

## **ABSTRACT**

The central theme of this dissertation is about "Juridical Implication of the Transfer of Legislative Power to the Constitutional system of the Republic Indonesia after the Amendment to the 1945 Constitution". Prior to the 1945 Constitution is amended, especially in the New Order regime, the power of legislation is vested in the President. Since the President (according to Article 5 paragraph (1) of the 1945 Constitution) holds the legislative power, the President is powerful both in creating law and implementing it as well. While the House of Representatives was on the position of approving bill instead of holding legislative power or sharing with the President to hold a power of creating law.

After the amendment to the 1945 Constitution, the legislative power is vested in the House of Representatives Article 20 paragraph (1) of Amendment to the 1945 Constitution. As it is elaborated further, however, it is prescribed in paragraph (2), (4), and (5) of Article 20 of amendment to the 1945 Constitution that legislative power "likely" to be in the hands of the President. From the two types of provisions, it can be inferred that there is no clear-cut provision about the Transfer of Legislative Power in the Amendment to the 1945 Constitution.

Basic principles that should be taken into consideration in the transfer of legislative power would be:

First, a structure, by which division of main state power (legislative, executive, and judicial power) is clearly defined, based on the Checks and Balances System.

Second, the transfer of legislative power should consider legal philosophy, legal theory, and technical law, which will be carried out through legal *ars*.

**Key words :**

- amendment
- transfer of power
- legislative power
- checks and balances
- legal *ars*