Perspective of Constitutional Law: The Right of Inquiry of People's Representative Environment

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Abstract: The purpose of this research is to examine the authority of the Parliament in the use of the right of inquiry according to the 1945 Constitution of the Republic of Indonesia and to explore the legal consequences of the implementation of right of inquiry within Indonesian system. This normative legal research employs a qualitative approach, i.e. legislation, concept, historical, philosophy and case. The sources of legal material consist of primary, secondary and tertiary legal sources based on literature research. The descriptive analysis on the legal material is presented in interpretative, evaluative and argumentative analyses. The results of the research reveals the authority of People’s Representative Council, alternatively called the House of Representatives (DPR) uses the right of inquiry according to the 1945 Constitution of the Republic of Indonesia as part of carrying out the function of supervision and the balance of the executive power. The meaning of the right of inquiry of the DPR of the Republic of Indonesia as a form or an implementation of the supervisory function of other branches of power and in accordance with the principle of check and balance for the realization of balanced power. Furthermore, the legal consequences of the right of inquiry in Indonesia’s constitutional system can provide a reason for the DPR to deliver opinions about violations committed by the government or the President.

Keywords: Right of Inquiry, Authority, Parliament, Government, President.

1. Introduction
In general, Indonesian House of Representative (DPR) has three constitutional functions, namely: the function of legislation, budgeting, and supervisory. These three functions are manifestations of DPR’s position in the People's Legislative Assembly as the representative body of the people in the administration of the state and government. Essentially, the three functions of the DPR have a close relationship and are always related to other functions. The function of legislation is lawmaking, and is a manifestation of the position of the People's Consultative Assembly as the authority in formulating Articles, for example, when the DPR makes a law, which is then approved by the President who is the executive power, the House of Representatives must supervise the products of the law implemented by the executive. In terms of supervisory and budget functions, the implementation by the DPR must be jointly carry out with a supervisory function in which there must be a system of checks and balances. However, the Indonesian government is a constitutional government, which comes from the understanding of constitutionalism that is an understanding of the limitations of power and guarantee of people's rights through the constitution. The limitation of power is done through the checks and balances mechanism which is set in the constitution. The enormous power of
the President based on discretionary authority must be balanced by the authority of the DPR to control the government. According to Bagir Manan (2005), in carrying out its functions, the DPR has the right of inquiry which is closely related to the rights of the DPR as the members and institution. The right of inquiry is to conduct an investigation carried out by the House of Representatives [5]. This matter is defined as the activities carried out to obtain views in the framework of implementing the policy setting task. The right questionnaire can also be used for a fact finding or for formulating policies [1].

In line with the urgency regarding the use of the right of the DPR after the 1945 Constitution of the Republic of Indonesia Constitution was amended, the researcher is interested in examining the question of the right of inquiry in the Indonesian constitution. Based on the background of the problems above, the researcher is interested in conducting a study entitled "The Meaning of the Right of Inquiry of the House of Representative Member's Viewed from the Indonesian Constitutional Law Perspective". Therefore, this study would like to find out on how the authority of the DPR uses the right of inquiry according to the 1945 Constitution of the Republic of Indonesia, and what is the legal effect of the implementation of the right of inquiry in the constitutional system of the Republic of Indonesia?

2. Theoretical Framework

| Grand Theory | Legislative, Executive and Judicial Power |
|--------------|-----------------------------------------|
| Authority Theory |                                         |
| Middle Range Theory | Authority of Attribution, Delegation and Mandate |
| Applied Theory | Institutions have rights and obligations |
| Theory of Right |                                         |

3. Type of Research

The type of research used is normative legal with a qualitative approach consisting of: legislation, concept, historical, philosophy and case. The sources of legal material in this research consist of primary, secondary and tertiary legal materials. Legal material collection techniques are literature study techniques. The analysis techniques applied to the legal material that has been collected in this research are descriptive, interpretative, evaluative and argumentative analysis.

4. Discussion

4.1 The authority of the House of Representatives in using the right of inquiry according to the 1945 Constitution of the Republic of Indonesia

The authority of the People's Legislative Assembly in executing the right of inquiry cannot be separated from the history of Indonesia which has applied the Constitution of the Republic of Indonesia and the Provisional Constitution in which the right of inquiry is regulated under Law Number 6 of 1954 about Consensus. The People's Legislative Assembly’s right of inquiry serve as a basis for the House of Representatives in implementing the right of inquiry. However, the Article has been revoked by the Constitutional Court Decision Number 8/PUU-VIII/2010.
Furthermore, the implementation of the right of inquiry of the authority of the People's Legislative Assembly shall be regulated in Article 199 Paragraph (1) of Law Number 42 Year 2014 concerning the amendment to Law Number 17 Year 2014 concerning the People's Consultative Assembly, the People's Legislative Assembly, the Regional Representatives Council, and the House of Representatives, “The right of inquiry as referred to Article 79 paragraph (1) b is proposed to be the rights of at least 25 (twenty five) members of the People's Legislative Assembly and more than 1 (one) faction.” This means that the right of inquiry can be implemented if it is proposed by the House of Representatives, then submitted by the leaders of the House of Representatives to get approval from the other members.

The authority of the DPR in using the right of inquiry according to the 1945 Constitution of the Republic of Indonesia as part of carrying out supervisory and balance function to the executive power. This is because the right of inquiry is essentially the constitutional right of the House of Representatives in the constitutional system of the Republic of Indonesia. The meaning of the right inquiry of the DPR RI is as a form or implementation of the supervisory function of other branches of power, and the right of inquiry is in accordance with the principle of checks and balance for the realization of balanced power. The Indonesian House of Representatives uses the right of inquiry to conduct investigations into the implementation of laws or government policies that are allegedly contrary to the laws and regulations. However, the use of the right of inquiry by the House of Representatives has raised many new legal problems among law practitioners in practice nowadays.

4.2 The implementation of right inquiry in the Republic of Indonesia constitutional system based on law consequences

The right of inquiry can only be carried out on government policy, in which the policy is carried out by the President, Vice President, Minister of State, Commander of the Indonesian National Army, Chief of the Indonesian National Police, Attorney General, or head of a non-ministerial government agency. However, the right of inquiry is only oriented to use at the discretion of the President and the Minister of State as a legal act.

The right of inquiry may be done by giving effect to the government politically as well as law, according Article 79 Paragraph (3) of Law Number 42 Year 2014 regarding the amendment to Law Number 17 Year 2014 on People's Consultative Assembly, House of Representatives, House of Representatives Regions, and the People's Legislative Assembly has a command norm. According to Hans Kelsen, “The word norm shows an order, meaning that something should exist or occur. Anyone who orders or tells something should happen.” It means that legal certainty must have an impact on everyone in it without presupposition, and attempt to embrace important matters so there is a change in the true meaning of what is intended in the article.

The results of the right of inquiry of the People's Legislative Assembly submitted to the President and proven to violate the policy making that is contrary to the law. Then the results of the right of inquiry gives legal consequences, namely the House of Representatives can use the right to express opinions, as in Article 214 Paragraph (2) of Law Number 42 Year 2014 concerning amendments to Law Number 17 of 2014. According to the researcher the application of the right of inquiry is not limited to having an impact on political stability but also giving legal effect that the House of Representatives can follow up according to its authority to the law and the House of Representatives.

The legal consequences of right inquiry in the constitutional system of the Republic of Indonesia can provide a reason for the DPR to use the right to express opinions about violations committed by the government or the President. The use of the right of inquiry by the DPR RI essentially aims to investigate the implementation of a law or government policy related to important, strategic, and broad impact on the life of society, nation and state which is allegedly contrary to the laws and regulations.
5. Conclusions

Based on the discussion above, it can be concluded:

a) The authority of the DPR uses the right of inquiry according to the 1945 Constitution of the Republic of Indonesia as part of carrying out the function of supervision and balance of the executive. The meaning of the right inquiry of the DPR RI is as a form or implementation of the supervisory function of other branches of power, and the right of inquiry is in accordance with the principle of checks and balance for the realization of balanced power.

b) The legal consequences of the right of inquiry in the Indonesian constitutional system can provide a reason for the DPR to exercise the right to express opinions about violations committed by the government or the President.

6. Suggestion

The suggestions that can be raised are as follows:

a) For the House of Representatives, it is suggested that the application of the right of inquiry must pay more attention to the clarity or limitation of norms in the definition of the right of inquiry, namely importance, strategic, and broad impact aspects.

b) For the community, it is suggested to be careful in paying attention to government policies and that they can propose to the House of Representatives to exercise the right of inquiry.

7. References

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