

**LEGAL REVIEW ON THE IMPLEMENTATION OF INVESTIGATION RIGHT  
BY THE HOUSE OF REPRESENTATIVES (AFTER POLITICAL REFORM)**

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REFORM)**

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**ABSTRACT**

Political Reform, have generated a much more dynamic the House of Representatives compared to the previous period, especially in how they perform supervision function especially on the Investigation Right. The investigation right is the right of the House of Representatives to investigate on the implementation of a law or government policies relating to the important things, strategically and impacted people's lives, nation, and state that allegedly contrary to the legislation. This research aims to know the implementation and implication of using the Investigation Right by the House of Representatives. The research focuses of the study on investigation Right after reform era. The research is a normative legal research. The problem of this research because of the House of Representatives is political institution sometimes the Investigation Right used to political interest of the members of the Hose of Representatives. the research recommends to elaborate deeply about the meaning of important and strategic government policies and have a broad impact on the life of society and state which is allegedly contrary to the laws and regulations. If it can be done, the effort of the House of Representatives members proposes an Investigation Right will increasingly get a place in the public. Not only is it the pure supervision element will be more effective than the control under the guise of political interests

**Keywords:** *investigation right, the House of Representatives, political reform*

## 1. INTRODUCTION

The fall of the authoritarian of the New Order Regime marked by the resignation of President Soeharto's<sup>1</sup> on 21 May 1998 provides an opportunity for Indonesia to reorganize political life, economics, and law to a more open-fair and democratic.<sup>2</sup> The transfer of power from President Soeharto to Vice-president B.J Habibie at that time brought significant changes to the Indonesian political system. The Indonesian political system changes can be seen from the presence of Indonesia's political system transformation of previously authoritarian style into a more democratic direction. At that time the political power becomes determinant of the direction toward the construction of better Indonesia.

Indonesia is constitutional state, which is a state regulated by Constitution. In the four classic characteristics of Continental Law State commonly called *rechtsstaat*, there are elements of limitation of powers as one of the fundamental characteristics of a state of law.<sup>3</sup> Montesquieu in the theory of *trias politica* –legislative, executive and judiciary state that there is no dominance in carrying out the government. The executive in carrying out its policy is always supervised by the legislative or in Indonesia called as the House of Representatives (DPR).<sup>4</sup>

The House of Representatives (DPR) as the legislative body that has supervisory function can be seen in Article 20A Paragraph 1 of the 1945 Constitution as follows: The House of Representatives has the legislation

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<sup>1</sup>Soeharto's the Former President of Indonesia in the period of 1968-1998

<sup>2</sup>Syamsuddin Haris, 2007, *Konflik Presiden – DPR dan Dilema Transisi Demokrasi Indonesia*, Pustaka Utama Grafiti, Jakarta, p. 1.

<sup>3</sup>Jimly Asshiddiqie, 2009, *Pengantar Ilmu Hukum Tata Negara*, Cet I, Rajawali Pers, Jakarta, p. 281.

<sup>4</sup>*Ibid*, p. 283.

function, budgeting function, and supervisory functions.<sup>5</sup> Actually, those functions are implemented optimally after the Amendment of the 1945 Constitution of the Republic Indonesia which was conducted in four changes from 1999 to 2002. It has created some of the basic changes which are also in line with the conceptual of problems that arised in the Indonesian constitutional practice. It has shifted the relations of government power from the executive to the legislative which is closely related to the scope of responsibility and maintaining of the supervision of government.

Supervision is an activity that is intended to ensure that the state administration in accordance with the plan.<sup>6</sup> Related with Constitutional Law, supervision means an activity intended to guarantee the implementation of state administration by state institutions in accordance with applicable law. The supervisory function according to Bagir Manan<sup>7</sup> is usually directly related to the content material concerning the formation of law regulation and the determination of state budget revenues,<sup>8</sup> as set out in the Law Number 2 of 2018 on the People's Consultative Assembly, the House of Representatives, Regional Representatives Council, and Regional House of Representatives to article 70 paragraph (3) states as follows: "The function of supervision as referred in article 69 paragraph 1 Point C shall be conducted through supervision over the implementation of the state budget revenues regulation (*APBN*)."

Furthermore, in Article 79 Paragraph 3 of Law No. 2 of 2018 on the People's Consultative Assembly, the House of Representatives, Regional

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<sup>5</sup>See the House of Represenatatives (DPR), "*Undang-Undang Dasar 1945*", <http://www.dpr.go.id/jdih/uul1945> Accessed on 29 December 2017 at 23.00

<sup>6</sup>Julpikar, "*Kedudukan Dewan Perwakilan Rakyat dalam Penetapan dan Pengawasan APBN di Indonesia*", De Lega Lata, Vol I, Number 1, January-June 2016, p. 166

<sup>7</sup>Bagir Manan is the Former Chairman of Supreme Court in Period of 2001-2008.

<sup>8</sup>Naswar, Hak Angket dalam Konstelasi Ketatanegaraan Indonesia, *Jurnal Konstitusi*, Vol. I, No. 1, November 2012, p. 7.

Representative Council and Regional House of Representative explained with regard to the Investigation Right are:

"The right of the House of Representatives to conduct an investigation into the implementation of regulation or government policies relating to the important thing, strategic, and has wide impact on society, nation and state who allegedly contrary the legislation."

The Investigation Right is an investigation conducted by the House of Representative on a matter. That matter explained by Logemann; some activities undertaken to obtain the views in the framework of the implementation of tasks set policy. The Investigation Right can also be used for a fact finding or to formulate a policy.<sup>9</sup> Reviewed from Indonesian constitutional practice, the Investigation Right is rarely implemented.<sup>10</sup> There were two times during the regime of the Old Order and also implemented during the regime of the New Order.<sup>11</sup>

The use of investigation increases significantly after the Political Reform. This can be seen since Abdurrahman Wahid era until Joko Widodo era. Investigation Right of the House of Representatives essentially become irrelevant as a means of supporting supervision within the scope of the principle of supervision and mutual balance (checks and balances).

There are many cases of Investigation Right. One of them is the Investigation Right of Corruption Eradication Commission or can be called as E-KTP case. This case has dragged many members of the House of Representatives. In fact, Setya Novanto as the Chairman of the House of Representatives was suspected in this case. This right tends to make political

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<sup>9</sup>Bagir Manan, *Op. Cit.*, p. 42.

<sup>10</sup>I Gede Pantja Astawa dan Suprin Na'a, 2009 *Memahami Ilmu Negara dan Teori Negara*, PT Refika Aditama, Bandung, p. 11.

<sup>11</sup>*Ibid.* p. 11.

intention that has been always happening when members of the House of Representatives consisting of various political parties that has proposed this kind of right.

After political reform there are several cases concerning the use of Investigation Right, such as the bulog-gate case, oil prices issue and the case of the Investigation Right to Corruption Eradication Commission. The existing Investigation Right and the superiors power conducts by executive body in reformation era are reason why the House of Representatives gave mandate of supervision functions, especially the use of Investigation Right. Within this scope the authors undertake research on the Investigation Right conducted by the House of Representatives. This will be discussed in the writing of this thesis with the title: “Legal Review on The Implementation of Investigation Right by The House of Representatives (After the Political Reform)”

## **2. RESEARCH METHOD**

### **2.1 Type of Research**

The type of this research is a normative legal research,<sup>12</sup> that is research conducted by referring to the legal norms contained in legislation and judicial decisions and norms applicable in society or also that concerns the customs prevailing in the community.<sup>13</sup> The research focuses more on the legislation and other regulations related to the use of the Investigation Right by the House of Representatives especially after the political reform.

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<sup>12</sup>Mukti Fajar dan Yulianto Achmad, 2007, *Dualisme Penelitian Hukum*, Yogyakarta, Pencil Komunika, p. 109.

<sup>13</sup>Soerdjono Soekanto dan Sri Mahmudji, 1979, *Peranan dan Penggunaan Kepustakaan di dalam Penelitian Hukum*, (Jakarta: Pusat Dokumentasi Universitas Indonesia), p. 18.

## 2.2 Type of Data

The data used in this research is secondary data. Secondary data consists of primary, secondary, and tertiary legal materials. The detail data will be explained as follows:

1. Primary legal material is library material which included legislations such as:
  - a. 1945 Constitution;
  - b. Law Number 2 of 2018 on the MPR, DPR, DPD, DPRD and;
  - c. Others Regulation related to the issue.
2. Secondary legal materials, namely legal materials are closely related to the primary legal materials, namely:
  - a. Scientific Journals;
  - b. Books Related to the issue;
  - c. Seminars papers related to the issue;
  - d. Trusted internet sites;
  - e. Doctrine, opinion, and written and unwritten expert testimony in Constitutional Law and;
  - f. Other non-legal documents related to the issue.
3. Tertiary legal material

Tertiary legal materials are material that support primary and secondary legal materials to provide understanding on Investigation Right by the House of Representatives.<sup>14</sup> Legal materials used are Indonesian Dictionary, Law Dictionary and Encyclopaedia. On this research used statute approach and case approach.<sup>15</sup>

## 2.3 Data Collection

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<sup>14</sup> Peter Mahmud Marzuki, 2009, *Penelitian Hukum*, Kencana Prenada Media, Jakarta, p. 93.

<sup>15</sup> *Ibid.*, p. 93.



The data collected through library research. The data collection is conducted in some library such as:

1. Law Library, Faculty of Law, Universitas Muhammadiyah Yogyakarta;
2. Law Library, Faculty of Law, Universitas Islam Indonesia;
3. Library of Universitas Muhammadiyah Yogyakarta; and
4. Mass media and official page the House of Representative.

Primary, secondary, and tertiary legal materials are obtained through library research by collecting all legislation, legal documents, books and journal related research issues.

#### **2.4 Data Analysis**

The data were analysed systematically through descriptive qualitative approach. Systematically means the research will be analysed based on the Constitution, legislation, and other theory which is related with the issue on the Investigation Right by the House of Representatives

### **3. DISCUSSION**

#### **3.1 The Historical Background of The House of Representatives**

In accordance with the concept of *trias politica*, the DPR is part of the legislative power in the central government, while in the regional government is held by the Regional House of Representatives. During this time there are many changes both of the functions and authority of the DPR since the period of before independence, the Old Order, the New Order, until after the current reform continues to experience a very significant development. The history of DPR's development in Indonesia can be broadly divided into three periods:

- a. *Volksraad*;
- b. The period of the struggle for Independence; and

- c. The establishment of the Central Indonesian National Committee (KNIP).

In the Dutch colonial period, there was an institution such as the formation of the Dutch colonial parliament called *Volksraad*. On 8<sup>th</sup> March 1942 the Netherlands ended the 350-year colonial period in Indonesia. The change of colonialism from the Dutch to Japan resulted in the existence of the *Volksraad* automatically no longer recognized, and the Indonesian nation entered the period of Independence struggle.<sup>16</sup>

The history of the House of Representatives started from the establishment of the Central Indonesian National Committee (KNIP) by the President on 29<sup>th</sup> August 1945 (12 days after the Proclamation of Independence of the Republic of Indonesia) at *Gedung Kesenian, Pasar Baru* Jakarta. The date of inauguration of KNIP (29<sup>th</sup> August 1945) was made as the date and day of birth of the House of Representatives. In the first KNIP Assembly has composed the leadership as follows:

- a) Chairman: Mr. Kasman Singodimedjo;
- b) Vice Chairman I: Mr. Sutardjo Kartohadikusumo;
- c) Vice Chairman II: Mr. J. Latuharhary; and
- d) Vice Chairman III: Mr. Adam Malik.

### **3.2 The Historical Background of Investigation Right**

In the History of Indonesian Constitutional system. The Investigation Right was first used on the 1950. Starting from the proposed resolution of RM Margono Djojohadikusumo for the House of Representatives to use of the Investigation Right on the

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<sup>16</sup>See [www.dpr.go.id](http://www.dpr.go.id), 2016, <http://www.dpr.go.id/tentang/sejarah-dpr> Accessed on 27 February 2018 at 13.00

government's efforts to obtain and use foreign exchange. Then the committee of the Investigation Right was formed consisting of 13 members and Margono became Chairman of this committee, whose duties was to investigate the benefit and loss of maintaining the regime deviant under the 1940 Devisen Oversight Act and its amendments.<sup>17</sup>

The first Investigation Right regulation was enacted in the Article 70 on the Provisional Constitution of 1950, stated "The House of Representatives has the Investigation Right (*enquete*), according to the rules set by law. In the Constitution of the the Republic of the United States of Indonesia (UUD RIS 1949) is not found in relation to the provisions concerning the Investigation Right.

Then after the second amendment to the 1945 Constitution then the investigation right be included in the constitutional rights of the House of Representatives. The Investigation Right is included in article 20A Paragraph (2) of the 1945 Constitution stated "In performing its functions, other than the rights provided for in other articles of the Constitution, the DPR shall have the right of interpellation, the investigation right and the right to express an opinion". Furthermore, the investigation right is specified in Article 79 Paragraph (3) of Law no. 2 of 2018 on the People's Consultative Assembly, the House of Representatives, Regional Representatives Council and the Regional House of Representatives stated "The Investigation Right is the right of the House of Representatives to investigate the implementation of a law and/or Government policy related to important matters, strategic, and have broad impact on the life of society, nation and state that allegedly contrary to the laws and regulations".

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<sup>17</sup>Subardjo," Penggunaan *Hak Angket oleh DPR RI Dalam Mengawasi Kebijakan Pemerintah*", Vol. 7 Number 1 February 2016, Novelty, Yogyakarta, p. 74

These is the cases of the Investigation Right from the President Soekarno period until now:

- a. The Use of Foreign Exchange Cases.
- b. The Investigation Right of Pertamina.
- c. Bullog-gate and Brunei-gate cases.
- d. The Investigation Right of Tanker Sales of Pertamina.
- e. The Investigation Right of Settlement of Bank Indonesia Liquidity Assistance Case (BLBI).
- f. DPT Election 2009.
- g. The Investigation Right of Century Case.
- h. KPK Case.<sup>18</sup>

### 3.3 The Causes of Investigation Right

Indonesia is constitutional state, which is a state regulated by Constitution. In the four classic characteristics of Continental Law State commonly called *rechtsstaat*, there are elements of limitation of powers as one of the fundamental characteristics of a state of law.<sup>19</sup> Montesquieu in the theory of *trias politica* – legislative, executive and judiciary state that there is no dominance in carrying out the government. The executive in carrying out its policy is always supervised by the legislative or in Indonesia called as the House of Representatives (DPR).<sup>20</sup>

During the Reformation Era, the Amendment of the 1945 Constitution by the particularly on has a more influence on the constitutional system, the composition of the House of Representatives and the relationship between the House of Representatives and other

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<sup>18</sup>See <https://news.detik.com>, 2017, “Hak Angket DPR dari Zaman Bung Karno hingga Kini”. <https://news.detik.com/berita/d-3486903/hak-angket-dpr-dari-zaman-bung-karno-hingga-kini/2> Accessed on 6 March 2018 at 14.25

<sup>19</sup>Jimly Asshiddiqie, 2009, *Pengantar Ilmu Hukum Tata Negara*, Cet I, Rajawali Pers, Jakarta, p. 281.

<sup>20</sup>*Ibid*, p. 283.

institutions. This constitutional structure leads to strengthening of checks and balances system between state institutions, especially among the three institutions, namely the Executive, the Legislative, and the Judiciary.<sup>21</sup> The amendment of the 1945 Constitution has influenced the position of the Executive, Legislative and Judiciary. After the Political Reform separation function of legislative function, executive and judiciary looks clearer.<sup>22</sup> For example, before the reformation executive has more power than present, such as the president can choose the Indonesian Head Police immediately without the fit and proper test of DPR, yet nowadays the president has to propose the option of head of the Indonesian police to the DPR. This condition already changed the stigma of executive heavy to be legislative heavy.<sup>23</sup>

The role of the House of Representatives is more visible, because the Constitution and legislation has regulated move clearly the function of the DPR. The House of Representatives can optimize its functions and roles, in order to supervise the executive policies and to assist government to be good governance. The implementation of the Investigation Right is a form of check and balances system on state institutions and also is a form of intensive supervision and investigative DPR on the executive policy in this case the government.

### **3.4 The Legal Basis of Investigation Right**

Normatively, the Investigation Rights stipulated in the 1945 Constitution Article 20A Paragraph (2) "In performing its functions, other than the rights provided for in other articles of the Constitution,

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<sup>21</sup>Jimly Asshiddiqie, 2010 *Pengantar ilmu Hukum Tata Negara*, Cet II, Rajawali Pers, Jakarta, p. 282.

<sup>22</sup>Jimly asshiddiqie, 2004, *Format Kelembagaan Negara dan Pergeseran Kekuasaan Dalam UUD 1945*, Cet I, FH UII Press, Yogyakarta, p. 189.

<sup>23</sup>Ni'Matul Huda, 2003, *Politik Ketatanegaraan Indonesia, kajian terhadap dinamika perubahan UUD 1945*, Yogyakarta: FH UII Press, p. 32.

the DPR shall have the right of interpellation, the investigation right and the right to express an opinion", then more specifically regulated in Article 79 Paragraph (3) of Law Number 2 of 2018 concerning the People's Consultative Assembly, the House of Representatives, the Regional Representative Council and the Regional Representatives Council "The Investigation Right is the right of the House of Representatives to investigate the implementation of a law and/or Government policy related to important matters, strategic, and have broad impact on the life of society, nation and state that allegedly contrary to the laws and regulations". Long before the two normative rules were born, in the old order namely the parliamentary period, has passed a law on the Investigation Right that is Law No. 6 of 1954 on the Investigation Right.<sup>24</sup>

Although this Law comes from the era of parliamentary government system under the Provisional Constitution of 1950, but until early 2011 still used. Finally, the Constitutional Court through the Chairman of the Constitutional Assembly Mahfud MD at that time read the verdict, dated Monday, 31<sup>th</sup> January 2011. Stating Law No. 6 of 1954 on Stipulation of the Investigation Right by DPR has no legal force remains.<sup>25</sup>

The Mechanism of Submission of Investigation Right based on Law No. 2 of 2018 on the People's Consultative Assembly, the House of Representatives, Regional Representative Council and Regional House of Representative. The requirements and stages of filing an Investigation Right are regulated in detail in Article 199 and Article

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<sup>24</sup>Subardjo," *Penggunaan Hak Angket oleh DPR RI Dalam Mengawasi Kebijakan Pemerintah*", Vol.7 Number 1 February 2016, Novelty, Yogyakarta. P. 71

<sup>25</sup>See <https://nasional.tempo.co>, 2011, "Mahkamah Konstitusi Hak Angket DPR Tak Berlaku", <https://nasional.tempo.co/read/310268/mahkamah-konstitusi-hak-angket-dpr-tak-berlaku> Accessed on 6 March 2018 at 14.52

200. Once the Investigation Right is received, DPR will form a special committee called the Committee of Investigation Right whose membership consists of all elements of the DPR faction. This is set out in article 201. The House of Representatives must submit the Committee of Investigation Right to the president. The following are the rules on the Investigation Right mechanisms pursuant to Sections 199, 200, 201, 202, 203, 204, 205 and 208.

### **3.5 The Implementation of Investigation Right by the House of Representatives (After the political reform)**

Three elections after Soeharto Regime has resulted a more dynamic House of Representatives. Especially on how the House of Representatives implement their supervision function. This is in contrast with the DPR before the reformation. During the Soeharto era, it is noted that the DPR only submitted proposal of the Investigation Right once and it was eventually rejected.<sup>26</sup>

There are numbers of investigation right that used by the House of Representatives after the political reform. For example, in the era of President Abdurrahman Wahid, the House of Representatives rolled out three proposals for an Investigation Right, namely about the funds of Bulog-gate and Brunei-gate, Bulog Non-Bujeter fund (Akbar Tandjung case) and divestment of PT Indosat. From the three proposals, only one was approved by the House of Representatives, namely the Bulog-gate and Brunei-gate Cases. The dynamics of Bulog-gate and Brunei-gate finally lead President Abdurrahman Wahid to be impeached in 2001.<sup>27</sup>

In the era of President Megawati there are some proposals of an Investigation Right was rejected, the arise of some proposals of an

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<sup>26</sup>Wawan Ichwanuddin, "Pengawasan DPR dan Politik Kartel Era Refromasi: Studi Kasus Interpelasi dan Angket Tahun 1999–2011", Masyarakat Indonesia, Vol. 38, No. 2, December 2012, p. 251.

<sup>27</sup>Wawan Ichwanuddin, *Loc. Cit.*, p. 260.

Investigation Right along with political issues that occurred at that time. For example, Bulog-gate I and Brunei-gate cases arise when political conflict happened between the DPR and the President Abdurrahman Wahid. There are various reasons, including the President's decision to remove some of the ministers from the party and removable leaders of the military and police structures.

In the first period of President Susilo Bambang Yudhoyono, there are nine proposals that used an Investigation Right proposed by the House of Representatives at that time, namely, the rise of the price of fuel oil (BBM), the auction of sugar illegally, selling of Pertamina tanker, bad debts Bank, rice imports, block management Cepu, settlement of Bank Indonesia Liquidity Credit case or Bank Indonesia Liquidity Assistance of national energy policy, and violation of citizens Constitutional right to vote on Electoral Voters List (2009). Some proposals of the House of Representatives just approved the use of the Investigation Right in two cases, namely selling Pertamina tanker (2005), and violation of citizens Constitutional right to vote on Electoral Voters List (2009).<sup>28</sup>

In the rejection of some issues of an Investigation Right of the House of Representatives proposed has many reasons, the first is failure of several proposals can not be separated from the role of lobbying by the government to parties in the DPR. The government held a closed meeting, represented by Vice President Jusuf Kalla and some ministers with leaders of related factions and commissions to discuss the Investigation Right being discussed in DPR. In addition to Vice President Jusuf Kalla and ministers holding a closed meeting with leaders of the factions and related commissions, President Susilo

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<sup>28</sup>Wawan Ichwanuddin, *Op. Cit*, p. 262



Bambang Yudhoyono also gathered a number of ministers from his coalition political parties to ask them loyalty to the government policy. The agreement generated by these lobbies was then "secured" as a party decision instructed to be obeyed by members of their faction in the DPR.

Secondly, the effort to cancel the proposed the Investigation Right of the DPR is also done by raising the proposed right of similar case, for example raising the proposed right of interpellation to break the vote in the process of submitting the proposal of the Investigation Right to the same problem. As a result, the initiators failed to gain majority support in the voting. The failure of the DPR's supervise appointment is usually also influenced by the issues being raised regarding the interests of the elite of the big parties.

Thirdly, not all the investigation right approved and accompanied improvement in certain policy. The right to increase fuel prices has pushed the government to issue a policy of reducing fuel prices three times. Meanwhile, the case of DPT recommended the dismissal of KPU members in the shortest time is unclear, even it never discussed in the DPR.<sup>29</sup>

Furthermore, in the second period of President Susilo Bambang Yudhoyono. Although supported by a big coalition after winning elections in 2009, the SBY-Boediono era remains confronted with the "disruption" of the Investigation Right in the DPR. Some of the Investigation Right Cases namely: The bails out Century Bank case, the Investigation Right of Taxation Mafia case and the case of oil prices plan.

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<sup>29</sup>Luky Sandra Amalia. 2011. "*Fungsi Pengawasan DPR, 2004-2009: Antara Nurani dan Kehendak Fraksi*", dalam Wawan Ichwanuddin (ed.). *Pengawasan DPR Era Reformasi*. Laporan Penelitian P2P LIPI, Jakarta, p. 123.

Then continued in the era of President Joko Widodo until today, there is only one case of the Investigation Right that arise and the case until today is not clear. Started from a protest by some members of Commission III to the KPK related to the case of alleged corruption e-KTP case in the Corruption Court Jakarta. The reason, in the trial mentioned that Hanura Party politician Miryam S. Haryani under pressure from a number of members of Commission III. The Commission III urged the KPK to open a recording of the investigation of Miryam, who is now as a suspect of giving false information in the case of alleged corruption procurement e-KTP case.<sup>30</sup>

After that, the DPR held a hearing with the KPK in which members of Commission III requested the KPK to open the BAP and records related to the investigation of Miryam S Haryani. However, the KPK keep in the corridor refusing to open the BAP and the recording. Then on 27 April 2017 the DPR decided to form the Special Committee on the Investigation Right to the KPK.

The Investigation Right become a problem because DPR asked the recorded evidence Miryam S Haryani investigation in the case of E-KTP. The KPK spokesman said if the DPR asked for evidence it would certainly interfere with the process of handling cases, both in the investigation and the trial. Related to this issue many people who think that the Special Committee for the Investigation Right will only weaken the KPK which is currently handling the case of E-KTP that dragged a number of politicians senayan even former chairman of the DPR is Setya Novanto was arrested and the case is still running until today.

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<sup>30</sup>See <https://nasional.kompas.com>, 2017, "Hak Angket DPR terhadap KPK dinilai Mencurigakan", <https://nasional.kompas.com/read/2017/04/29/22005341/hak.angket.dpr.terhadap.kpk.dinilai.mencurigakan> Accessed on 15 March 2018 at 13.40

**Table 1.****The Implementation of the Investigation Right After Political Reform.**

No.	Name of President	Legal Basis	The Investigation Right Cases
1.	Abdurrahman Wahid	Law No. 6 of 1954 on The Investigation Right Law No. 4 of 1999 on Structure and Position of MPR, DPR and DPRD	Bulog-gate Case Brunei-gate Case
2.	Megawati Soekarno Putri	Law No. 6 of 1954 on The Investigation Right Law No. 4 of 1999 on Structure and Position of MPR, DPR and DPRD	Non- Budgetary Funds Bulog-gate Case
3.	Susilo Bambang Yudhoyono	Law No. 6 of 1954 on The Investigation Right Law No. 22 of 2003 on Structure and Position of MPR, DPR, DPD and DPRD Law No. 27 of 2009 on MPR, DPR, DPD and DPRD	Selling Pertamina Tankers Case Settlement of BLBI Case DPT Election 2009 Case Century Case
4.	Joko Widodo*	Law No. 17 of 2014 on MPR, DPR, DPD and DPRD	KPK Case

\* President Joko Widodo Era Still Runs until today.<sup>31</sup>

### **3.6 The Implication of using the Investigation Right by the House of Representatives (After the political reform)**

In the era of President Abdurrahman Wahid, the House of Representatives rolled out three proposals for an Investigation Right, namely about the funds of Bulog-gate and Brunei-gate, Bulog Non-Bujeter fund (Akbar Tandjung case) and divestment of PT Indosat. From the three proposals, only one was approved by the House of Representatives, namely the Bulog-gate and Brunei-gate Cases. The dynamics of Bulog-gate and Brunei-gate finally lead President Abdurrahman Wahid to be impeached in 2001.<sup>32</sup>

In the era of President Megawati, some proposals of an Investigation Right were rejected. There are some proposals of an Investigation Right along with political issues occurred at that time, for example, Bulog-gate and Brunei-gate cases arose when political conflict happened between the DPR and the President Abdurrahman Wahid. There are various reasons, including the President's decision to remove some of the ministers from the party and removable leaders of the military and police structures.

In the era of President Susilo Bambang Yudhoyono, the implications of using the right of investigation occurred when the proposed use of the right of investigation to government policy raised the oil price at that time. The House of Representatives then asked the reason for the government to raise oil prices. Then because of the

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<sup>31</sup>See <https://news.detik.com>, 2017, "Hak Angket DPR dari Zaman Bung Karno hingga kini", <https://news.detik.com/berita/d-3486903/hak-angket-dpr-dari-zaman-bung-karno-hingga-kini/2> Accessed on 6 March 2018 at 14.25

<sup>32</sup>Wawan Ichwanuddin, *Loc. Cit.*, p. 260.

insistence of students at that time to the government finally the government reducing oil prices three times.

In the era of President Joko Widodo until today, there is only one case of the Investigation Right that arise, namely E-KTP Case. Related to this issue many people think that the Special Committee for the Investigation Right will only weaken the KPK which is currently handling the case of E-KTP that dragged a number of politicians senayan even former chairman of the DPR is Setya Novanto was arrested and the case is still running until today.

**Table 4.2**

**The Implication of the Investigation Right After Political Reform.**

No.	Name of President	The Investigation Right Cases	Implication
1.	Abdurrahman Wahid	Bulog-gate Case Brunei-gate Case	Impeachment
2.	Megawati Soekarno Putri	Non-Budgetary Funds Bulog-gate Case	-
3.	Susilo Bambang Yudhoyo	Selling Pertamina Tankers Case Settlement of BLBI Case DPT Election 2009 Case Century Case	The initiate of the Investigation Right on Oil prices Cases, because the pressure of members of the DPR finally encourage the government to issue a policy of reducing oil prices three times
4.	Joko Widodo*	KPK Case	-

\* President Joko Widodo Era Still Runs until today.<sup>33</sup>

### **3.7 The Future of Mechanism Regarding of Investigation Right.**

In order to improve the practice of State Constitutional System in the future, especially on the mechanism of use the Investigation Right, the DPR members who will use the Investigation Right need to change the way they have been. One of the ways is to elaborate deeply about the meaning of "important and strategic government policies and have broad impact on the life of society and state which is allegedly contrary to the laws and regulations". If that can be done, the efforts of each initiators of the Investigation Right will get a place in public.

To find out the ideal model of future the Investigation Right that can be applied in Indonesia, one of the possible things that can be done is to make comparisons with other countries. In this case the United States and other countries. The US, for example, is the most consistent and ideal presidential state. The Investigation Right in the US is one of the most important authorities of Congress (the American Parliament). As Hugo Black,<sup>34</sup> US Senator who became Supreme Court Justice: "as among the most useful and fruitful functions of the national legislature".

The Investigation Right has uncovered the scandal of President Nixon because of the water-gate scandal. This shows that the Investigation Right in the US is effective. In contrast to general practice in many countries, the results of the Investigation Right in the US have strong binding power because law enforcement officials have an obligation to follow up on the findings of the Investigation Right when indicated that there are legal irregularities. The other interesting thing is

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<sup>33</sup>Wawan Ichwanudin, 2011, "*Absennya Politik Pengawasan DPR Era Reformasi*" Vol 9, Number 2, 2012, Jurnal Penelitian Politik, Jakarta, p. 99

<sup>34</sup>Alphens Thomas Mason, *American Constitutional Law*, Prentice Hall, Newyork, 1995

the composition of those who become the Committee on the Investigation Right, not only members of Congress, but most of them are independent people who are known to have integrity and ability in the field of law and those who have educational background related to the Investigation object. This is reflected, for example in the Financial Crisis Inquiry Commission which has the authority to investigate the financial crisis that hit the US in 2014.<sup>35</sup>

Furthermore, the Government, the House of Representatives, and the people themselves are expected to play a more important role in advancing this state for the better. The government in making policies for the state always consider the interests of the people. However, the officials who now fill the government initially elected by the people. It should be whatever the government does for the benefit of all Indonesian people not for some people only. Policies concerning the livelihood of the people are more concerned in order not to become a polemic in the future.

While the House of Representatives, whether of any party, they are the embodiment of sovereignty of all Indonesian people. No more blue, red, white, yellow, green, orange, but they are red and white (Indonesia). There should be no more interest groups in Senayan even related to the use of the Investigation Right as the Constitutional Right of each member of the DPR. The opposition and the government must work together for the sake of the state and for the people. Get rid of political games when discussing the people. Performance is improved, the implementation of the Act in becoming a government partner should be done on behalf of the people. Be harsh if the government misappropriates the implementation of the regulation, or when the

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<sup>35</sup>Fitria, “Penguatan Fungsi Pengawasan DPR Melalui Perubahan Undang-Undang No. 10 Tahun 1954 Tentang Hak Angket”, *Jurnal Cita Hukum*, Vol. I No. 1 Juni 2014 p. 87.

government policies appear to the detriment of the people. The courage of the House of Representatives in controlling and supervising the government will arrive at the state that the people expect, namely a welfare, justice and dignified state.

#### **4. CONCLUSION AND RECOMMENDATION**

##### **4.1 Conclusion**

Based on the previous discussion in chapter four, the Right of Investigation has been used 8 times and its implementation is in accordance with the constitution and the law. However, the Implementation of Investigation Rights from time to time may be seen more as a political stage with various motives and political interests, both the personal members of the DPR and the political parties that exist. This can be seen in the period of Abdurrahman Wahid and President Susilo Bambang Yudhoyono.

The implications of using of Investigation Rights after political reform have two meanings. On one hand, the use of Investigative Rights has a negative impact where the use of the Investigation Right is only a political transaction. Therefore, the use of Investigation Right just ended without any definite result. But on the other hand, the use of Investigation Right have a positive impact on government policy, for example on the oil price hike case, because the pressure of members of the DPR in Senayan finally encourage the government to issue a policy of reducing oil prices three times.



## **4.2 Recommendation**

1. The DPR members should have clear framework, objective, institutional pattern and measurable achievement targets on how supervision functions are managed and implemented.
2. The DPR members need to have stronger commitment to exercise the power of using the Investigation Right as a mean to control the president.