

## **THE COMPARATIVE LAW ON THE DISTRIBUTION OF POWER IN THE 1945 CONSTITUTION OF THE REPUBLIC OF INDONESIA AND THE CONSTITUTION OF THE REPUBLIC TIMOR LESTE**

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### **Abstract**

*The research purposes is to explain the comparison of the legal division of powers in the constitution in the 1945 Constitution of the Republic of Indonesia and in the Constitution of the Republic Democratic Timor Leste. The division of powers within a country, both in Indonesia and in Timor Leste, are stipulates in a constitution, in this case a state that protects and guarantees the implementation of human rights and other civil rights and limits its powers in a balanced manner between the interests of state administrators and their citizens. The research method used in this study was normative legal research. In addition, this research also applied comparative legal research method is a research methodology carried out by comparing one legal system to another, an activity in which experts compare the positive legal system of a nation to that of other nations. In this case, legal comparison of Indonesia and Timor Leste. The novelty of this research is to examine and analyze comparative law on the distribution of power in the constitutions of Indonesia and Timor Leste, it can be explained that there is a difference in the division of power. In Indonesia there is constitutive power, executive power, legislative power, judicial power, examining/inspective power, and monetary power, while in Timor Leste it is based on the constitution of the Democratic Republic of Timor Leste division of power consisting of the power of the president, the power of the national parliament, the power of the government and the power of the court.*

**Keywords : Comparative Law; Constitution of the Republic Democratic Timor Leste; Distribution of Power; the 1945 Constitution of the Republic of Indonesia;**

### **1. INTRODUCTION**

Every country in the world has a constitution as the legal basis for running the government. In general, the constitution and the state are two institutions that cannot be separated from one another. Constitution has a function to organize power so that it cannot be used forcibly and arbitrarily by the government, which means that all powers granted by the constitution to the government are regulated in the constitution which aims to provide welfare to the community.

An idea of constitutionalism in this case the Constitution in a country is not only a written regulatory document that includes rules that reflect the division of power, in this case between the division of executive power, legislative power and judicial power, but

in the idea of constitutionalism, it participates in interpreting The constitution is seen as an institution that has a special function, namely determining, controlling and limiting power (the division of executive power, legislative power and judicial power) on the one hand by balancing power between the executive, legislative and judicial. In addition, the constitution participates in guaranteeing the human rights of its citizens and the political rights of its citizens. The constitution can be seen as a manifestation of the highest law that must be obeyed by the state and government officials, the constitution has a function to organize power so that it cannot be used forcibly and arbitrarily by the government.

The correlation between the concept of constitutionalism and the comparison of the division of powers stipulated in the constitutions of Indonesia and Timor Leste is the concept of constitutionalism as an essence of the system of administering state administration in a country, in this case constitutionalism for countries is a necessity that must be implemented. Constitutionalism is one of the most effective understandings for managing power (division of powers) in running the government. In addition, the correlation of the concept of constitutionalism with the comparison of the division of powers, namely the existence of a constitution for a country is essentially the root of constitutionalism which is not only intended to limit the authorities' authority, guarantee people's rights and regulate government, but the constitution is also a tool for the people to consolidate political and legal positions. by living together.

The necessity of comparativism as a thing means that every statement of law and every comparative law must stand as comparative.<sup>1</sup> Based on this opinion, in comparative law there is a legal statement on the conclusions obtained from a comparison of one legal system with another legal system. In this research, it can be seen that based on article 67 of the Constitution of the Democratic Republic of Timor-Leste regarding sovereign bodies of the State "organia soberania nian" the division of powers consists of the Powers of the President, the Powers of the National Parliament, the Powers of the Government and the Powers of the Courts. In contrast to Indonesia, there are constitutive powers, executive powers, legislative powers, judicial powers, examining/inspective powers and monetary power based on the provisions of the 1945 constitution of the Republic of Indonesia.

This research article will explain comparative law the division of power in the Constitution in the State of Indonesia and in the State of Timor Leste. The division of power in a country, both in Indonesia and in Timor Leste is based on the constitution, in this case a country that protects and guarantees the implementation of human rights and other civil rights and limits the power of its government in a balanced way between the interests of state administrators and citizens his country.

Van Apeldoorn argues about the science of comparative law by stating that: "laws vary according to place and time, a nation (place) or an independent country has its own law". Comparative law states that in addition to the many differences there are also

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<sup>1</sup> Pierre Legrand, "A Tractation on the Comparison of Laws", London, Oxford University Pers, *The American Journal of Comparative Law*, Vol. 65, Issue 1, July (2017), 132, <https://pierre-legrand.com/jameses-at-play.pdf>

similarities between the laws of various nations. Comparative law science, of course, is not satisfied with merely recording the differences and similarities, but also seeks explanations.”<sup>2</sup> Comparative law aims to find out the differences and similarities of the legal system in a country, and comparative law can be used as a basic analysis in forming a future legal regulation that aims for the welfare of the people in a country in filling the legal vacuum.

Furthermore, related to the legal comparison of the division of power in the constitutions of Indonesia and Timor Leste, in this case the division and/or separation of powers within the state has been regulated in the Constitution. This means that a constitution of a country can contain several things, namely as a state document that contains the main things in the administration of the state, and in the constitution an implementation based on the sovereignty of the people.

The principle of the division of power in a country can only be legitimized according to the provisions and must be carried out using the principle of running a good government, the appointment of the executive must be through democratic elections. The principle of the division of power in a country is based on the limitation of authority, in this case the existence of an independent judicial power that can enforce the law and also the existence of a control system over the military and police in this case to enforce the law and respect the rights of the people which guarantees the protection of human rights.

Hendra Irawan, et.al,<sup>3</sup> The research with the title Comparison of the constitutional system from the perspective of the application of Indonesian and Singaporean laws, they examined two countries, namely Indonesia and Singapore, a comparative study of the constitutional system from the perspective of the application of Indonesian law and Singapore parties are multi-party while the difference is in the presidential system of government in Indonesia, while Singapore has a presidential and prime ministerial government system. Another difference is that Indonesia and Singapore both have three powers, namely the executive, legislative and judiciary, but the institutions within are different. Their research has similarities with this research, namely examining the comparison of the legal system in a country, but this study focuses more on examining the division of power in the constitution between Indonesia and the State of Timor Leste.

The research method used in this study is normative legal research, which tests an existing provision or norm.<sup>4</sup> This research also uses research, the comparative legal research method is a research methodology carried out by comparing one legal system to another, an activity in the sense of comparing the positive legal system of one nation to another, in this case the legal comparison of Indonesia and Timor Leste (the division of power in the constitution between the state of Indonesia and the state of Timor Leste).

<sup>2</sup> L.J.van Apeldoorn, “Pengantar Ilmu Hukum”, (Jakarta;Pradnya Paramita,1982), 434

<sup>3</sup> Hendra Irawan, Choirul Salim, Destalia Endyta Putri, Nur Kholis, “Perbandingan sistem ketatanegaraan persepektif penerapan hukum Indonesia dan Singapura”, *Siyasah Jurnal Hukum Tata Negara*, Vol 1 No. 1, (2022) : 23-24, file:///C:/Users/Acer/Downloads/5116-339-17219-1-10-20220623.pdf

<sup>4</sup> Irwansyah, *Penelitian Hukum: Pilihan Metode Dan Praktek Penelitan Artikel*, Cet.3 (Yogyakarta: Mira Buana Medi,2020), 31

The novelty of the research entitled The Comparative Law Distribution of Power in the Constitutions of Indonesia and Timor Leste is knowledge of the comparison of legal systems in the distribution of powers contained in the constitutional provisions between the countries of Indonesia and Timor Leste, which focuses on analyzing the difference, namely the system of government in Timor Leste consists of the Powers of the President, the Powers of the National Parliament, the Powers of the Government and the Powers of the Courts. In contrast to Indonesia, there are constitutive powers, executive powers, legislative powers, judicial powers, examining/inspective powers and monetary powers. The similarity is that there is the power of the president as the head of state, but in Timor Leste, the head of state is led by a president and the head of government is led by a prime minister. The term prime minister is not recognized in the Indonesian state constitution. The President of Indonesia is the head of state as well as the head of government of Indonesia and holds the government's executive powers.

## 2. ANALYSIS AND DISCUSSION

### 2.1. The Comparative Law Distribution of Power in the Constitutions of Indonesia and Timor Leste

Legislators and executive officials should put aside ordinary political concerns when they address constitutional questions, and should instead devote their efforts to developing a principled understanding of the constitutional provisions that bear on the problem at hand.<sup>5</sup> The authority granted by the constitution to the executive, legislative and judicial branches is a mandate from the people through their sovereignty through the constitution, legislators and executive officials should put aside ordinary political concerns when they address constitutional questions, and should instead devote their efforts for the people.

The necessity of comparativism as a thing means that every statement of law and every comparative law must stand as comparative.<sup>6</sup> This research article will explain comparative law the division of power in the Constitution in the State of Indonesia and in the State of Timor Leste. The division of power in a country, both in Indonesia and in Timor Leste is based on the constitution, in this case a country that protects and guarantees the implementation of human rights and other civil rights and limits the power of its government in a balanced way between the interests of state administrators and citizens his country.

Relying on the conception of the Indonesian legal state which is based on Pancasila ideology, the concept of developing a national legal system should ideally be carried out to at least include 3 (three) important components in law. First, is the development of the legal structure; second is the development of the content or legal substance; and the

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<sup>5</sup> Stephen L. Carter, "Constitutional Improprieties: Reflections on Mistretta, Morrison, and Administrative Government", USA, *The University of Chicago Law Review*, Vol. 57, (1990), 357, <https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=4664&context=uclev>

<sup>6</sup> *Op.Cit.*, Pierre Legrand,.

third is the development of the culture or legal culture.<sup>7</sup> In the context of regulating the distribution of power in Indonesia in running the government based on the concept of developing its legal structure, legal substance and legal culture.

The division of powers contained in the Indonesian constitution, namely the 1945 Constitution of the Republic of Indonesia can be analyzed and explained as follows:<sup>8</sup>

1. Constitutive power, namely the power to amend and enact the Constitution. This power is exercised by the People's Consultative Assembly as confirmed in Article 3 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that the People's Consultative Assembly has the authority to amend and stipulate the Constitution.
2. Executive power, namely the power to carry out laws and administer the state government. This power is held by the President as confirmed in Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that the President of the Republic of Indonesia holds governmental power according to the Constitution.
3. Legislative power, namely the power to form laws. This power is held by the House of Representatives as confirmed in Article 20 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that the House of Representatives holds the power to make laws.
4. Judicial power or the so-called judicial power, namely the power to administer justice in order to enforce law and justice. This power is held by the Supreme Court and the Constitutional Court as confirmed in Article 24 paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that judicial power is exercised by a Supreme Court and judicial bodies under it in the general court environment, religious courts, military courts, state administrative courts, and by a Constitutional Court.
5. Examiner/inspective powers, namely powers related to the implementation of audits on the management and responsibilities of state finances. This power is exercised by the State Audit Board as confirmed in Article 23 E paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that to examine the management and responsibilities of state finances an independent and independent Supreme Audit Agency is established.
6. Monetary power, namely the power to determine and implement monetary policy, regulate and maintain the smooth running of the payment system, and maintain the stability of the rupiah value. This power is exercised by Bank Indonesia as the central bank in Indonesia as confirmed in Article 23 D of the 1945 Constitution of the Republic of Indonesia which states that the state has a central bank whose structure, position, authority, responsibility and independence are regulated in law.

<sup>7</sup> Widodo Ekatjahjana, "Negara Hukum, Konstitusi, dan Demokrasi: Dinamika dalam Penyelenggaraan Sistem Ketatanegaraan Republik Indonesia", (Jember University Press, 2015), 72.

<sup>8</sup> Research by I Nyoman Prabu Buana Rumiarta, Faculty of Law Udayana University, Indonesia





Picture 1 : The Parliament Building of the Indonesian People's Representative Council<sup>9</sup>

Furthermore, the division of power contained in the constitution of the state of Timor Leste, namely the Constitution of the Democratic Republic of Timor Leste can be analyzed and explained as follows:<sup>10</sup>

1. The Democratic Republic of Timor-Leste (Repúbilca Democrática de Timor Leste) is a sovereign state whose government is divided into four parts or often referred to as 4 state-sovereign institutions as stated in article 67 of the Constitution of the Democratic Republic of Timor-Leste concerning sovereign bodies The state "Organia soberania nian" which consists of; President, National Parliament, Government and Courts.
2. In the provisions of article 74 paragraph 1 of the Constitution of the Democratic Republic of Timor Leste, it is stated that the President of the Republic is the head of state and the symbol of the guarantor of national independence and national unity as well as the smooth functioning of democratic institutions.
3. In the provisions of article 74 paragraph 2 of the Constitution of the Democratic Republic of Timor Leste, it is stated that "the President of the Republic is the supreme commander of the armed forces" thus the institution of the sovereignty of the Presidency is a very important institution in the state of Timor-Leste. In addition, the presidential authority in articles 85, 86 and 87 of the Constitution of the Democratic Republic of Timor Leste provides an opportunity for the presidential sovereign body to make decisions or carry out its duties and authorities in accordance with the Constitution of the Democratic Republic of Timor Leste.
4. Provisions in Article 92 of the Constitution of the Democratic Republic of Timor Leste, the National Parliament is the sovereign body of the Constitution of the Democratic Republic of Timor Leste which represents all citizens of Timor Leste and is given legislative authority regarding the formulation of laws, oversight and

<sup>9</sup> Photograph : Parleментарia

<sup>10</sup> Research by Armino Moniz Amaral, Instituto Superior de Filosofia, ISFIT Dili-Timor Leste

political decision-making as well as exercising control over these institutions. other sovereign institutions such as the President, government and the Court so that the State Government is called Check and Balance.

5. Article 103 of the Constitution of the Democratic Republic of Timor Leste stipulates that the Government is a sovereign institution of the State which aims to implement the Law and is responsible for the direction and implementation of the general policy of the State and is the highest general government body. To implement the work programs of a government, the government certainly has good programs to advance society and the country in various aspects.
6. Appointment of prime minister and ministerial members as stated in article 106 paragraphs (1) and (2) of the Constitution of the Democratic Republic of Timor Leste which states that the Prime Minister is appointed by the winning party or by a coalition of political parties with a majority of representatives in parliament and appointed by the President The Republic, after hearing the political parties represented in the National Parliament, and other Members of the Government are appointed by the President of the Republic on the recommendation of the Prime Minister.



Picture 2 : Timor Leste Government Building<sup>11</sup>

In the context of power-sharing the authority of the prime minister in Timor Leste, the prime minister is appointed by the parliamentary majority party or a coalition of parliamentary majority parties, then appointed and appointed by the President, after consultation with the political parties occupying seats in the National Parliament, while in Indonesia the prime minister's authority there are no ministers because the constitution in Indonesia is not known for the power of a prime minister, Indonesia implements a presidential system of government while in Timor Leste it implements a semi-presidential system of government. In a presidential government, the President

<sup>11</sup> Photograph : Indenpedensi

acts as the head of state as well as the head of government whose position is separate from that of the parliament.

In the government system in Indonesia, the discussion of bills is carried out by the House of Representatives and the President or related ministers assigned by the President. Usually, the president is not involved in discussions directly, but through the relevant ministers. Each bill is discussed by the House of Representatives and the President for mutual approval. The President has a veto right, namely the right to cancel decisions, decrees, and draft laws. If in a trial for the formulation of a bill the president rejects the bill, then a 2/3 vote of all members of the assembly is required. Draft laws that do not get approval in session may be reviewed at the next session. Meanwhile, the draft law that has been jointly approved by the President and the House of Representatives will be submitted to become a law which will be ratified by the President.

Whereas in the government system in Timor Leste, the process of making laws and regulations as stated in the RDTL Constitution, includes several stages, namely “the proposal stage which can be on the initiative of the factions and/or members of parliament, the executive body (government), the appreciation stage, the discussion stage, the voting stage, the ratification stage and the submission stage to the President for announcement in accordance with Article 88 paragraph (1) which reads; within thirty days from the date of receipt of any draft law from the National Parliament, with a view to promulgation as law, the President of the Republic shall promulgate it promulgated or exercise a veto. If the President vetoes, it must be based on proper reasons, then submits a request to the National Parliament to ask for reconsideration of the Bill. The President of Timor-Leste has a statutory veto and has the authority to dissolve the National Parliament in the event of a severe institutional crisis, which prevents the formation of the Government or the approval of the State Budget, dissolves the Government and terminates the new Prime Minister in the event of two rejections of the work program offered to the National Parliament.

Subekti in his book “Comparative Civil Law” states: “In studying comparative law, we do not merely want to know the differences, but what is important is to know the causes of these differences. For that we need to know the background of the legal regulations that we encounter.”<sup>12</sup> He further explained the similarities contained in various legal systems, such as in the law of inheritance and the issue of good faith, which in the end he said: “Because the rule of law is a reflection of the state of society, the comparative law lesson has many similarities with what is called the sociology of law.”<sup>13</sup> Comparative law aims to find out the differences and similarities of the legal system in a country, and comparative law can be used as a basic analysis in forming a future legal regulation that aims for the welfare of the people in a country in filling the legal vacuum.

Country given authority by constitution/constitutional.<sup>14</sup> If it is associated with The Comparative Law Distribution of Power in the Constitutions of Indonesia and Timor

<sup>12</sup> Subekti, “Perbandingan Hukum Perdata” (Jakarta: Pradya Paramita, 2006), 8.

<sup>13</sup> *Ibid.*,

<sup>14</sup> Lopez, Enrique Guillen, “Judicial Review in Spain: The Constitutional Court”, *Loyola of Los Angeles Law Review*, Vol.41 No.2 (2008), 531

<https://digitalcommons.lmu.edu/cgi/viewcontent.cgi?referer = &httpsredir = 1&article = 2616&context = llr>



Leste, then the state of Indonesia and the state of Timor Leste have a constitution as the legal basis for running the government. In general, the constitution and the state are two institutions that cannot be separated from one another. That the constitution has a function to organize power so that it cannot be used forcibly and arbitrarily by the government, which means that all powers granted by the constitution to the government are still regulated in the constitution which aims to provide welfare to the community.

By comparing the laws of countries contribute to the study of comparative law in motion in other countries<sup>15</sup> Comparative law is a matter that has the concept of comparing legal systems to be able to see the similarities and differences in the context of developing law and or as a concept of carrying out legal reforms. Comparative law in this case as a science that examines the presence or absence of a similarity or difference and in this case investigates the background of these similarities or differences, knowledge of the background in question will provide a deeper and broader understanding of the essence, the development of a particular legal system and its legal institutions, as well as in comparing legal systems to be able to see the similarities and differences in the context of developing the law.

The rule of law is a state based on law and guarantees justice for its citizens. The point is that all powers and actions of state equipment or authorities are solely based on law or in other words regulated by law. This will reflect justice for the social life of its citizens.<sup>16</sup> The Indonesian constitution, namely the 1945 Constitution of the Republic of Indonesia and the Constitution of Timor Leste, the Constitution of the Democratic Republic of Timor Leste, are implementations of the rule of law principle.

The system of government in Timor Leste consists of the Powers of the President, the Powers of the National Parliament, the Powers of the Government and the Powers of the Courts. In contrast to Indonesia, there are constitutive powers, executive powers, legislative powers, judicial powers, examining/inspective powers and monetary powers. The similarity is that there is the power of the president as the head of state, but in Timor Leste, the head of state is led by a president and the head of government is led by a prime minister. The term prime minister is not recognized in the Indonesian state constitution. The President of Indonesia is the head of state as well as the head of government of Indonesia and holds the government's executive powers.

## **2.2. The Ideal Division of Government Power (Democratic State).**

In this research sub-article, the author will offer a new concept related to the distribution of power in an ideal system of government in a country (democratic country). This new concept related to the distribution of power in an ideal system of government in a country can be used as a basis for the distribution of power that prioritizes democracy to achieve the welfare of a country.

In principle, a country is divided into several organs or elements of authority with different functions based on their authority based on laws and regulations. To avoid

<sup>15</sup> Lena Salaymeh, "Comparing Islamic and International Laws of War: Orthodoxy", London, Oxford University Pers, *The American Journal of Comparative Law*, Vol. 69, Issue 1, March (2021), 139 <https://academic.oup.com/ajcl/article/69/1/136/6331204?login=false>

<sup>16</sup> Abu Daud Busro dan Abu Bakar Busro, "Asas-asas Hukum Tata Negara" (Jakarta:Ghoila Indonesia, 2003) , 111

the arbitrariness of the government in running the government system of a country, the power holders must be distinguished or the power holders must be divided based on their organs of function so that a mechanism for a government system that supervises each other is created.

The concept offered in the distribution of power in an ideal system of government in a country (democratic country) is divided into five (5) divisions of power, namely:

1. Constitutive Powers

Constitutive Power is an organ of power that combines the authority of the people's sovereignty in drafting or amending a constitution which is used as the basis for administering the state. In this constitutive power, there are roles from the legislature and executive which are central in nature, especially the more concrete roles of parliamentary legislature and representative legislature in every region in a country.

2. Legislative Power

Legislative power in this case is an organ of power in a country that has the authority to draw up or make laws and regulations, the state budget, oversight of laws and parts of institutions based on people's sovereignty. For example the House of Representatives or the Parliamentary Council.

3. Executive Powers

Executive power is an organ of power that has the power to play a role in the central government. The power-sharing mechanism implemented by the President and/or Prime Minister.

4. Judicial Power

Judicial power is an organ of power in the field of judiciary, an organ of judicial power in the form of judicial power for activities based on the wider judicial environment. For example the Supreme Court and the Constitutional Court or the Court of Military Justice.

5. Inspective Power

Inspective Power is an organ of power that has a broad role in regulating as well as holding responsibility for state finances, in this case as a financial auditing agency in a country, examining responsibility for state finances whose regulations are stipulated by law.

The theory that includes the distribution of power both in the arrangement of the distribution of powers of state functions and the arrangement of the distribution of powers between the central government and the state or regional governments was also put forward by Arthur Maass. According to Arthur Maass, the division of power can be horizontal, referred to as the capital division of powers, while the vertical division of power is referred to as the area division of power. Within the framework of capital division of powers, legislative, executive and judicial functions are each assigned to a body. Within the framework of the area division of powers, certain functions such as monetary and foreign relations are assigned to the central government, while other

functions are assigned to state or regional governments.<sup>17</sup> The concept offered in the distribution of power in an ideal system of government in a country (democratic country) is divided into the five (5) divisions of power mentioned above, namely Constitutive Power, Legislative Power, Executive Power, Judicial Power and Inspective Power, which are organs of power that have the concept of meaning related to the horizontal distribution of powers is referred to as the capital division of powers, and the vertical division of powers is referred to as the area division of power.

Country given authority by constitution/constitutional.<sup>18</sup> If it is associated with The Comparative Law Distribution of Power in the Constitutions of Indonesia and Timor Leste, then the state of Indonesia and the state of Timor Leste have a constitution as the legal basis for running the government. In general, the constitution and the state are two institutions that cannot be separated from one another. That the constitution has a function to organize power so that it cannot be used forcibly and arbitrarily by the government, which means that all powers granted by the constitution to the government are still regulated in the constitution which aims to provide welfare to the community.

The rule of law is a state based on law and guarantees justice for its citizens. The point is that all powers and actions of state equipment or authorities are solely based on law or in other words regulated by law. This will reflect justice for the social life of its citizens.<sup>19</sup> The constitution participates in guaranteeing the human rights of its citizens and the political rights of its citizens. The constitution can be seen as a manifestation of the highest law that must be obeyed by the state and government officials, the constitution has a function to organize power so that it cannot be used forcibly and arbitrarily by the government.

The application of the rule of law principles in democratic countries such as Indonesia and Timor Leste is contained in a constitution. Whereas the realization of a legal state as envisioned in the constitution of a country can be realized if the entire process of administering government or the state is really based on the principles contained in the constitution. The rule of law has characteristics such as the existence of efforts to protect human rights, the existence of separation or distribution of powers, the implementation of people's sovereignty, the existence of governance based on applicable laws and regulations and the existence of state administrative courts which are still used as a basis in realizing A democratic rule of law based on the sovereignty of the people.

### 3. CONCLUSION

The Comparative Law Distribution of Power in the Constitutions of Indonesia and Timor Leste, it can be explained that there is a difference in the division of power, namely in Indonesia there is constitutive power, executive power, legislative power, judicial power, examining/inspective power, and monetary power, while in Timor Leste it is based on the Constitution of the Democratic Republic of Timor Leste concerning

<sup>17</sup> Edie Toet Hendratno, "Negara Kesatuan, Desentralisasi, Dan Federalisme", (Yogyakarta: Graha Ilmu, 2009), 83.

<sup>18</sup> *Op.Cit.*, Lopez, Enrique Guillen.

<sup>19</sup> *Op.Cit.*, Abu Daud Busro dan Abu Bakar Busro.

sovereign bodies, the state “Orgaun soberania Nian” has a division of power consisting of the power of the President, the power of the National Parliament, the power of the Government and the power of the Court.

The similarity is that there is the power of the president as the head of state, but in Timor Leste, the head of state is led by a president and the head of government is led by a prime minister. The term prime minister is not recognized in the Indonesian state constitution. The President of Indonesia is the head of state as well as the head of government of Indonesia and holds the government’s executive powers. In the context of power-sharing the authority of the prime minister in Timor Leste, the prime minister is appointed by the parliamentary majority party or a coalition of parliamentary majority parties, then appointed and appointed by the President, after consultation with the political parties occupying seats in the National Parliament, while in Indonesia the prime minister’s authority there are no ministers because the constitution in Indonesia is not known for the power of a prime minister, Indonesia implements a presidential system of government while in Timor Leste it implements a semi-presidential system of government. In a presidential government, the President acts as the head of state as well as the head of government whose position is separate from that of the parliament.

In the government system in Indonesia, the discussion of bills is carried out by the House of Representatives and the President or related ministers assigned by the President. Usually, the president is not involved in discussions directly, but through the relevant ministers. Each bill is discussed by the House of Representatives and the President for mutual approval. The President has a veto right, namely the right to cancel decisions, decrees, and draft laws. If in a trial for the formulation of a bill the president rejects the bill, then a 2/3 vote of all members of the assembly is required. Draft laws that do not get approval in session may be reviewed at the next session. Meanwhile, the draft law that has been jointly approved by the President and the House of Representatives will be submitted to become a law which will be ratified by the President. Whereas in the government system in Timor Leste, the process of making laws and regulations, includes several stages, namely “the proposal stage which can be on the initiative of the factions and/or members of parliament, the executive body (government), the appreciation stage , the discussion stage, the voting stage, the ratification stage and the submission stage to the President for announcement in accordance with Article 88 paragraph (1) which reads; within thirty days from the date of receipt of any draft law from the National Parliament, with a view to promulgation as law, the President of the Republic shall promulgate it promulgated or exercise a veto. If the President vetoes, it must be based on proper reasons, then submits a request to the National Parliament to ask for reconsideration of the Bill. The President of Timor-Leste has a statutory veto and has the authority to dissolve the National Parliament in the event of a severe institutional crisis, which prevents the formation of the Government or the approval of the State Budget, dissolves the Government and terminates the new Prime Minister in the event of two rejections of the work program offered to the National Parliament.



The concept offered in the distribution of power in an ideal system of government in a country (democratic country) is divided into five (5) divisions of power, namely:

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2. Legislative power in this case is an organ of power in a country that has the authority to draw up or make laws and regulations, the state budget, oversight of laws and parts of institutions based on people's sovereignty. For example the House of Representatives or the Parliamentary Council.
3. Executive power is an organ of power that has the power to play a role in the central government. The power-sharing mechanism implemented by the President and/or Prime Minister.
4. Judicial Power is an organ of power in the field of judiciary, an organ of judicial power in the form of judicial power for activities based on the wider judicial environment. For example the Supreme Court and the Constitutional Court or the Court of Military Justice.
5. Inspective Power is an organ of power that has a broad role in regulating as well as holding responsibility for state finances, in this case as a financial auditing agency in a country, examining responsibility for state finances whose regulations are stipulated by law.

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### **Regulation**

The 1945 Constitution of the Republic of Indonesia

The Constitution of the Democratic Republic of Timor Leste