

Quadrilatera Politica in The State Structure of RDTL

Tonze Yosep B.A da Costa

Law Faculty, Universidade Da Paz, Unpaz Dili, Timor Leste

E-mail: tonzmasterboz79@gmail.com

ARTICLE INFO

Article History:

Received 7th May, 2024

Received in revised form

14th June, 2024

Accepted 19th June, 2024

Published online 22th August, 2024

Key Words:

Quadrilatera, Politics, State Structure, RDTL



ABSTRACT

Quadrilatera Politics In the State Structure of RDTL as regulated in the Constitution of RDTL is substantively very broad, not only in the executive field, but also reaching the legislative, governmental and judicial fields. The state structure of RDTL does not yet reflect the principles of the rule of law and democracy, and requires the umbrella of the sovereign institutions of the unitary state of the Democratic Republic of Timor Leste into a container or roof to shelter several state institutions, namely the Quadrilatera Politics. The findings of this study recommend that the four state institutions of RDTL should be in one container and one roof, namely the Quadrilatera Politics, let Europe be famous for the Trias Politics and Timor Leste is the only unique unitary state in the world that is famous for the Quadrilatera Politics.



Copyright: © The Author(s), 2024. Published by Science Publishing Group. This is an Open Access article, distributed under the terms of the Creative Commons Attribution 4.0 License (<http://creativecommons.org/licenses/by/4.0/>), which permits unrestricted use, distribution and reproduction in any medium, provided the original work is properly cited.

INTRODUCTION

The Democratic Republic of Timor Leste is a democratic, sovereign, independent and united state, based on the power of law, the will of the people and respect for human dignity. With this understanding, it seems to lead us to understand what a state of law and democracy means, as it is known that a state of law is a state that stands on the law that guarantees justice to its citizens and democracy is an idea and ideology or idea to guarantee that state sovereignty remains in the hands of the people based on the concept of democracy from the people, by the people and for the people. The constitution is a fundamental state norm or staats fundamental norm and the constitution is not limited to temporary and pragmatic legal thinking "quia lex non solum nobis pragmatice et provisionarie" and the constitution is also not only limited to a written legal legitimacy that is explanatory, explicit explication and exemplification, but is related to an understanding of the hierarchy of law and is accompanied by an essential foundation that is also based and based on fundamental principles. The constitution as a whole is a direct reflection of a container, which organically, becomes a unifier and complement to a comprehensive reality. In addition, it has a reformist nature in a strategy that is to be achieved by an independent Timor Leste. Initially, an independent Timor Leste country is not enough with a constitution. However, it is

better to implement and interpret it logically than to criticize at first glance. Based on the Constituent Assembly, in a plenary session on March 22, 2002, ratified and established the Constitution of the Republic of Timor Leste. In addition, as a newly independent country, it is aware that it is necessary to build a democratic culture and institutions that are appropriate for a state of law, where respect for the Constitution and for democratically elected institutions is a foundation that cannot be questioned. Based on the deep feelings, ideals and belief in God of the people of Timor Leste. Solemnly reaffirming its determination to fight against all forms of tyranny, liberation, oppression, domination and social, cultural and religious separation, to defend National independence, respect and guarantee human rights and citizens' basic rights, to guarantee the principle of separation of powers in the organization of the state, and to establish the basic core rules of multi-party democracy, with the aim of building a just and prosperous country and developing a united and friendly society.

This justice is a condition for achieving happiness in life for citizens and the nature of justice needs to be taught a sense of morality to every human being so that it can make citizens of a nation good. And the core of a democratic country is a country that adheres to the form or mechanism of a government system by realizing the sovereignty of the people (citizen power) over the country to be run by the government of the country.

One of the pillars of democracy is the principle of *quadrilatera politica* which means four-way politics, which divides the four political powers of the state (executive, legislative, *gobnare* and judiciary) to be realized in four types of state institutions that are mutually independent and are in an equal rank to each other. The equality and independence of these four types of state institutions are needed so that these four state institutions can supervise and control each other based on the principle of checks and balances.

The concept of *quadrilatera politica* means to prevent power that is too centralized in one person or one government agency, so as to prevent abuse of power or authority "detournement de *pouvoir*", corruption, and arbitrary actions by the ruler.

With this division of power, each branch of power can supervise and balance each other, so as to create stability and security in the government system. The term "*quadrilatera Politics*" refers to the idea that political power should be divided among four different branches of government, each with its own area of responsibility. The executive branch-responsible for implementing and enforcing laws and policies, often through elected or appointed leaders, such as the president, governor, or prime minister. The legislative branch - responsible for making laws and policies, often through elected representatives or lawmakers. The *gobnare*-government branch is the sovereign body responsible for directing and implementing the general policies of the state and is the highest general government body. Judicial branch - responsible for interpreting laws and resolving cases

MATERIAL AND METHODS

The exploration of various legal materials, using normative legal methods through a comparative approach and a conceptual approach, is carried out through legal analysis and interpretation in order to provide prescriptions for legal issues that have been formulated in the form of research problems.

RESULTS AND DISCUSSION

1) Philosophical Problem.

The nature or essence of the *Quadrilatera* which places the four state institutions ontologically is an inconcrete legal discovery in abstract legal rules that are concretized through analysis of a particular problem object so that it can be taken as a solution to a problem that can be applied in reality. Meanwhile, in terms of axiology (values and objectives), it aims to avoid interpretation so that the four state institutions can be placed in a definite theory or definite concept to study the application of legal norms or rules.

2) Theoretical Problem.

Looking at the theory of separation of powers put forward by Charles Louis de Secondat Baron de La Brede et De Montesquieu in his book *L' Esprits de Loi*, English *The Spirit of the Laws*, known as the *Triaspolitka* theory, a name given by Immanuel Kant (German Philosopher). Two theoretical fields in the branch of Constitutional Law, namely: Legislation theory (*Gesetzgebungstheorie*) consisting of the "theory of the formation of laws", and the theory of the order of regulations relevant to the *stufenbauteorie* of Hans Kelsen. However, the theory of the separation of powers by Montesquieu is considered "outdated", which is unable to complete the four sovereign bodies of the state of Timor Leste as stated in article 67 of the RDTL Constitution, constitutionally, Timor Leste has four state sovereign institutions, each consisting of the President of the Republic, the National Parliament, the Government and the Court, each of which adheres to the principle of separation

of powers, namely state sovereign institutions, in reciprocal relations and in the implementation of their functions, are subject to the principle of separation of powers and functional interdependence in accordance with the constitution (article 70).

3) Legal Problems.

What happens if there is a legal vacuum? The consequences caused by the existence of a legal vacuum on matters or conditions that are not or have not been regulated can result in legal uncertainty (*rechtsoonzekerheid*) or uncertainty of laws and regulations in society which will further result in legal chaos (*rechtsverwaring*). The target of this legal rule is the law that is aspired to in the future or future law as *ius constituendum* which is the nature and essence of norms, as well as the position of norms in the horizon of human knowledge as provisions for expanding scientific insight in developing and implementing law critically reflective and responsible, which is also a responsive radical legal criticism, not a repressive radical legal criticism.

CONCLUSION

This closing section will present the conclusion. The conclusion is formulated by referring to the results of the analysis in the form of lexical interpretations related to words, related to lexemes and related to vocabulary and systematic interpretation of law and politics and democracy towards the research problems formulated. also described as a recommendation to the parties to utilize the results of this study in accordance with the intention to uphold the supremacy of the constitution, especially the RDTL Constitution. Departing from the results of the research and studies expressed in the previous paragraph, in this last paragraph several conclusions will be presented, as follows:

Departing from the study and findings of this research, it can be concluded as follows:

1. That the sovereign institutions of RDTL as regulated in the RDTL Constitution are substantively very broad, not only in the executive field, but also reaching the legislative, governmental and judicial powers.
2. That the principles underlying the powers of the state institutions of RDTL can reflect the principles of the rule of law and democracy, as well as the constitution which requires a separation of powers. In addition, the principles underlying the state structure of RDTL do not yet reflect the principles of the rule of law and democracy, and require the umbrella of the sovereign institutions of the unitary state of the Democratic Republic of Timor Leste into a container or roof to shelter several state institutions, namely the *Quadrilatera Politica* in the administration of the State.

REFERENCE

- Philipus M.Hadjon dan Titiek Sri Djamiati,2005, *Argumentasi Hukum*, UGM Press, Surabaya.
- Peter Mahmud Marzuki,2006, *Penelitian Hukum*, kencana prenada Media group.
- Jhony Ibrahim, 2008, *Teori dan Metode Penelitian Hukum Normatif*, Bayu Media Publishing, Surabaya.
- Ismail Sunny, S.H., M.C.L.Pergeseran Kekuasaan Eksekutif.Penerbit: Aksara Baru, 1977
- Jimlly Assiddiqie, *Pengantar Ilmu Hukum Tata Negara*, Penerbitan.Jakarta:Rajawali Pers,2011.

Titik Tri Wulan Tutik, *Konstruksi Hukum Tata Negara Indonesia Pasca Amandemen UUD 1945*. Penerbit Jakarta : Kencana., 2010

Abu Daud Busroh, *Ilmu Negara*. Edisi. Cet. Ke-6. Penerbitan. Jakarta. 2009

R. Kranenburg, *Algemene staatsleer*. Edisi. Tweede druk. Penerbitan Haarlem: Tjeenk Willink & Zoon. 1949

Leon Duguit, *Law in the Modern State*. Translated by Frida and Harold Laski. London: Allen & Unwin. 1922.

Franz Oppenheimer (March 30, 1864 – September 30, 1943) was a German Jewish sociologist and political economist,

who published also in the area of the fundamental sociology of the state.

I Dewa Gede Atmadja & I Nyoman Putu Budiarta, Denpasar 22 Maret 2018, *Teori-Teori Hukum*.

<http://catatanwacana.blogspot.com/2012/04/sistem-pemerintahan-presidensial-dan.html>