



## CHAPTER ONE

### INTRODUCTION

#### A. Background

Since the formation of legislative institutions in 1945 until now, there has been several times the House of Representatives has been using the Right of Investigation and control the government policies. Normatively position of the Right of Investigation is regulated in the Article 20 A Paragraph (2) of the 1945 Constitution and then stated further in the Law No. 17 of 2014.<sup>1</sup>

The example of the execution of the Right of Investigation is in the Old Era. In the history of Indonesia, the Right of Investigation was used in the 1950s. Starting from the proposed resolution of RM Margono Djojohadikusumo to the House of Representatives to make the Right of Investigation on the government's efforts to obtain and use the State's foreign exchange. Then the Right of Investigation was made with 13 members and chaired by RM Margono.<sup>2</sup>

The different when the New Order era, the Right of Investigation becomes difficult to be implemented because it has to fight against authoritarian powers. Although in the New Order the the House of Representatives was controlled by the Golkar party as a faction in favor of the government, the proposal for the use of the Right of Investigation had passed in a plenary session of the House of Representatives which was held on July 7, 1980. The proposal of the Right of Investigation were dissatisfied with President Soeharto's reply, it was about the case of H Thahir and Pertamina submitted by the Ministry of State Secretary Sudharmono on plenary session on July 21, 1980.<sup>3</sup>

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<sup>1</sup> Subardjo, "Penggunaan Hak Angket oleh Dewan Perwakilan Rakyat RI dalam Mengawasi Kebijakan Pemerintah", *Novelty*, Vol 7, No.1, 2016, p. 71.

<sup>2</sup> *Ibid*, p.74.

<sup>3</sup> *Ibid*, p.75

During the era of President Susilo Bambang Yudhoyono, the Right of Investigation had been tried to be launched on a number of case, such as the case of the increasing of fuel price which triggered reaction of the students, the problem of rice import in 2006, the hajj in 2008, and the uncertainty of the voters list. However the Right of Investigation on the cases never end clearly. <sup>4</sup>

The House of Representatives used the Right of Investigation has been firmly made clear that the Right of Investigation can be used only for government policies that are important, strategic, and have broad impacts on the life of the community.<sup>5</sup>

Related with the case of the Bank of Indonesia to save the Bank of Century, became the object of the Right of Investigation of the House of Representatives because has a wide impact for the society and directly that policies related about the financial states. Obscurity of bailout the Century Bank became the object of the Right of Investigation because the involvment of the Governor of the Bank of Indonesia and the Ministry of Financial States to rectify the problem.<sup>6</sup>

Based on to the Corruption Eradication Commission, the origin of the Right of Investigation carried out by the House of Representatives to the Corruption Eradication Commission is originated from corruption cases of E-KTP. The House of Representatives ask to the Corruption Eradication Commission for video recorder of the suspect's of E-KTP cases, Miriam S. Haryani, who stated that there are some members of the House of Representatives who received the corruption result from the criminal act of corruption cases of E-KTP. The Corruption Eradication Commission mentioned the reason by not giving the recording because it felt that the tape recorder

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<sup>4</sup> *Ibid*, p.75.

<sup>5</sup> *Ibid*, p.76.

<sup>6</sup> *Ibid*, p.76.

owned by the Corruption Eradication Commission it has been one of the evidence in the investigation and trial process.<sup>7</sup>

One of the tasks of the Corruption Eradication Commission mandate by the law is the prevention of corruption. The Corruption Eradication Commission prevent corruption by establishing cooperation with other related institutions where there is suspicion of corruption.<sup>8</sup>

According to the Chairman of the Association of Administrative Law and Constitutional Law Mahfud MD, there are three fundamental matters related to the special committee created by the House of Representatives to implement the Right of Investigation to the Corruption Eradication Commission. The legal subject of the Right of Investigation is incorrect, the object of the Right of Investigation is not fulfil the requirement, and the procedures are not standard.<sup>9</sup>

The House of Representatives is supposed to be closer to the people, but at this moment the House of Representatives becomes a representative of the people who are far from the people. This condition increases various political manipulations during the New Order era, and the impact is the House of Representatives exist because to fullfil institutional formalities that became require of democracy.<sup>10</sup>

The Right of Investigation looks just like a complementary parliamentary formality, and it is not impossible to be a political game from various political parties that occupy the seat of the House of Representatives itself.<sup>11</sup>

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<sup>7</sup> Anonymous, 2017, "The beginning of the Right of Investigation of the House of Representatives to Corruption Eradication Commission, Indonesian Lawyer Club Tvone", Taken From, <https://www.youtube.com/watch?v=Bxb-H64u9z8> , Accessed on Friday, November 10<sup>th</sup>, 2017 at 3. 55 AM.

<sup>8</sup> Diana Napitupulu, 2010, "Komisi Pemberantasan Korupsi in Action", Jakarta, Raih Asa Sukses, p. 58.

<sup>9</sup> Kristian Erdianto, 2017, "The Right of Investigation for Corruption Eradication Commission is not fulfill the requirments based on Act Number 27 Of 2009", Taken From, <http://nasional.kompas.com/read/2017/06/16/06510301/angket.kpk.polemik.soal.cacat.hukum.dan.celah.men.gugat.hasil.pansus> , Accessed on Friday November 10th, 2017 at 4.00 AM.

<sup>10</sup> Forum Masyarakat Peduli Parlemen Indonesia, 2005, *Lembaga Perwakilan Rakyat di Indonesia*, Jakarta, FORMAPPI Dan Ausaid, p.4.

<sup>11</sup> Subardjo, *op. cit.*, p.77.

## **B. Research Question**

How is the implementation of the Right of Investigation of the House of Representatives to the state institutions particularly in case of the Bank of Indonesia case and in the Corruption Eradication Commission case?

## **C. Research Objective**

1. To understand the concept of the Right of Investigation and get the perspective point in the scope of the constitutional law.
2. To analyze the issue of the Right of Investigation of the House of Representatives to state institutions, particularly it learns about how is the Right of Investigation of the House of Representatives to the State institutions can conduct.
3. To Propose recommendation on the issue of the Right of Investigation to the state institutions particularly in case of Bank of Indonesia case and in the Corruption Eradication Commission case.

## **D. The Benefit of Research**

### **1. Theoretical Benefit**

This research would development of legal science specifically on the Right of Investigation doing by the House of Representatives to the state institutions.

### **2. Practical Benefit**

This research would give recommendation this is more on policy of the Right of Investigation doing by the House of Representatives to The State institutions.