanded (*Dissolved*), then the function of the commission will continue to carry out the functions of the National Parliament during the period of dissolution until the formation of a new legislative body through direct, general, free and secret, thus the commission will still be terminated after the existence of a new legislative body.

Starting from the above discussion, several matters relating to the function of the permanent commission during the dissolution period can be described, including:

The Permanent Commission functions during the period of dissolution of the National Parliament, during the period of dissolution in intervals and between sessions, and in other cases provided for in the constitution.

1) The Permanent Commission is chaired by the President of the National Parliament and its membership consists of the Vice Presidents and by members appointed by Political Parties, following their representation in Parliament.
2) It is the authority of the Standing Committee, respectively:
   a) Participate in government activities and government administration activities;
   b) Coordinate the activities of the National Parliamentary Commissions;
   c) Initiating summons to the National Parliament, if deemed necessary;
   d) Prepare and organize sessions of the National Parliament;
   e) Authorize the travel of the President of the Republic under Article 80;
   f) Directing relations between the National Parliament and analogous parliaments and institutions from other countries;
   g) Approving the statement of the State in a state of alert or the State in a state of emergency.

About the function of the permanent commission in organizing the institutions of the national parliament, it has several vital functions related to the administration of government in a broad sense carried out by state organs as outlined in the constitution and regulations of the National Parliament. This shows that all activities after the dissolution of parliament will be carried out by the Standing Committee of the National Parliament, including:

1. To ensure the existence of governance, so that there is no vacuum in state organs, especially in the legislative organs.
2. To issue political policies related to the visit of the President of the Republic.
3. To issue decisions of a concrete general nature relating to the interests of the state and nation.
4. Prepare for parliamentary sessions after the establishment of a legislature declared and obtaining seats in the National Parliament through Direct, General, Free, and Secret Elections.

Powers of the National Parliamentary Standing Commission

permanent commission of the National Parliament of Timor-Leste as a Legislative Institution is the making of laws as enshrined in Article 92 of the Constitution of the Republic of Timor-Leste which stipulates that the National Parliament is the sovereign body of the Democratic Republic of Timor Leste, representing all citizens of Timor Leste with the authority legislative, supervisory and political decision-making and under

the National Parliament's Regimentu, the authority of the Permanent Commission is also regulated as regulated in Article 40 which determines as follows:

a) *Acompanhar a tividade do Governoe da administração*
b) *Cordenar as atividades das comisses do Parlamento*
c) *Promoter a convocação do parlamento semper que tal ostra necessario;*
d) *Preparar e organizer as sesses plenária do Parlamento*
e) *Dar assentimento deslocação do Presidente da República nos termos da artigo 80 da Constituição;*
f) *Dirigir as relações entre o Parlamento nacional e os Parlamentos e instituições analogas de outros paises*
g) *Autorizar a declaração do estado de sítio e do estado do emergencia*
h) *Autorizar a declaração de guerra e feitura da paz;*
i) *Exerse os poderes do parlamento relativamente ao mandato dos deputados, sem prejuiso da competencia propria do president e da Comissão competente em razão de material;*
j) *Preparer abertura da Sessão Plenaria*
k) *Coordenar o Funcionamento das comisses durante os periodos de suspenção das sessão legislativa se tal for necerssário ao bom andamento dos seus trabalhor.*
l) *Decider as reclamações sobre inexatidões de redação do texto final dos decretos e resoluções do Parlamento.*

National Parliament of Timor-Leste carries out the functions andThe authority regulated in Article 80 of the RDTL Constitution reads regarding the Visit of the President of the Republic as follows:

1. The President of the Republic is not permitted to leave the national territory, without the prior approval of the National Parliament or its permanent commission when the National Parliament is not in session.
2. Disobedience to no.1 of this Article, has implications for loss of position following the contents of the previous article.
3. Personal trips that do not exceed fifteen days, do not require approval from the National Parliament, but the President of the Republic must still notify the National Parliament.

The foregoing may hinder the activities of the President of the Republic of Indonesia's state duties to travel abroad, therefore, if the President of the Republic in carrying out his state duties does not have to obtain permission from the National Permanent Commission of the Parliament, this may hinder the competence of the President of the Republic of Indonesia in carrying out his state duties. Friendly countries urgently need the presence of the President of the Republic as head of State.

As it is known that the presence of the head of state in state events can promote the existence of our country so that reciprocal relations are established economically, socially, culturally, and politically. Therefore, the RDTL Constitution 80 needs to be amended. Thus, the President of the Republic in carrying out his state duties abroad does not need to obtain permission

from the members of the National Parliament's permanent commission.

Comparison of the National Parliament of Timor-Leste with the Indonesian Parliament on Constitutional Amandamen.

Should the Constitution be done Amandamen?

The common people's argument for this question is perhaps because it turns out that with the constitution, the practice of administering the life of the nation and state has always given birth to authoritarian, corrupt, and undemocratic. The above argument is quite reasonable with the assumption because the constitution contains basic laws, basic principles in the administration of the state, and where the goals of the state will be anchored.

Adnan Buyung Nasution in his dissertation stated "A constitutional government is not a government that is merely following the sound of the constitutional articles, but a government that is following the sound of the constitution which is indeed according to the essence of constitutionalism".

Based on the arguments above, it can be said that the 1945 Constitution was amended because the spirit or spirit of implementing the constitution was far from understanding the constitution itself. This is in line and even strengthened by the results of the Amandamen Study Team, which tried to classify some of the weaknesses of the 1945 Constitution, including The 1945 Constitution has positioned the President's power so great (*Executive Power*), the *checks* and *balances system* is strictly regulated in it, the provisions of the 1945 Constitution are numerous. unclear and multiple interpretations, regarding the lack of regulation on human rights issues, the presidential system, and the unclear economic system.

Another reason that can be used as a basis for considering the need to amend the 1945 Constitution is that historically the 1945 Constitution was designed by the founders of the State as a temporary constitution and was enacted in a hasty atmosphere. Philosophically, the basic idea and substance of the 1945 Constitution have confused people's understanding of sovereignty with intergalactic understanding. The two are contradictory, that it is integralists understanding that has suppressed democratization in Indonesia. Then juridically, the 1945 Constitution itself regulated the principles and mechanisms for changing the constitution (article 37). As for the practical considerations - the politicians are following Mochtar Pabottinggi's signal that the 1945 constitution/UUD has not been implemented purely and consistently for a long time.

Critical Analysis of the Amendment Phase I and II

Observing the results of the performance of the Committee-Ad-Hoc I Working Committee of the MPR RI in the form of phase I amendments (through the General Assembly of the People's Consultative Assembly of the Republic of Indonesia on October 19, 1999) and the second phase of the amendments (through the annual session of the People's Consultative Assembly of the Republic of Indonesia on August 18, 2000), the author believes that the advantages and weaknesses. The advantages of the results of the amendments (Phases I and II) can be informed as follows:

1. The momentum for this amendment is a step and strategy for the desacralization of the 1945 Constitution which has been sacred so far.

2. There was a shift in legislative power from the executive (President) to the legislature (DPR). In the sense that originally based on Article 5 paragraph (1), the President holds the power to make laws, then the President has the right to submit Draft Laws to the DPR. Meanwhile, based on the amendments to Article 20 paragraph (1), the DPR has shifted as the power holder to form laws.
3. The term of office of the President has become more strict, namely the term of office of the President is five years and is limited to only two terms (see Article 7 of the 1945 Constitution of the Republic of Indonesia).
4. The President's prerogatives are slightly clarified and limited (in a positive sense) for example: in terms of appointing ambassadors or receiving ambassadors from other countries, the President pays attention to the considerations of the DPR (Article 13 of the 1945 Constitution of the Republic of Indonesia), as well as in granting amnesties and abolitions, the DPR needs consideration (Article 14). paragraph (2) of the 1945 Constitution of the Republic of Indonesia, while granting clemency and rehabilitation to the President needs to take into account the considerations of the Supreme Court (Article 14 paragraph (1) of the 1945 Constitution of the Republic of Indonesia.
5. Affirmation of the composition of the Unitary State of the Republic of Indonesia consisting of Central, Province, Regency, and City based on the implementation of the Autonomy Principle by taking into account the specificity and diversity of regions, regions that are special or special, as well as respecting/respecting customary law community units and their traditional rights. Although in its implementation the results of the amendments to Article 18 are still not uniform and confusing.
6. There is a direct attribution of the amendments to Article 22 A of the need for a law that regulates the techniques and procedures for the formation of laws which are still regulated by Presidential Decree No. 188 of 1998 and Presidential Decree No. 44 of 1999. It is hoped that the confusion regarding this matter can be eliminated.
7. Provisions regarding the territory of the State are further regulated by Law. This is important, because if it is not immediately regulated, then the fate of the release of the territory of East Timor from the territory of the Republic of Indonesia will very likely be followed by other regions (Article 25E).
8. Regulations regarding human rights have become more detailed and broad (such as Articles 28A - 28J and 30), although there is no consistency in the use of the terms between human rights, freedoms, and human obligations.

9. There is a clear separation regarding the institutional position, structure, and scope between the TNI as an instrument of the State in charge of defending, maintaining and protecting the integrity and sovereignty of the State, with the State Police as a State instrument that maintains security and public order and elements of law enforcement (Article 30).
10. Determination of the state symbol, national anthem, and Indonesian language which so far have not been included in the constitution (Article 36A-36C).

The weaknesses of the process and results of the amendments (Phases I and II) are more or less as follows:

1. It can be seen from the initial process of the amendment to the 1945 Constitution that it did not comply with the rules for the preparation and preparation of the Constitution (*legislative drafting rules)*. For example, the planning stage for the preparation of the draft amendment should be preceded by the preparation of an amendment academic manuscript which is prepared based on in-depth research results. The use of Indonesian language that does not follow standard language rules, is not systematic, and creates overlapping norms, for example, the separate provisions regarding Human Rights in Chapter XA Articles 28A-28J, especially in Article 28E.
2. The process of preparing and discussing the draft amendment does not involve the people (public participation) and if the Ad-Hoc Committee (PAH) I BP MPR RI does, it is only a formality to gain people's legitimacy. Moreover, the discussion process tends to be elitist, because the actual debate that took place in the MPR is not known to the general public, so the decisions are very elitist.
3. The results of the amendments (phases I and II) have not touched on some basic constitutional issues so they have not led to fundamental changes. Examples of questions regarding the principle of the rule of law, the principle of democracy, and the principle of belief in the One and Only God as the fundamental principle of the state have not been accommodated in this amendment.
4. Some articles that are prone to conflict (for example: concerning the form of the State and government, economic system, freedom of religion, etc.) which have been suspended to amend them until 2002, should have been researched in depth first, then disseminated to the people wisely, wisely and transparently.
5. There are still many amended provisions that have not been followed by the renewal of the implementing regulations so it seems that there is an antinomy of legal norms between the basic law and the regulations under it. For example, there is a shift of power in the legislative sector to the council (Articles 5 and 20 amendments), but in practice, the executive is still dominant (see the provisions of Law No. 22 of 1999 on Regional Government).

6. There are still many constitutional issues that have not been accommodated by the results of the amendments (Phases I and II), giving rise to a vacancy (*wet vacuum*) and constitutional independence. Examples of questions regarding the DPR's right to inquiry, the *impeachment process of the* President which is currently busy becoming a political debate, and public opinion today.
7. Regarding the Presidential institution, in the author's opinion, in general, it needs to be emphasized in the Constitution, although in more detail it will be further regulated in a separate law.

Recognizing the strengths and weaknesses of the amendments to the 1945 Constitution (Phases I and II) above, the MPR's policy to amend this amendment and its continuation until 2002, in the author's opinion, remains a prerequisite for the formation of a new Indonesia, or otherwise want to carry out patchy reforms. Therefore, amending the 1945 Constitution of the Republic of Indonesia is a *condition sine qua non* for a strategy of fundamental change and renewal.

Comparative Procedure for Amendment as a Form of Amendment to the Constitution of Timor-Leste

This study uses a comparative model in the form of amendments to the Constitution, one of which is the form of amendments made by the House of Representatives of the Republic of Indonesia regarding the amendments to the 1945 Constitution of the Republic of Indonesia, making the basis for the amendment of the Constitution of the RDTL, by the National Parliament Institution. As a reference in amending the 2002 RDTL Constitution, and making a pattern for changing the Constitution of the República Democrática de Timor-Leste. Therefore, the model and form as well as the mechanism for making changes to the RDTL Constitution must be based on several things, including:

1) Formation of a research team to be able to examine weaknesses or *normsblur*, *doubletextnorms*, and *ambiguitynorms,* which are contained in the articles of the Constitution of the República Democrática de Timor-Leste. Based on the arguments above, it can be said that our constitution can be amended because the spirit and implementation of the constitution are far from understanding the constitution itself. This is, trying to classify some of the weaknesses of our constitution in which many articles are unclear and have multiple interpretations regarding the lack of regulation on human rights issues and an unclear economic system. Another reason that can be used as a basis for considering the need to amend the constitution is that historically the constitution was designed by *the Constituent Assembly* as a permanent constitution. However, our constitution was enacted in haste. Philosophically, the basic idea and substance of our constitution have mixed the understanding of people's sovereignty with integralist understanding. Even though the two are contradictory, it is even integralist understanding that has suppressed democratization in Timor Leste.

2) With the approval of the majority of members of the National Parliament of Timor-Leste to revise the Constitution, the Commission for reviewing or examining the constitution may bring the results of its study to the National Parliament or through the factions to be able to approve a revision or amend the Constitution following Article 154 and Article 157 of the Constitution of the Republic of Indonesia. de Timor-Leste (K-RDTL) which determines the " *Initiative e tempo de revisaun* "

Constitutional Changes Based on Initiative and Time of Review

The RDTL constitution is the highest source of law, every administration of government, both government in the broad sense and government in a narrow sense, and all elements included in the scope of the state's prerequisites must obey and respect the law as commander in chief in administering the state and nation, this is a form of realization of the objectives RDTL country.

Juridically, changes to the constitution can be made by a State institution that has the authority as a representative institution, if the change is made because of an initiative, or because the constitution is within the time limit specified in a provision. Therefore, a change in the substance of the Articles and Paragraphs can be changed if it is carried out procedurally as regulated in the RDTL constitution. Concerning the procedure in question, changes can be made in the following ways, as regulated in Article 154 of the Constitution which stipulates as follows:

a. The initiative to revise the Constitution rests with the members and factions of the Parliament.
b. The National Parliament may revise the Constitution six years after the publication of the last revised Law.
c. The six-year time limit for the first revision of the constitution is calculated from the date this Constitution comes into force.
d. The National Parliament, irrespective of any time limit, may exercise the rights of constitutional revision by a majority of four/five of the members currently in effect.
e. Proposals for revision must be submitted to the National Parliament 120 days before the date the debate begins.
f. After submitting a draft constitutional revision, based on the Previous number, another revised draft must be submitted within 30 days.

Furthermore, following procedural provisions in making changes to the constitution, it must refer to the situational restrictions that are determined as the basis for reference not to make changes, this is as regulated in K-RDTL Article 157Revision situational boundaries that "As long as the State is on alert or in a state of emergency, it is not permitted to take any action to revise the constitution".

Theoretically, constitutional changes relate to the situation and living conditions of a country that allow for a change to be made. Thus, it can be said that following the mechanism of change and the timing of changes as well as restrictions on changes due to situational circumstances, the RDTL Constitution can be categorized as a

Constitution that has a rigid or rigid nature in changing constitution.

Starting from the comparative description of the Constitution relating to changes that can be made by State institutions that have the authority to and or can make changes following the mechanism regulated in a regulation hierarchically, the norm has the highest position or level. Thus, the advantages and disadvantages of carrying out an amendment to the RDTL constitution can be described as follows:

The advantages of being amended include:

a. Actualizing real conditions with the law
b. Clarify interpretations of laws that still contain vague norms
c. As a basis for clarifying solutive, comprehensive, and implementable policies according to community needs.

Weaknesses of the Amendment include:

a. Must be proposed by the members of Parliament and the factions of a majority of four/five of the members currently working effectively.
b. Proposals for revision must be submitted to the National Parliament 120 days before the date the debate begins.
c. After submitting a draft constitutional revision, based on the previous number, another revised draft must be submitted within 30 days.

From the description of the strengths and weaknesses of the revision or amendment of the RDTL Constitution, the author concludes that the 2002 RDTL Constitution needs to be amended because several articles are said to be vague norms, and each orgão Soberano such as the President, National Parliament, Government, and Courts interpret the articles. in the Constitution according to their wishes to raise doubts to the public in implementing it in their daily life.

However, there needs to be a will or goodwill from the majority factions in the Parliament to start thinking about or proposing a law project to revise it because it has been more than six years since this Law was passed and in its implementation, there are a lot of vague norms and mostly small communities who get the consequences. on the other hand, if there are articles that are no longer relevant to real conditions they can be amended according to the conditions and developments of a country. Referring to the results of the amendments to the 1945 Constitution of the Republic of Indonesia, the first revision, it is very relevant if even in Timor-Leste politicians have to start thinking about amending the 2002 RDTL constitution as appropriate.

FACTORS THAT RESIST T FUNCTIONS OF THE PERMANENT COMMISSION OF THE NATIONAL PARLAMENT OF TIMOR-LESTE

The topic of this study focuses on "the main factors that hinder the implementation of the functions of the permanent commission within the National Parliament of Timor-Leste". Generally, the administration of government, especially the National Parliament, has the authority and functions as a people's representative institution with the authority to make laws, supervise and hold accountable the implementation of the State Revenue and Expenditure Budget (*Orsamentu Geral Estado*). which has a majority of seats obtained from the general election or formed after the general election,

which is called the " *Coalition* " or the Colligasaun of the Election Winning Majority Party.

Carry out the duties and authorities as a member of the permanent commission of the national parliament as regulated in the National Parliament's Regimentu as stated in Article 38, its implementation is following the authority obtained and if it is related to the practice of its implementation, in reality, some things become the main inhibiting factors, so that the function the permanent commission of the national parliament has not been effective following the provisions stipulated in the legislation.

This study is related to the factors that hinder the implementation and functioning of the commission following the internal regulations of the National Parliament, thus creating uncertainty in its implementation and benefits as a people's representative institution that has functioned as regulated in the RDTL Constitution and other internal regulations as a necessary legal basis. implemented in every government administration.

The main factors that hinder the implementation of the functions of the Permanent Commission of the National Parliament can be described as follows: Legal Factors, Political Factors, Moral Factors, and Financial Factors

Approach from a Legal Aspect

Law as a regulation of human actions by power is said to be valid not only in decisions (formulated regulations) but also in its implementation, it must be based on legal provisions as well. In other words, the law must be following the ideology of the nation as well as the protector of the community, following its implementation the law has the nature of coercion, ordering, and providing sanctions. Thus, it is enforced by law enforcement officials, especially state officials who have the authority to form and must show obedience in their implementation. Because to achieve order and peace of community life.

Timor-Leste is a country based on law, hereby, every good governance in the sense that everything must be subject to the constitution and laws, and every action and action of the government must be based on the law. About the implementation of the functions of the Standing Committee of the National Parliament, through legal approaches, it must also be carried out according to the law, therefore the National Parliament establishes a regulation internally with provisions to regulate the operation of the institution with the functions and authorities of each Agency, Fraction and Commission formed.

In the sources of law in the formal sense, it is mainly considered "the form in which the law is made positive by the authorized agency" in other words the form of a container for which a certain government agency can create law. The so-called formal legal forms in Timor-Leste as regulated include: the 2002 RDTL Constitution, *Lei, Decreto Lei, Regimentu Parlamento, Resolusaun Parlamento, Decreto do Presidente da Republika, Decreto do Governo, no Regulamentu-regulamentu sira seluk.*

In connection with the provisions mentioned above, it is said that the rule of law is an opposition to the sovereignty of the State which determines that the State is above the law because the State is the one who forms and makes the law. Therefore, based on the rule of law, it does not accept the power of a person or group of rulers and makes laws based on their will, then the laws they make

are conceptualized as the will of the State. The task of the State is to realize that legal awareness is made by the people themselves through their representatives in Parliament. Furthermore, it teaches the submission of the State to the law, bringing the consequence that every power that exists in the State must be subject to the law. So the law is the highest power in the State, therefore it adheres to the core of the Constitution.

Where is the link between the above legal discussion and the constitution according to KC? Wheare, if it departs from the flow of legal positivism, the constitution is binding because it is determined by the body authorized to form laws and the constitution is made for and on behalf of the people (which is loaded with sanctions provisions that are further regulated in the organic law.)

Judging from the principles of state insight based on the law (*rechtsstaat*) as stated by Zippelius, the constitution is a tool to limit the power of the state. These principles contain the following guarantees:

1. Upholding human rights,
2. There is a division of power within the state,
3. Administration of government based on law, and
4. There is judicial oversight of the administration of the government.

Based on the points above, it shows that the legal approach aspect in the administration of the State, the essence is positive law, that state administration is based on law, inclusive of the constitution as a formal document institutionalized by state instruments and at the same time as the highest basic law. If this is the case, then the constitution will always bind all citizens. So, it is a manifestation of the concretization of legal approaches related to the Function of the Permanent Commission of the National Parliament as a state institution that is given an attribution and derivative authority to carry out its following legal provisions.

In addition, in the administration of government, there must be a division or separation of powers, so that there are restrictions on arbitrary actions, and there can be absolutism and interference in every policy, especially for the interests of the state and nation. About the administration of government, it must be based on laws and regulations, and openness to judicial supervision over the running of the government, so that every state administration.

Starting from theoretical and conceptual approaches, related to the Permanent Commission of the National Parliament of Timor-Leste in carrying out its function as a legislator, there is a need for legal approaches, both formal and non-formal through legal studies and competent bodies in law. such as consulting and hearing opinions from all parties, especially those related to law and material or legislation.

Approach from a Political Aspect

There are two interesting things in this political aspect approach, namely:

1. Legal statements as political products, and
2. What is the relationship between law and power?

Thus, it is said that law is a political product, which means that every legal product must be a crystallization of political thought and/or process. Therefore, legislative activities (law-making) contain more political decisions, when compared to the actual procedural formation of laws and regulations that must be based on several

things, namely, they must be based on a philosophical basis, a sociological basis, and a juridical basis. Furthermore, if the legal action is related to procedural problems. Thus the legislature is closer to politics than to law.

Mulyana W. Kusumah, said that law as a means of political power occupies a more dominant position compared to other functions. one indication is that the state as an organization of power/authority, has the competence to create conditions in which its people can fulfill their needs to the fullest. It is within the framework of the exercise of this power that the government's actions in a country need to be limited by the constitution, although in state practice sometimes the law is often distorted under political pretexts.

Thus, based on conceptual thinking, this shows that political approaches are an instrument in achieving power, including political interests in the process of forming legislation, said to be a political product, because the people's representatives (National Parliament) are the result of the democratic process. made through elections. Practically in the election of members of the people's representatives are representatives of political parties. So that interests can be channeled through political policies.

Based on the above review, it can be justified because in reality, in carrying out the duties and functions of the permanent Commission, the National Parliament of Timor-Leste is dominated by political decisions. Therefore, a political approach is one of the alternative solutions to carrying out the duties and functions of the permanent Commission.

Approach from the Moral Aspect

The moral is the regulation of human actions as humans in terms of good and bad in terms of their relationship with the ultimate goal of human life based on natural law. The implementation of morality can never be forced. Morals demand of us absolute submission and obedience. Moral does not recognize bargaining demands absolute obedience. Morals cannot be institutionalized. Besides that, morality demands not only human outward actions but also human inner attitudes. Humans in total as individuals and as social beings are subject to moral norms.

Paul Scholten adds that moral decisions are autonomous. Perhaps what is meant by "teonom" is the eternal law, namely the divine will that directs all His creations towards their goals, as the deepest foundation of all laws and regulations. In morals, sanctions are also known, but they are not external but are internal, such as shame, and regret, and because people who violate morals feel that they are not calm and not peaceful. This is where the essence of the moral goal is to regulate human life as human beings, without discrimination, regardless of ethnicity, or religion, and not recognize race. Knowing the force of validity, morals are not independent at a certain time and also do not depend on a particular place.

Constitutional authority if viewed from a moral point of view is the same as the view of the flow of natural law, which has binding power to citizens because the stipulation of the constitution is also based on moral values. It is even clearer as previously stated that the constitution as a fundamental foundation must not conflict with the universal values of moral ethics.

Two well-known scholars also gave their theses supporting the above statement, according to KC Wheare the constitution claims to have authority on a moral basis. Furthermore, William H. Hewet, in his stance stated that there is still a higher law above the constitution, namely morals.

Then the question arises in the mind of the author, what is the legal basis if morals have a higher position above the constitution? Wheare gives the following considerations, it seems that morals have the authority to rule just as all laws can command a community to wait for it. The moral theory used to define obedience to the law also applies to the constitution. So in *constitutional philosophy,* if the constitutional rules are contrary to moral ethics, they can deviate. For example, the constitution that legalizes slavery. Conversely, if the constitutional rules support moral ethics, then the constitution has the power to apply in society.

From the description above, it can be concluded that in carrying out their duties and functions as both legislative and executive officers, the approach from the moral aspect must be heeded and deemed very necessary because only with moral ethics can every decision influence and blend with society and culture during society. , essentially morals carried over from the personal to the team stage.

Approach from the Financial Aspect

State finances are all rights and obligations of the State that can be valued in money, as well as everything in the form of money or goods that can be made into the property of the State in connection with the implementation of these rights and obligations.

The definition of state finances as mentioned above comes from the sound of Law - 17 of 2003 concerning state finances. However, the approach used in formulating state finances comes from the subject, object, process, and objective, as described below.

a. In terms of objects, what is meant by state finances includes all rights and obligations of the state that can be valued in money, including policies and activities in the fiscal, monetary, and management of separated state assets, as well as everything in the form of money or goods. made state property in connection with the implementation of these rights and obligations.
b. From the subject point of view, what is meant by state finances includes all objects as mentioned above which are owned by the state, and/or controlled by the central government, regional governments, state/regional companies, and other bodies related to the state finances.
c. From the process side, state finances cover the entire series of activities related to object management as touched on above, from policy formulation and decision-making to accountability.
d. In terms of objectives, state finances include all policies, activities, and legal relations related to the ownership and/or control of objects as mentioned above in the context of administering state government.

From the description above, it is not much different from the Republic of Timor-Leste / RDTL and all other countries on this earth. The factor of financial limitations is one of the obstacles in carrying out development in various sectors. The National Parliament of Timor-Leste, especially the Permanent Commission, has financial limitations so that the function of the commission cannot be carried out properly, especially legal

products, fiscalization, and controlling the impact of the use of state finances on development to answer the needs of the community, this is proven by the use of state finances. (*Ezecução orçamento Geral do estado / OGE 2020)* not maximal

Based on the description of the discussion above regarding the factors that hinder the function of the Permanent Commission of the National Parliament of Timor-Leste in carrying out its functions, several points of discussion can be drawn, namely, as follows:

First, in essence, the legal factor is a procedural in a state that has a legal feel, every state administration must be based on legal norms.

Second, the product is a political process, but it needs to be carried out based on the legal basis, namely the philosophical basis, the sociological basis, and the juridical basis so that a legal product can obtain legal objectives, namely certainty, benefit, and justice.

Third, when the law is used as the basis, elements that are not legal must be removed in its implementation, so that it does not affect the moral action that is used as a process of behavior from government activities.

CONCLUSION

Starting from the background of the problems and the studies that have been carried out in the chapters above, the conclusions can be described as follows:

1. The permanent commission of the National Parliament of Timor-Leste as the Legislative Body in making laws as stipulated in Article 92 of the Constitution of the Republic of Timor-Leste, which reads that the National Parliament is the sovereign body of the Democratic Republic of Timor-Leste, representatives of all citizens of Timor-Leste with legislative authority, supervision and political decision-making and regulated in the National Parliamentary Regime has the authority to continue to accompany the administration of all government activities and coordinate with every commission within the structure of the National Parliament, while the function of the permanent commission is related to the preparation of the trial and also provides license to the President of the Republic to travel abroad. The permanent commission of the National Parliament of Timor-Leste carries out its functions and powers constitutionally derived from the Constitution of the República Democrática de Timor-Leste.
2. Supporting factors for the permanent Commission of the National Parliament for its proper functioning are needed: Political support, the Permanent Commission of the National Parliament of Timor-Leste needs political support. The answer is that because politics is a product of law, there is a need for support from political parties that have seats in the National Parliament, especially those in the Permanent Commission of the National Parliament. So that the

Commission remains the National Parliament in carrying out its functions and authorities do not get into trouble. Furthermore, financial support, is very relevant that a state institution in carrying out its functions and authorities requires adequate finance so that it can facilitate its functions as regulated in the Parliamentary Regime regulated in the article stated above. We are aware that Timor-Leste is a new country that was founded in the XX Millennium, which requires the strength of State Institutions following the demands of its era, therefore it needs strong finances to build: 1). Human Resources, 2). Strengthening adequate institutional organization because there are two permanent committees of the National Parliament, namely the permanent commissions formed after the oath of the members of the Parliament which function in normal situations while the other permanent commissions formed during the recession only function during the recession and the country's situation in a state of emergency.

SUGGESTION

Based on the conclusion above, some things are suggested, so that the Permanent Commission of the National Parliament of Timor-Leste can carry out its functions and authorities properly, the author gives some suggestions as follows:

1. To the National Parliament of Timor-Leste:
   a. It is recommended to the factions in the National Parliament to place their members according to specific fields in special commissions or permanent commissions.
   b. It is necessary to add adequate technical assistants to each National Parliament Standing Commission
   c. Budgeting sufficient budget for each commission so that it can support the activities of the permanent commission of the National Parliament and facilitate the activities of the commission and its members to carry out their functions
   d. Recruiting experts who have real knowledge of the social and cultural-political situation in the territory of the Democratic Republic of Timor-Leste.
   e. Politicians who come from factions in the National Parliament must prioritize the interests of the people, nation, and state
2. To the Government:
   The government or ministry is competent to carry out or follow up on each recommendation from the fiscalization results submitted by each permanent commission in carrying out fiscalization for the benefit of the general public.

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Djoko Soetoono translates this term as Tri Praja (*trias politica Monstesquieu*); Praja Chess for Van Vollenhoven's theory; Dwi Praja (Dichotomy) for Goodnow *Policy Making and policy executing*).

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