

# The Dispute on State Institutions' Authority: An Analysis from the Newmont Divestment Case

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**ABSTRACT:** It is argued that Indonesia has three main institutional functions, *inter alia*, executive, legislative, and judiciary. They are interlinked as constitutional organs due to their respective positions and functions. In this context, the inter-state institutions have a supervisory body that controls other institutions due to checks balances. As a result, it can lead to disputes among them, usually related to constitutional authority discourse. This paper analyzed the differences in implementing the existing laws governing an institutional power and function that encouraged disputes by taking the Newmont divestment case as an example. This paper's method was juridical research, with statutory, case, and conceptual approaches. The paper showed that state institutions *inter alia*, the President, the House of Representatives, and the Financial Audit Agency, shared the same authority to resolve the Newmont divestment case. The complexity of this case involved many parties, which dealt with the contention of the purchase of 7% shares of Newmont Nusa Tenggara Company. Consequently, this case was resolved and decided in the Constitutional Court with disputes over state institutions' authorities. This paper recommended a further elaboration on the limits and meanings of state institutions.

**KEYWORDS:** Constitutional Disputes, State Institutions, Newmont Divestment.



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## HOW TO CITE:

Ramadhani, Syahra, et al., "The Dispute on State Institutions' Authority: An Analysis from the Newmont Divestment Case" (2021) 2:1 Indonesian Journal of Law and Society 105-120.

Submitted: 21/12/2020 Reviewed: 22/12/2020 Revised: 18/02/2021 Accepted: 28/02/2021

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## I. INTRODUCTION

Disputes between state institutions are not new. Institutional relations consisting of balancing and controlling functions lead to disputes between institutions, especially with regard to constitutional authority. Jimly Asshidiqqie argued that the Constitutional Court plays a primary role in deciding and examining disputes over state institutions' constitutional authority.<sup>1</sup> State institutions established by various laws and regulations result in hierarchical patterns, and this situation impacts the disputes in interpreting the state authority according to the 1945 Constitution.<sup>2</sup> With the check and balances, the relationship between state institutions is outlined to control each other and their positions equal. Then, there is the possibility of conflicts arising due to their respective authority in interpreting the constitutional mandate. In the 1945 Constitution, the way to resolve problems which in this case has been previously mentioned, namely that a constitutional court process can do it. It can be resolved through the Constitutional Court, an institution in which the institution is formed.

The Constitutional Court's task that resolves disputes between state institutions is one of this paper's examinations. This paper revisited the fact that the Court accepts not all requests for disputes for various reasons and considerations with this role. Several requests for disputes were declared rejected in the Court's decision. In general, it related to disputes over authority relating to the legal standing of the petitioners themselves and whether classified as a state institution or vice versa. Besides, the more complicated was the dispute of the constitutional authorities.

In pertaining to the 1945 Constitution as the current Indonesian constitution, the possibility of a double meaning arises because it does not mention the state institution's name and powers. As a result, the Court issued guidelines for procedures in disputes of state institutions' constitutional authority. The intention is to limit state institutions as either

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<sup>1</sup> Luthfi Widagdo Eddyono, "Penyelesaian Sengketa Kewenangan Lembaga Negara Oleh Mahkamah Konstitusi" (2010) 7:3 Jurnal Konstitusi 547–556.

<sup>2</sup> Ignatius Arga Nuswantoro, "Prinsip Konstitusionalisme Dalam Dasar Pertimbangan Putusan Sengketa Kewenangan Lembaga Negara oleh Mahkamah Konstitusi di Tahun 2012" (2013) 369:1 Jurnal Hukum 1689–1699.

the petitioners or the respondents.<sup>3</sup> To date, both Article 24C(1) of the 1945 Constitution and Constitutional Court's guidelines do not sufficiently provide the limits of the definition over state institution. Then, it remains to result in constitutional contentions about the parties to have legal standing.<sup>4</sup> Amidst this ambiguity, it is exemplified from the disputed authorities of the President, House of Representatives, and the Financial Audit Agency or Badan Pemeriksa Keuangan (BPK) regarding the Newmont divestment case. It is classified as the State Institutions' Authority Disputes or Sengketa Kewenangan Lembaga Negara (SKLN). Then, it was resolved to the Constitutional Court.

This paper is expected to contribute to existing studies, especially in mining and mineral and coal law, natural resources, and environmental law. By reading this paper, academics and practitioners will obtain an added-analysis and understanding of the dispute state institutions from the Newmont divestment case.

## II. METHODS

The normative juridical approach was used in solving the problems in this study. Normative legal research is a type of legal research methodology that bases its analysis on applicable laws and regulations relevant to legal issues that focus on research.<sup>5</sup> It used literature review with Law No. 3 of 2020 on Amendment to Law No.4 of 2009 on Mineral and Coal Mining, Law No. 17 of 2003 on State Finances, and Law No. 1 of 2004 on State Treasury, and other legal documents. Also, it referred to previous researches linked to this issue.

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<sup>3</sup> Sri Hastuti Puspitasari, “*Penyelesaian Sengketa Kewenangan Konstitusional Lembaga Negara Sebagai Salah Satu Kewenangan Mahkamah Konstitusi*” (2014) 21:3 Jurnal Hukum Ius Quia Iustum 402–425.

<sup>4</sup> Janpatar Simamora, “*Problematika Penyelesaian Sengketa Kewenangan Lembaga Negara Oleh Mahkamah Konstitusi*” (2016) 28:1 Mimbar Hukum 77.

<sup>5</sup> Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi* (Jakarta: Kencana, 2017).

### III. INSTITUTIONAL ASPECTS AND DISPUTE SETTLEMENT ON THE NEWMONT DIVESTMENT CASE

Divestment is usually defined as a reduction in assets, either in cash or property assets. It is also defined as the sale of businesses owned by the company.<sup>6</sup> In the Newmont divestment case, the President stated the authority over the Newmont divestment shares' purchase. According to the President, the government had the right or authority to manage Indonesia's natural resources for the people's welfare, referring to Articles 4(1), 17, 23C, and 33(3) of the 1945 Constitution. The divestment released was for the interest of and benefited the people of Indonesia under the national interest.<sup>7</sup> However, the government's statements regarding this matter were not complied with by the House and BPK. The two-state institutions believed that the company divestment. The Newmont Nusa Tenggara Company should have gone through the House's permission first. However, the House argued that this institution never permitted the Government Investment Center (PIP) to purchase these shares.<sup>8</sup> Thus, the House justified the government to violate Article 24(7) of Law No. 17 of 2003 on State Finances with respect to Equity Participation. Then, the BPK justified the government violated two laws at once.

The first violation relates to Law No. 17 of 2003 on State Finance and its subsequent refers to Law No. 1 of 2004 on State Treasury. Then, the BPK states that the House must approve the government's decision in the form of government capital participation in private companies with long-term investments with stipulations by government regulations. However, this was not approved by the government. They still insisted that what was done did not violate the law. The assessment that what the government was doing was appropriate because it was not capital participation but what the government did was a non-permanent investment. Therefore, it does not require

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<sup>6</sup> Purnama Trisnamansyah & Yusuf Saepul Zamil, "Divestasi Saham Asing dalam Penambangan Bawah Tanah Dihubungkan dengan Kedaulatan Negara" (2016) 3:3 *Padjadjaran Jurnal Ilmu Hukum* 609–627.

<sup>7</sup> Tjahjo Sasongko, "Mengurai Transparansi Hasil Divestasi Saham PT Newmont", (2018), online: *Kompas* <<https://regional.kompas.com/read/2018/01/30/23501101/mengurai-transparansi-hasil-divestasi-saham-pt-newmont>>.

<sup>8</sup> *Ibid.*

permission from the House. The government argued the House had cut executive power mandated by the constitution and makes cases like this one classified as SKLN.

This case involved many parties, including business people, state institutions, and the Constitutional Court, with its role as dispute breaker between state institutions. It was complex, ranging from formal meetings, war statements on social media to court proceedings. Finance Minister Agus Marto is even willing to leave his post if the government cannot buy the 7% stake in Newmont.<sup>9</sup> The mining sector in Indonesia is a concern in terms of investing for foreign investors,<sup>10</sup> given Indonesia's abundant wealth of natural resources. The struggle for shares is proof that Indonesia manages natural resources for economic-business interests and political battles. This case ended in the Constitutional Court to resolve disputes between institutions with joint considerations and policies.<sup>11</sup> As in the above case, state institutions have arguments over this dispute case following their respective powers, which have been given, namely purely according to constitutional authority.

As stated by Montesquieu, although the division of power is classified into three parts of power, inter alia, the executive, legislative, and judicial powers have been exercised.<sup>12</sup> Then the emergence of new institutions that control these powers does not mean it will work well. The institutions have an equal position and control each other and differences in interpreting the constitutional mandate. The Constitutional Court's role in exercising its authority as a separate organ decides disputes over state institutions.

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<sup>9</sup> Wisnu Broto, "Pemerintah Belum Tentu Bisa Beli Saham Newmont", (2011), online: *Tempo* <<https://bisnis.tempo.co/read/305702/pemerintah-belum-tentu-bisa-beli-saham-newmont/full&view=ok>>.

<sup>10</sup> Gaby Pratty Ombeng, "Wanprestasi Terhadap Isi Perjanjian Divestasi Antara Pemerintah Indonesia dan PT. Newmont Nusa Tenggara" (2015) 1:5 *Lex Priv* 37–39.

<sup>11</sup> Hafid Rahardjo, "Sengketa Perebutan Divestasi Saham Newmont Nusa Tenggara: Analisis Ekonomi Politik" (2008-2012)" (2012) 16:1 *Jurnal Ilmu Sosial dan Ilmu Politik* 25–44.

<sup>12</sup> Charles de Montesquieu, *Montesquieu: The Spirit of the Laws* (Cambridge: Cambridge University Press, 1989).

Not many Indonesian citizens know or understand Indonesian state institutions' relationship, especially the disputes between them. Indonesian citizens need to understand the relationship between state government agencies based on checks and balances.<sup>13</sup> Behind this relationship, state institutions' authority also varies according to each state institution's portion. It is prevalent for disputes between state institutions. The differences in interpretation regarding the Constitution are also among the causes of frequent disputes between state institutions.<sup>14</sup> The overlapping authority between state institutions is because the commission's formation has not been based on a complete concept for an ideal constitutional arrangement. One of the cases regarding disputes over authority between state institutions in Indonesia is the dispute on powers granted to the President, the House, and BPK related to the Newmont divestment. This case is related to how the institutional relationship has been regulated in the law. There are frequent disputes between state institutions. Therefore, it is necessary first to discuss the relationship between institutions.

The relationship between the President and the Constitutional Court is outlined in several legal norms. They are Articles 24C(2) and (3) of the 1945 Constitution, Articles 29(2) and 34(1) of Law No. 48 of 2009 on Judicial Power, and Law No. 24 of 2003 on the Constitutional Court. Meanwhile, the relationship between the House and the President is regulated in several legal norms, such as: Articles 5(1), 7A, 7B, 7C, 11(1), 13(2), 13(3), 14(2), 20(2), 20A, 22, 23(2), 23F(1), 24A(3), 24B(3), 24C(2), and 24C(3) of the 1945 Constitution. It is also outlined in Article 74 (2) of Law No. 27 of 2009 on Parliament Law. Article 33(3) of the 1945 Constitution states all natural resources are controlled by the state and used for the people's welfare as much as possible. The mandate of the article above is that Indonesia has a responsibility to people's welfare.<sup>15</sup> Indonesia is a country with excellent

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<sup>13</sup> Winasis Yulianto, "Rekonseptualisasi Penyelesaian Sengketa Kewenangan Lembaga Negara" (2014) 12:1 Jurnal Ilmu Fenomena 1111–1133.

<sup>14</sup> Lukman Hakim, "Sengketa Kewenangan Kelembagaan Negara Dan Penataannya Dalam Kerangka Sistem Hukum Nasional" (2010) Jurnal Hukum Yustitia.

<sup>15</sup> Putu Edgar Tanaya, "Divestasi Sebagai Alternatif Mempertahankan Viabilitas Perekonomian Indonesia (Dari Perspektif Economic Analysis of Law)" (2016) 6:2 Jurnal Advokasi 231–246.

mining materials and is also in demand with other countries.<sup>16</sup> The Newmont Nusa Tenggara Company is a branch of a global mining company, namely the Newmont Mining Corporation (NMC), which runs its business activities in eight countries, one of which is Indonesia. This company also accommodates the interests of the West Sumbawa Regency government in terms of community empowerment.<sup>17</sup>

One form of the foreign investments outlined in the form of a Contract of Work in Indonesia is the Newmont Nusa Tenggara Limited Company that has focused on the mining sector.<sup>18</sup> It is commonly agreed that Indonesia is one of several countries whose natural resources. It exploits them through the mining business as a sector for revenue generation for the state. It justifies the welfare of the people in Indonesia as the objectives in the fourth paragraph of Indonesia's constitutional preamble. This preamble states protecting Indonesian citizens through advancing public welfare, educating the nation's life, and participating in a world order based on freedom, peace, and social justice. In this case, the dispute over authority between state institutions related to the Newmont divestment involved many parties (the President, the House, and the BPK), so this case ended in the Constitutional Court.<sup>19</sup> The Constitutional Court has enormous powers, namely as a referee in deciding disputes between state institutions.<sup>20</sup>

The divestment in the mining sector always involves many parties. As commonly agreed, Indonesia welcomes the business sector through foreign investment. However, sometimes it is often challenged through nationalism

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<sup>16</sup> Lendry T M Polii, "Tinjauan Yuridis Terhadap Divestasi Pada Perusahaan Tambang di Indonesia Menurut Undang-Undang Nomor 4 Tahun 2009 Tentang Pertambangan Mineral dan Batubara" (2016) 4:9 *Lex Sociatis* 1689–1699.

<sup>17</sup> Hari Akbar Sugiantoro, "Corporate Social Responsibility PT. Newmont Nusa Tenggara dalam Mengakomodasi Kepentingan Pemerintah dan Masyarakat" (2017) *J Communiverse* CMV.

<sup>18</sup> Djumardin & Rahmawati Kusuma, "Penyertaan Modal & Pemda; pada Badan Usaha Milik Daerah" (2015) 30:1 *Jurnal Hukum Jatiswara*.

<sup>19</sup> Sholahuddin Al-Fatih, "Model Pengujian Peraturan Perundang-Undangan Satu Atap Melalui Mahkamah Konstitusi" (2018) 25:2 *Jurnal Ilmu Hukum dan Legislasi* 247.

<sup>20</sup> Abdul Ghoffar, "Mewujudkan Mahkamah Konstitusi Sebagai Peradilan yang Akuntabel dan Terpercaya" (2018) 13:2 *Pandecta Research Law Journal* 76–88.

ideals, particularly against the mining business.<sup>21</sup> Freeport Company is also one of the companies with a share divestment dispute with the Indonesian government and the Newmont Nusa Tenggara company.<sup>22</sup> The divestment of foreign investment is an obligation for those who wish to do this business as the state capital for economic development in Indonesia, which will later be given to the government. The state has a large number of shares in mining companies.<sup>23</sup> Article 35 of Law No. 25 of 2007 becomes the government's guidelines to protect in making cooperation with foreign companies in the form of a contract of work.

The mining cases dealing with disputes over authority of the President, the House, and the BPK dated back to 2011. There was a drastic difference of opinion between state institutions related to the authority in this Newmont divestment. The government's contract of work permit was granted to the Newmont Nusa Tenggara company from March 1, 2000, to February 2030. It provided that in 2006 this company must acquire shares and give priority to the Central Government.<sup>24</sup> In 2007 the offering of shares or divestment of shares to the Indonesian side would be carried out in turns. The controlling party would control 51% of the ownership of this company belongs to the Indonesian government. In 2008 for the release of 7% shares of this company must transfer shares to the Indonesian government or local governments or companies appointed by the government.<sup>25</sup>

This company is under the provisions that if the time has exceeded the limit, namely after the production of foreign share ownership or within thirty days of share negotiations. The shares will be offered to the central government.

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<sup>21</sup> Raras Ayu Mirati, "Kajian Hukum Divestasi Pada Perusahaan Pertambangan Asing di Indonesia" (2016) 42:1 *Lex Sociatis* 1–10.

<sup>22</sup> Erni Yoesry, "Divestasi PT. Freeport Indonesia" (2019) 49:1 *Jurnal Hukum dan Pembangunan* 153–179.

<sup>23</sup> Trias Palupi Kurnianingrum, "Kajian Hukum Atas Divestasi Saham Bidang Pertambangan Indonesia (Studi Kasus PT. Newmont Nusa Tenggara dan PT. Freeport Indonesia)" (2012) *Jurnal Majelis*.

<sup>24</sup> Zainal Asikin, "Perjanjian Antara Pemerintah dengan Pihak Swasta dalam Kaitannya dengan Divestasi Saham PT. NNT di Nusa Tenggara Barat" (2013) 42:3 *Masalah-Masalah Hukum* 327–346.

<sup>25</sup> Lalu Pria Wira S, "Sinkronisasi Kebijakan Kerjasama Antar Daerah Dalam Divestasi Saham Pt Newmont Nusa Tenggara" (2015) 27:1 *Mimbar Hukum* 43.



However, suppose the Indonesian government does not accept the offer. It is transferred to a company owned by the Indonesian nation or a foreign company held by an Indonesian national. After many negotiations, it was finally agreed that the company had total assets of up to \$ 3.52 billion and a 14% share in the exemption quota for 2008 and 2009 worth \$ 493.6 million. After that, the Nusa Tenggara Barat government thought of buying a 10% share of the 2006 and 2007 divestment shares by establishing a joint company called Daerah Maju Bersaing Company.<sup>26</sup> After many purchases and stock competition, the remaining shares amounted to 7%.<sup>27</sup>

In this context, the Newmont Nusa Tenggara company hopes that the Indonesian side will be interested in buying the 7% shares. Finally, the government conveyed its intention to buy a 7% divestment stake by submitting a letter to the Ministry of Energy and Mineral Resources. Meanwhile, Agus Martowardojo, as served as Minister of Finance in 2009, asked the Government Investment Center (PIP) to represent the government in the purchase of the seven percent stake. In 2010, on September 27, to be precise, the government or the central government confirmed that they wanted to take the 7% share. In 2011, an agreement was made to purchase shares by the Newmont Nusa Tenggara company with the Government Investment Center (PIP) as the government representative and Nusa Tenggara Partnership BV at the Ministry of Finance Office.

A prolonged heated debate resurfaced in October when the House considered that the government had broken laws and regulations. The House of Representatives considered that it never allowed PIP to purchase its shares' 7% divestment.<sup>28</sup> The House stated that the government's action violated Article 24(7) of Law No. 17 of 2003 on State Finances regarding equity participation. The BPK strengthened it after conducting an audit at the House's request, and the BPK agreed by looking at Articles 24 and 41(4) of Law No. 17 of 2003 on State Finance.

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<sup>26</sup> Rahardjo, *supra* note 11.

<sup>27</sup> *Ibid.*

<sup>28</sup> Sasongko, *supra* note 7.

The difference of opinion between the House and the government is getting fiercer. Meanwhile, the government believes that the purchase of 7% shares by PIP does not require approval or permission from the House because, according to the government, this is the President's power in managing finances with the constitution, and the Minister of Finance has mandated its implementation.<sup>29</sup> The Finance Minister remains in his stance that Government action constitutes a non-permanent investment and does not constitute capital participation. Therefore, it does not require permission from the House. The difference of opinion resulted in a dispute of authority between the President and the House using a legal basis when implementing capital against the government. According to the President's view, it is a constitutional authority mentioned above, centered on the norms regulated in Article 23C of the 1945 Constitution as explained in Law No.1 of 2003 on State Treasury. However, Article 23C does not clearly state the President's constitutional authority about handling the state. However, it regulates "Financial Matters" by dividing authority to the President and the House.

However, the House continued to carry out attacks on the government. Likewise, the government made counterattacks against the House. Meanwhile, the BPK, which was also involved in the conflict, argued that this government's action violated the State Finance Law and violated the State Treasury Law. With the strength of the arguments and the firm stance of each of the three state institutions, President Susilo Bambang Yudhoyono finally transferred this problem to the Constitutional Court into a dispute over authority between state institutions be investigated and decided by the Constitutional Court. Here is a request from the government for the Constitutional Court. The Constitutional Court has held several hearings on SKLN and heard statements from several parties, including the government, the House of Representatives, and the Supreme Audit Agency. The government decided ten people with legal education backgrounds as

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<sup>29</sup> Neduro Maril, Hendro Saptono & Siti Mahmudah, "Penyelesaian Sengketa Divestasi Saham PT Newmont Nusa Tenggara dalam Pengaturan Penanaman Modal Asing Secara Langsung (Foreign Direct Investment) Berdasarkan Putusan MK No. 2/SKLN-X/2012" (2016) 5:2 Diponegoro Law Review 1-14.

expert witnesses. It is an economist, a judge at the Constitutional Court, and a bureaucrat. The House brought seven witnesses, the BPK had nine witnesses.

In comparison, the Constitutional Court presented five witnesses, namely Anggito Abimanyu as a former bureaucrat and an economic expert. Nusa Tenggara Barat Governor Zainul Majdi, Martono Hadianto as President Director of the Newmont Nusa Tenggara company, Arif Hidayat as a mining practitioner in Nusa Tenggara Barat, and Fitra Rino as a Local House of Representatives' member from the Sumbawa Regency. Meanwhile, the government's request for the Constitutional Court to grant it requests that the government's 7% divestment is lawful and constitutional.<sup>30</sup>

The House denied the government's request in the SKLN session: Article 15(5) of Law No. 17 of 2003 on State Finances. The National Expenditure Budget or Anggaran Pendapatan dan Pembelian Nasional (APBN) approved by the House includes details down to organizational units, functions, programs, activities, and types of expenditures. It states that PIP as a BLU must be stated in detail and obtain the House's approval as referred to in Article 15(5) of Law No. 17 of 2003 on State Finances.<sup>31</sup> The Constitutional Court's Chairman Mahfud MD said that the government and the House must make a joint policy. Then, they purchase the Petitioner authorizes 7% of the Newmont Nusa Tenggara company shares with the approval of Respondent I (the House).

Constitutional Court Decision No.2/SKLN-X/2012 explains that according to Article 27 of Law No. 17 of 20003 on State Finance, the funds to buy shares of the Newmont Nusa Tenggara company are included in the national expenditure budget so that the share purchase can only be carried out.<sup>32</sup> In this sense, the Constitutional Court decided not to accept the government's

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<sup>30</sup> The Petitioner believes that as the exercise of constitutional authority based on Article 4(1), Articles 17(1), 23C, and 33(3) of the 1945 Constitution, the applicant has the constitutional authority to enforce the investment in the purchase of 7% divestment shares of PT NNT in 2010 without the need for Respondent I's prior approval.

<sup>31</sup> The House of Representatives (Respondent) is not mistaken and has never questioned the Constitutional authority of the President (Petitioner) in Articles 4(1), 17 (1), 23C, 33(3) of the 1945 Constitution becomes groundless (null and void).

<sup>32</sup> Maril, Saptono & Mahmudah, *supra* note 29.

request. The Constitutional Court's consideration regarding its decision, investment capital is the Ministry of Finance calculation's authority. However, the purchase of 7% shares is IDR 1 trillion. The rest through the PIP budgeting procedure in the 2011 national expenditure budget not directly made to buy 7% of the Newmont shares because it must first be discussed with the House to provide joint impacts. In the end, this purchase was canceled due to the need for hearings with the House.

#### IV. IN SEARCH OF AN ALTERNATIVE

In resolving disputes over state institutions' authorities, the 1945 Constitution grants the Constitutional Court as the adjudication institution for this case. However, there are still problems that make it challenging to apply in actual cases. The problem is getting more complicated because it is accompanied by the development of institutions that have existed since the reform era. With the many new state institutions formed after the reformation, there will also be more conflicts of interest and authority between state institutions.<sup>33</sup> The constitution establishes a state institution. Apart from the constitution, a state institution is also formed, known as a state commission formed based on law. Even so, all state institutions are legally recognized by the state. In disputing state institutions' authority, not all state institutions can fulfill the requirements as respondents or applicants. There are also state institutions regulated in the 1945 Constitution. However, their authority is only stated at the law (*undang-undang*) level or based on the constitutional order. Their authority is regulated in the law.<sup>34</sup> The situation as stated above makes it difficult to resolve disputes over the authority of state institutions. For example, the process of resolving disputes over state institutions' power is only regulated in laws (*undang-undang*).

These institutions are, for instance, the Attorney General, Corruption Eradication Commission, Child Protection Commission, National Human Rights Commission, Business Competition Supervisory Commission. Also,

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<sup>33</sup> Eddyono, *supra* note 1.

<sup>34</sup> Simamora, *supra* note 4.

they include other institutions regulated in the Presidential Decrees.<sup>35</sup> If the state institution's problems are submitted to the Constitutional Court, the Constitutional Court cannot immediately accept the complaint. There are limitations in the Constitutional Court's authorities. In the case of state institutions' authority disputes, the Court is limited to resolve between state institutions whose powers are enumerated in the constitution.

Following the previous analysis, to implement the Constitutional Court's power to resolve these disputes effectively, it is necessary to confirm the limits of state institutions' authority and the meaning of state institutions. If these two problems are successfully resolved, it asserts that the Constitutional Court can effectively decide disputes over state institutions.

## V. CONCLUSION

This case closely related to state institutions' relationship resulted in frequent misunderstandings among state institutions due to the different interpretations. There was no consensus between the government and the House regarding the Newmont divestment and disputes' legal basis. The Constitutional Court's decision did not grant for request considering that the purchase of 7% shares was the government's authority. However, it would be better if it was based on the House of Representatives' agreement and discussed with the House because it is a state fund.

This decision confused the government. Through PIP, the government's divestment, a Public Service Agency (BLU), and investment do not require prior consent from the House. However, the President remained to want to comply with the Constitutional Court's decisions. As a result, the purchase of the Newmont Nusa Tenggara company shares was canceled and had to be re-discussed by the government and the House's approval. In settlement of disputes over state institutions, some rules apply in Article 24 C (1) of the 1945 Constitution. The state institution has been mentioned in the constitution, but its authority is regulated in the law. Thus, it is necessary to resolve disputes between state institutions.

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<sup>35</sup> *Ibid.*

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