

Conference Paper

Law Revision on Indonesian Parliament's Oversight Function: Facing the Challenges of Democracy

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Abstract

Based on the review of Indonesian Parliament's institutional history, its oversight functions existence largely determines good or poor condition of democracy and implementation of good governance principles. When it is weak or weakened, the ruling regime would tend to move away from the principles of democracy. Joko Widodo's governance conditions that tend to embrace many coalition partners in parliament, requiring revision of laws (political party and election law) in order to provide vast opportunities for the criticism measures and corrective actions from political parties, which do not collaborate with the government. Improvement of legislation should be directed to guarantee freedom of movement of political parties that do not form a coalition with the government. Therefore, those political parties can fulfill the role of a healthy opposition. Even if the parliament opposition raises have not yet to be adopted within the Indonesian governance system, at least a revision of the law aimed at guaranteeing the members of parliament (MPs) to perform their role freely according to conscience. While it cannot be separated entirely from the parties which supporting him, but the threat to be fired (recall) should be eliminated. So that MPs can still carry out the oversight role despite their political party collaborated with the government. This revision can create the oversight function of DPR as a form of real performance of a representative body to accommodate the interests of oversight of the Indonesian people, also become a reliable tool of facing the challenges of Indonesian democracy.

Keywords: Challenges of Democracy, DPR/Indonesian Parliament, Healthy Opposition, Law Revision, Oversight Function.

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1. Introduction

For democracy throughout the world, parliament is the institution that needed because its role in representing the people, as well as indicating the existence of democracy [1]. Parliament also very important for the rule of law, human rights, gender justice, as well as economic and social development [2]. The active role of parliament with all the functions attached to it – including the oversight functions – have been agreed (by the 2005 Paris Declaration on Aid Effectiveness, the 2008 Accra Agenda for Action also the 2011 Busan Partnership for Effective Development Co-Operation) as an important factor to make effective government in realizing the goal of development in any country. Also a measure of government accountability [3] and ensure that the policies and programs made by the government compatible with desire of parliament as representatives of the people [4].

Illustration of Johnson and Nakamura [5] on the importance of parliamentary oversight like a homeowner who handed over to the contractor on building the house “a wise homeowner keeps an eye on the contractor’s progress”. In accordance origin of the formation of the parliamentary institution in European history against the backdrop of the need to supervise and to control the implementation of government tasks [6], even Verney [7] calls the monitoring function is more important than the legislative function. This condition consistent with the results of various studies , that the idea of parliamentary oversight is the prevention of malicious behavior, such as corruption and arbitrariness in the exercise of power, and as a mechanism for enhancing accountability and efficiency of government. Thus, the oversight function of parliament is not only valuable as a form of real performance of the representative bodies to accommodate the interests of oversight of the people, but also at the same implications for the establishment of democracy (and also functioning principles of good governance) in the country.

Construction of democracy has become a measure of the nation advancement in having the state today. The better construction will be the better progress assessment of its constitutionality. As a country where sovereignty of the people was the basis of the sovereignty of the constitution, Indonesia consecrating the principle of democracy as a reference in its political practice. Indonesia with the ideals of democracy as typical outlined by the founders of the nation [12] has a good record in democracy e.g. ratings by Institute of Southeast Asian Studies [13]. The democracy in Indonesia also shows the increased growth [14]. A positive achievement for a country that quite long in the shadow of authoritarian regimes (New Order and Old Order).

Referring to the historical facts, despite the statehood Indonesia since its days of independence adheres to the principle of popular sovereignty, but the interruptions of two authoritarian systems – Old Order and New Order – as a whole lasted nearly four decades, has obscured the substantive principle of popular sovereignty. Normative elaboration on the Indonesian Parliament's (*Dewan Perwakilan Rakyat/ DPR*) oversight functions outlined in the law of composition and position (*susduk*) of representative institutions in Indonesia. The law about it has several times changed since it was first set up, namely: (i) Law 16/1969 On Structure and MPR, DPR and DPRD as has been amended three times, most recently by Law 5/1995; (ii) Law 4/1999 On Structure and MPR, DPR and DPRD; (iii) Law 22/2003 On Structure and MPR, DPR, DPD and DPRD; (iv) Law 27/2009 On MPR, DPR, DPD and DPRD; and (v) Law 17/2014 On MPR, DPR, DPD and DPRD as amended by Law 42/2014.

After 18 yr of reform, it is important to look back in the portraits of democracy in Indonesia, especially with roles played by Indonesian Parliament – as well as a form of institutionalization of the Indonesian parliament representative democracy in Indonesia – especially with oversight functions attached to it.

This article will describe the two portraits of the DPR's oversight function implementation during the time before and after reformation era, then elaborated what lessons can be drawn from these two portraits. It will also clarify the importance of the DPR's oversight function for democracy in Indonesia and what law revision that should be made to optimize the DPR's oversight function.

2. Methods

Based on the literature approach of legal history [15] and the facts of political practices, the relevant observable research questions are, has DPR's oversight functions supported democracy in Indonesia? What kind of law revision that can make DPR's oversight function works more effective and become a reliable tool to face the Indonesian democracy challenges?

This legal and political history approach on DPR's oversight function elaborated since its inception in 1945 until now. The expected result of this research are law revision recommendations on DPR's institutional legislation to improve the work of its oversight function more effectively and be a reliable tool to maintain the democracy in Indonesia.

3. Discussions

3.1. Two portraits of the DPR's oversight function implementation

The first portrait before Reformation Era beginning with the revolution war period 1945–1949 which were not providing an opportunity for the institutionalization of the Indonesian parliament. The next period under arrangements Constitution of the United Republic of Indonesia in 1949, Feith [16] mentions that in 1949 the parliamentary system has been running in Indonesia. A parliament has been there, and the projected cabinet responsible to it. Earlier than that, though not optimal due to the condition of war of revolution, post-November 1945 the relationship between the cabinet and parliament as well as a place of work responsibilities, has been functioning well [17].

Next period was the 1950 Provisional Constitution (1950–1959), marked by the rise and fall of the cabinet. Despite of the condition of the country in the period 1949–1953 revolution was not ideal but described has run a constitutional democracy. Although parliaments are not derived from elections, but respect for the position of the parliament considered good. Combined with government conditions that respect the symbols of constitutionality seriously, it creates a cabinet continuing to promote parliamentary democracy, also continues to maintain and develop the rule of law [16]. The relationship between the cabinet and the parliament in 1949–1953 described [18, 19] that the leader of cabinet was very meticulous in attention to parliamentary questions, interpellations, and critiques. So generally, Indonesian Parliament in 1949–1953, has met many of the functions necessary for the constitutional democracy. Parliamentary election on 1955 did not make a change in shaping a better parliament. Members of Parliament (MPs) were then assessed tend to be very loyal to the political parties, so that more obedient to the will of the leadership of the political parties than the will of the "true leader" in each electoral area. Ultimately, emerge disappointment that the election has failed to satisfy the expectations that had pinned to the establishment of government bodies including parliament responsiveness.

Presidential Decree on July 5 1959 dissolving the Constituent Board as parliamentary election results in 1955 and replacing the 1950 Provisional Constitution with the 1945 Constitution. Later in the New Order era, the strengthening of the instrument settings of DPR's oversight function was not in line with its practices. It was influenced by many factors which can be identified from the regulations, institutional factors and political party configuration in parliament which supporting government [20]. In the New Order

era, the dominant factor was the monopolistic character of the New Order that stunt the oversight function to be a mere artificial.

Ridlwan [21] showed that since 1969 until the Reformation Era with a more democratic political configuration, the DPR's oversight function actually has been getting wider space to be practiced. However, these positive developments have not been utilized optimally in order to carry out its oversight function over the government. Quite impressed toying with the function to be a bargaining tool between DPR and government.

Second portrait could be seen after Reformation (1999–present). At the beginning of the Reformation era, DPR became very strong, capable of providing oversight function optimally, even in some cases considered excessive. Legislative and executive relationship was often full of conflict, DPR in several times tried to show its authority assessed very strict led impeachment of President Abdurrahman Wahid. Continued by the compromise oversight on the 10-year reign of President Susilo Bambang Bambang Yudho-yono (SBY). Then the “noise” oversight on early days of the administration of President Joko Widodo, to the possibility of the lack of DPR's oversight as the latest composition of the political parties supporting government with the merger of the United Development Party (PPP), the Golkar Party and the National Mandate Party (PAN) in the coalition government supporters. Thus the DPR's oversight function greatly affects the face of Indonesian democracy, whether DPR actually carry the principles of popular sovereignty in overseeing the government or just play the bargaining position.

3.2. Lessons from the two potrait

M.C. Ricklefs mention the range of 1950–1957 Indonesian state condition as the first democratic experiment phase, that has been failed [22]. Although the democratic experiment fail, but the 1955 election became Indonesia's democratic achievements that recognized worldwide, parliamentary oversight contributed to encouraging those feast executions. Post-election in 1955, the condition of the country that was considered to volatility caused by the political parties that forming the parliament, not being normal. Sukarno attempted to free themselves from the parties at all [22] to form a government that was called “guided democracy”. Kahar Muzakar call it “fake democracy” [23], which later became the principal base of chaos reign of Indonesia under Sukarno. Sukarno, with his position as president, wants to use his authority as head of state regulate all the problems of society. While the desire of groups of political

parties want the affairs of society and the state directly governed by a democratic government, the government which responsible to DPR [23]. Viewed at its behavior in practice, the Guided Democracy system was an authoritarian political order that has killed democracy in the name of democracy [24]. Indonesian democratic conditions during the guided democracy lead to the crisis of 1965 and the chaotic structure of the social, political, and economic nation of Indonesia due to the implementation of a political system as trial and error (guided democracy) [22]. Gradually prevailed of authoritarian over the fragile and young Indonesian democracy [25]. Surely also caused by the loss-or more precisely, excision- parliamentary oversight as the controlling element of authoritarianism prospective.

Connecting in the New Order who develop paternalistic style of government, but also oppressive. New Order tried to seek the involvement of the people to gain legitimacy, but only in ways that are controlled carefully. The centralization of economic power, political, administrative, and military in the hands of small elite eventually led New Order and its closest supporters to form the government become a kleptocracy: the government led by the thieves [22]. Various political studies during the New Order in Indonesia characterized as a power with military force which was negative, despicable, to emasculate civil society. One of the goals of the New Order government to vilify the previous period as a time of turmoil democracy was to legitimize the Pancasila Democracy (which was not a manifestation of democracy by any standard) [26]. The function of the electoral system in the Soeharto era not to choose, but to validate [27]. Throughout Suharto composition of members of the DPR-MPR was dominated by his supporters through Golkar, the group representatives, and also regional representatives, then the monitoring function of DPR at that time became an ornament attached to the DPR agency.

Madjid named Soeharto as a less of having any insights on "nation-state" as coveted by the founding fathers. Which have to apply the principles of good governance to make a clean government. Similarly, with regard to understanding the diversity, the principle of unity in diversity (*Bhinneka Tunggal Ika*) that was often reminded by him, contradicts with the strong desire to unify national life, especially in politics and government. Inconsistency in diversity was also reflected in the strong and categorical rejection of the idea of the need for the official opposition to the government, [28] for point weighing was cooperation and harmony as well as the generosity role of the state [29]. Ultimately, the fusion of political parties into two categories (Islamic and nationalist) in 1973 was a real example of the lack of appreciation of diversity. Peak 'achievement' achieved by Soeharto was the launch of Pancasila as the sole basis in

1985, which resulted in the denial of the idea of the legitimate political opposition, and therefore, political parties and mass organizations expected to work together to achieve national development objectives specified by the state [29]. The face of the state apparatus in the New Order has been converted into committee protective interests of the capitalist oligarchy [30].

Single view of Unity in Diversity in the political field has to seat people in the positive condition in accepting the differences in political orientation, which also means that the opposition should provide space to work. Institutionalization of formal opposition should be done with optimal parliamentary oversight. The elimination of the opposition space institutionalize absolutism, which is certainly contrary to democracy.

Under Habibie presidency, political life obtains a fluidity, freshness, and new uncertainty after three decades of frozen under Suharto [29]. O'Donnell and Schmitter called the transition from an authoritarian regime to the 'something else' was unclear [31], sometimes accompanied by skepticism [32]. The main strength that made up the institutional framework for a transition to democracy in post-Suharto Indonesia was they (or some of them) that have been raised under the New Order [33]. Suharto's legacy of political order affects the direction of travel taken post-New Order Indonesia [34]. Parliament who oversee the government was also still the past people who mostly came to enjoy the New Order.

At that time, many scientists predict the fall of Suharto would bring Indonesia entered a period of new democratic government. Throughout the terms of technical conditions were met, including the guarantee of freedom for political parties, 'good' election laws, as well as various legal and institutional reforms associated with efforts to achieve good governance [35, 36]. Definitely, the downfall of Suharto, brought fresh wind to the institutionalization of democracy organizations, including the new DPR composed via elections in June 1999, DPR who, though still composed of past people, but with a new mindset spirit of reform.

However, the election of Abdurrahman Wahid with his supporting coalition maintain one of the basic traditions of the New Order, namely the absence of an effective political opposition parliament [29]. Until the fall of Abdurrahman Wahid in July 2001 as if it has been linked to the scandal Buloggate and Bruneigate and dismissal of the head of the national police without consultation with Parliament [37].

Hadiz mentioned that the type of democracy that was carried in the early years after the collapse of the New Order were run with money politics and intimidation so that the people of Indonesia remains vulnerable to predators' groups which ironically uses democratic institutions –which was political parties and parliament- as an ideal

vehicle to protect and expand their interests. So in the two governments, democracy still dominated by predatory interest groups that were able to master and exploit democratic institutions by force [29]. However, in the context of oversight of parliament for democracy, as opposed to DPR in the Suharto era who never conflicts with the President, members of the new parliament tried to show that they were more independent and able to contribute to the government. Even further, members of DPR strongly criticized the President and almost all government policies [38]. As for the next governed by SBY, the tendency of preparing a grand coalition in DPR created a new form of oversight of parliament. SBY's election as president in 2004 without the support of the parliamentary majority makes the supporting parties -the Democratic Party- to form a rainbow coalition including the largest Golkar Party [39].

Two term of SBY's presidency known as the stability of the government, also the absence of any open opposition to the incumbent democratic regime. Behind the facade of consolidation and stability, clearly visible cracks have emerged in Indonesia's democratic polity. To be sure, public support for democracy remains high, civil society vibrant, and the press free and critical. After observing the SBY's presidency, Mietzner recommend proponents of further reform will have to work in parliaments, ministries, parties, and civil society groups to defend Indonesian democracy against elite attempts to reverse it [40].

There are seven key achievement deserves to be noted as a legacy of the SBY administration. Successful transformation of democratic politics is one of those achievements [41]. Despite of that, in the context of oversight of the parliament in support of democracy, SBY bequeathed a mentality 'one who embrace' to the government of Joko Widodo. As said by McCarthy [42] for Indonesia, under parliamentary democracy in the era of reform, government power is liquefied by the need for a coalition government. This can be seen up to now, practically only two parliamentary political parties who are outside government, Gerindra (Indonesian Movement Party) and PKS (Prosperous and Justice Party) (along with the Democrat Party, but less emphatically declared themselves outside of government). These conditions could create stability at a time with parliament stagnation in overseeing the government, which also could threaten passage of the principles of good governance.

3.3. Indonesian parliament, democracy and good governance in Indonesia

Democracy in any country requires a strong parliament. A democratic parliament is representative of the political will and social diversity of the population, and is effective in its legislative and oversight functions, at national and international level. Crucially, it is also transparent, accessible and accountable to the citizens that it represents [43]. The core legislative, oversight and representative functions of parliaments provide an essential contribution to the quality of a country's overall governance by adding value to government policy in areas of modern state activity, providing additional legitimacy for government action and activities, initiating policy independently of government, and enabling policy to be translated into social reality through laws. The absence of a strong, effective and democratic parliament will deny the state legitimacy. Democratic parliaments also provide an opportunity for all sectors of society to be heard through their representatives, for disputes and disagreements over policy direction and issues of national importance to be debated, and for peaceful solutions to be reached and sustained within the framework of the rule of law [2].

In the context of Indonesia, democracy means discussing the philosophical basis of constitutional state, particularly the fourth principle that populist led by the wisdom in consultative/representative. Even the terminology of democracy is not listed in the 1945 Constitution, because of the formulation on August 18, 1945, the term populist in the fourth principle of the above is no doubt referring to the democratic political system. In the development of the contemporary history of the Indonesian nation, known as various names of democracy in accordance with the period and the tendency respectively.+ Liberal democracy (1945–1959) under the umbrella of the 1945 constitution/ Provisional Constitution of 1950, Guided Democracy (1959–1966) under the 1945 Constitution and *Pancasila* democracy (1966–1998) under the 1945 Constitution. The two last mentioned is a pseudo democracy, even if the same claimed was established on a foundation of *Pancasila* [24]. It was only after the reform began to build democracy with a pattern of its peculiarities more comprehensively.

There are at least three reasons why Indonesia should maintain a democratic system [24], first, in a climate of democracy and freedom to the aspirations of the opinion of every person must be guaranteed, while in the authoritarian system, freedom is very limited, even deprived so the critical power of community will gradually become dull. Indonesia experiences while under authoritarian systems, both in the period of Guided Democracy or *Pancasila* Democracy, civil liberties really threatened, despite its fall not

because of its authoritarian character, but because of the economic downfall. In terms of freedom, the era of Reform has restored one of the main principles of democracy that were killed in the previous era. Second, the democratic system opened up opportunities for the emergence of alternative leaders through the party system, while the system of authoritarian seal any alternative, so that a change of power generally in bleeding, either through a coup or a quasi-coup. Indonesia's political journey to 1998 reflects this latter phenomenon. This is one reason why, at the time of Habibie to tap democracy in May 1998, not much choice of who should appear in addition to Habibie as president. Third, even if democracy in the process of its formation sometimes very slow, laborious and often do not provide certainty to the public improvements in the short term, human civilization until today have find yet another system that is better in delivering independence and freedom to the citizens.

After the fall of Suharto, despite many pessimistic expectations, the democratization process in Indonesia has been progressing steadily over the past decade. The Indonesian political elite has designed and stabilized a political transition mainly characterized by frequent, free and fair elections, peaceful rotations of power, effective elected officials and separation of powers, inclusive suffrage, freedom of expression, independence of the media and associational autonomy. In other words, within one decade, Indonesia has developed the main attributes of a democratic country, according to most theories of procedural democracy [44].

But DPR as Indonesian parliament still reflected on the need to transform public opinion about the parliamentary institution as the country made the transition to democracy. Indonesian parliament needed to address the traditional public perception that it had been a 'rubber stamp' that existed to give legal force to government decisions. It needed to combat the impression that "parliament has not fully supported the enforcement of good governance, especially related to the eradication of corruption" and its main challenge was thus to build trust by instating better oversight and legislation and encouraging the government to combat corrupt practice [1].

In global context, in addition leads to greater democracy, Parliament oversight functions also become an important factor in the implementation of good governance principles. It was as identified by GOPAC (Global Organization of Parliamentarians against Corruption) and the World Bank Institute that MPs can contribute significantly to the creation of good governance, including [4]: (i) develop oversight role through the budgeting process where Parliament approve the annual budget and oversees government spending; (ii) ensure greater transparency of decision making; (iii) review,

propose and make laws that are needed to support the reform and development; and (iv) establish a broader relationship with other parliaments.

First, develop oversight role through the budgeting process. In this role, DPR has been given the authority to approve the annual budget and oversees government spending. Parliament also perform checks before and after budgeting, they are in control of government accountability for the use of public funds. This role can be accomplished through the work of the DPR committees or through individual MPs for approval in the plenary meeting. Further involvement of Parliament in the loop budgeting has helped create a sense of greater public ownership on economic strategy, the realization of the government's priority programs and help combat corruption. Although doubt remains of corruption in Parliament's own institutions.

Second, ensuring greater transparency in decision making. In DPR, the coordination meetings in the related commissions fulfill this role. Through interaction in the coordination meeting, debriefing and consultation occurs the government to DPR to create a specific policy. MPs in the relevant commission can summon the issue before the government, DPR also has the right to question how and when government decisions are made, which by that way it ensures the consideration of the deeper, debate, and ultimately create a better transparency of policy-making.

Third, review, propose and make laws that are needed to support the reform and development. DPR gradually be able to evaluate the applicability of a law and assessing its effectiveness for later revisions or amendments to the law if necessary. Accuracy of DPR in designing the legislation is based on the input and provide balance against the government. These conditions not only strengthen the better accountability and transparency, but also the enabling legislation becomes more reflective of overall importance, rather than the interests of the ruling party.

Finally, establish a broader relationship with other parliaments. DPR effort to share information and learn from the experience of more advanced Parliaments has done by taking DPR in inter-agency coordination parliament of the world. In DPR there are also internal fittings which have special duties and functions in the field, it called Agency for Inter-Parliamentary Cooperation (BKSAP). BKSAP has several duties including fostering, develop, and enhance friendship and cooperation between DPR and the parliaments of other countries, both bilaterally and multilaterally, including international organizations that gather the parliament and/ or other state lawmakers. It also receive a parliamentary delegation visiting another country who was the guest of DPR and provide suggestions or proposals to the leader of DPR on the subject of Inter-parliament cooperation.

3.4. Institutionalization of the “in parliament” opposition

One of the agenda at the beginning of political reform Indonesia is reviewing the issue in the political opposition. There are two questions that could be asked. **First**, if politics is run by way of the New Order without opposition institutionalized, can be guaranteed that the errors of the New Order in the form of the Corruption, Collusion and Nepotism does not happen again? **Second**, whether the power in Indonesia is naturally special so it does not need an opposition which monitoring the power usage formally and continuously? [45]. During the first volume SBY regime (2004–2009) continued into the second volume (2009–2014), the Indonesian Democratic Party of Struggle (PDIP) claims itself as an oppositional force, but seem more as a reaction to the fact that its cadres are not elected in the election, rather than as oppositional force. It was not entirely weakness PDIP considering “opposition” alone, but rather as a success SBY transactions with other parties to form a unity cabinet, which embraces a wide range of flow. This condition also occurs during the reign of Joko Widodo today. These elementary political realism, which -if neglected- will take us straight back to the political situation of the New Order.

The absence of a dominant winner in DPR led to a political party that is getting a little voice plays a role with the coalition. This condition is possible because the president-elect will tend to promote the massive support of the parliament. Restrictions Constitution of the power of government, and parliament more power over changes to or cancellation of the legislation also encourages the president to maintain broad support of parliament [46].

The existence of the democratic opposition in Indonesia is difficult to be institutionalized. Besides not supported by the existing political institutions design, as well as by the political practice of everyday life, even including Indonesian political culture. Among the arguments constructed, that Indonesian democracy cannot be separated from the values that have long been rooted in the community, such as the values of togetherness and kinship, and that leads to cooperation. Not the values that promote individualism and competition [47]. Robert Dahl [48] argued that there are two important dimensions of democracy, namely, public contestations and the right to participate. The first one is related to the competition in getting the public offices through democratic elections. While the second relates to public involvement in determining the public officials who will be selected, and in influencing its policy. In such contexts, the existence of institutional opposition is not a necessity in a democracy.

In a democracy, according to Robert Dahl, the most important is the existence of "the continuing responsiveness of the government to the preferences of its citizens, considered as political equals". Government in question is a democratically elected government through healthy competition. Meanwhile, every citizen is seen as equal and have rights in influencing public policies. Nevertheless, the emergence of a responsive government that is not taken for granted, not merely can take for granted because it assumes that the government has the intention and good faith and noble for the welfare of its people. Responsive government requires escorts, both of which serve to implement policies and of which serves as a reminder to governments that continue to run well. The presence of people or groups who constantly serve as a reminder, as such, it is necessary in a democracy. The person or group that can come from the parties who lost in the elections or of internal self-government. Here, what important is the criticality was intended for government made up of the election results is directed to achieve goodness and prosperity [47].

Implications of coalition formation permanent interests between the president and the coalition throughout the period of government to be the oligarchic nature. The orientation of the relationship is not on behalf of the interests of the people who want checks and balances but to be used to protect mutual interests between the executive and the legislature. The tendency of government formation oligarchs be the result of indecision Indonesian constitution regulate the presence of the "opposition" as checks and balances in the Indonesian presidential system. Design of stable oversight and more permanent with the existence of "the strength of opposition" in Parliament needs to be pursued continuously. In the end the strength of the opposition is obliged to put forward the points of weakness of a policy, so if wisdom was applied, all the things that can result in adverse side effects had already been reduced to a minimum.

As Kleden [45] mentions the idea of opposition in Indonesia should not only served to warn the government against possible wrong-policy or one-act (sin of commission), but also show you what to do but just do not do (sin of omission). Obligations of the opposition is to qualify whether something should be done, should not do, or even should not be done at all. In this context, the opposition is not only a necessity, but also an inevitable reality. The existence of the opposition made the state has a counter player [49] hence the opposition needed by countries claiming to be democracies to be his sparring partner.

Indeed, the opposition is not only institutionalized through parliament, but also by non-governmental organizations, mass media, social movements, and student movements, but with it been institutionalized in parliamentary reduce the cost to

be incurred. After all, parliament is also required to carry out the oversight function continually. If the matter cannot be institutionalized with more permanent, then the freedom of MPs to act freely should be guaranteed. As Saalfeld [50] argued that the level of independence in the party (MPs coming from independent lines / non-party members will tend range to be more active), and the status of the opposition.

Because the legislative elections in Indonesia has not provided a space for independent candidates to go forward we need another concept though still tied to a political party but MPs still able to maintain their independence in performing supervisory functions. It is necessary to the guarantee of independence and the freedom of MPs in this right. It is necessary to adopt the setting of freedom of speech for MPs as granted in the Constitution of the United Republic of Indonesia in 1949 also in Provisional Constitution 1950. On those two constitutions, MPs issued a voice as a free man, according to the feelings of honor and conviction of his own mind, not over the command or with the obligation to consult in advance with reviews from those who appointed him as MPs (political party).

Although in the end, the role of Parliament is not enough. As mentioned by Marks [51] 'The fact that parliaments are subject to periodic popular recall is not, of itself, sufficient to justify public power. Democracy demands that state authority be required to justify itself to the citizenry on a continuing basis. To enable this, a democratic polity must include a vigorous "public sphere" an arena distinct from the institutions of the state in which citizens can come together to define collective goals, shape public policies and evaluate government activity.'

4. Recommendations on Revision of Laws

Reform of democratic institutions such as the parliament must constantly adapt and change to ensure the active processes of democracy and sustainable engagement between citizens and their elected representatives [52]. Then, base on the lessons from two portrait of Indonesian democracy, before and after Reformation, here are recommendations that should be adopted by the law to make a better parliament's oversight function on facing the challenges of Indonesian democracy.

Revision by law is to strengthening the function of parliamentary commission as the main tools. Also strengthening of parliamentary political parties (especially to those who are stand outside the government coalition) as the "opposition". The breakdown of party politics contributed to the downfall of parliamentary democracy and eventually helped to install Sukarno's authoritarian Guided Democracy [53].

Effective political parties are essential for the proper functioning of a parliament, especially oversight function. Political parties are the basis around which parliamentary business is organized. Negotiation between the political parties determines legislative priorities, committee complexion and often parliamentary resources. In a highly fragmented parliament in which there are many parties and poor internal party discipline, even the most basic agreements are difficult to reach. But a parliament dominated by one party with no opposition is likely to suffer the opposite problem in that it will offer almost no oversight of government or legislation [1].

DPR with the SBY's legacy tends to be embraced by the government, so the left out-board political parties should be strong enough to keep an oversight to the government. Revision also needed to be continued in the election laws to adjust the need for the presence of DPR's oversight to be more positive on supporting democracy. As in Habibie's government, reforms on election laws can be considered as the most important achievements his reign, and certainly amongst the most important steps that facilitated Indonesia's democratic transition [44].

5. Conclusion

Based on a review of its history, the existence of DPR's oversight functions largely determines good or poor condition of democracy and implementation of the principles of good governance. A major constitutional principle of Indonesian distribution of powers in a democracy is underpinned by a set of checks and balances. Main work of oversee is responsibility of the parliament to conduct the oversight to government in the name of people. The main function of oversight, namely the prevention, detection and restrictions on government abuse of discretion, involves a critical examination of the government proposal (development plan, including the draft budget). Those works go along with the good governance principles, because oversight is intended to ensure that the measures announced by the government and passed by parliament are implemented correctly.

Joko Widodo's governance conditions that tend to embrace many coalition partners in parliament, requiring revision of several laws in order to provide vast opportunities for the corrective measures and criticism actions from political parties that do not collaborate with the government in parliament. So, improvement of legislation in the field of institutional parliament should be directed to guarantee freedom of movement of political parties that do not form a coalition with the government to fulfill the role of a healthy opposition. Even if the parliament opposition raises have not yet to be adopted

within the Indonesian system, at least a revision of the law aimed at guaranteeing the MPs to perform their role in oversight, freely according to their conscience. While it cannot be separated entirely from the parties, who supporting him, but the threat to be fired (recall) should be eliminated. So that MPs can still carry out the oversight role despite that, their political party collaborated with the government. Due to the importance of the DPR's oversight function run in line with the promotion of democracy and good governance in Indonesia, improvement/ revision efforts through the law must be continued in order to enhance the parliament both in terms of institutional and oversight performance.

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