

THE CONSTRUCTION OF THE VICE PRESIDENT'S AUTHORITY IN INDONESIA'S CONSTITUTION SYSTEM

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Abstract

This research aims to know the authority between the President and the Vice President, as well as clarity on the authority of the Vice President, it is necessary to have a law regulating the presidential institution. The 1945 Constitution of the Republic of Indonesia stipulates that the President and Vice President are directly elected by the people. The position of the Vice President is at the level below the President. The authority of the Vice President is not clearly and unambiguously regulated in the 1945 Constitution of the Republic of Indonesia or in the laws and regulations below it. As an assistant to the President, the authority of the Vice President is highly dependent on the President. The approach method used in this research was normative juridical, namely legal research that puts the law as a building system of norms. The Vice President's authority will only appear when the President is absent. The authority of the Vice President in Indonesia's constitutional history varies from one to another. The law on the presidential institution will later serve as the legal basis for the President to share authority with the Vice President. The result show that the division of authority, there will be clarity as to what is the authority of the Vice President, so that when a problem occurs, it can be resolved quickly and thoroughly, without throwing responsibilities at each other. The clarity of the division of authority will also greatly assist the DPR in carrying out its supervisory function, and for the public to assess the performance of the Vice President.

Keywords: Authority; Construction; Vice President.

A. INTRODUCTION

The system of government adopted by the 1945 Constitution of the Republic of Indonesia is presidential. The president is the head of state as well as the head of government. Based on Article 4 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, in carrying out its obligations, the President is assisted by one Vice President. In addition to

being assisted by one Vice President, based on Article 17 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the President is assisted by State Ministers. Although the Vice President and Ministers are assistants to the President, they both have different positions and authorities.

Ministers as assistants to the President are in charge of certain matters. As assistants to the President, ministers are appointed, dismissed, and are responsible to the President. Ministers cannot replace the President in the absence of the President. While the Vice President is not appointed and dismissed by the President. The Vice President and the President are an inseparable unit who are directly elected by the people through elections. Because the people are directly elected, the Vice President is not responsible to the President. The Vice President can replace the President if the President dies, quits, is dismissed, or is unable to carry out his obligations during his term of office.

As an assistant to the President, the authority of the Vice President is not clearly and unambiguously defined in the 1945 Constitution of the Republic of Indonesia. Likewise, the division of authority between the President and the Vice President, there is no statutory regulation that regulates it. The division of authority between the President and the Vice President is highly dependent on the President. In the absence of regulation regarding the division of authority, the President's authority becomes very prominent, while the Vice President does not seem to have any role and authority. This does not only happen in the current Reformation Era, but also during the Old Order and New Order eras.

At the beginning after the inauguration of the President and Vice President of the 2019 election results, Vice President Ma'ruf Amin said that he was assigned by President Joko Widodo to assist the President concerning poverty alleviation, welfare, community economic empowerment, Sharia economic development, and also related to stunting and disaster management. The President's assignment to the Vice President is in an effort so that the President's vision and mission to prosper and advance Indonesian Human Resources can be realized.¹ However, even though the assignment has been given by the President, not much has been done by the Vice President, so it seems that the Vice President is only a complementary position.

Especially when the COVID-19 pandemic hit the world, including Indonesia, almost all policies changed. This is because the COVID-19 pandemic not only has an impact on the health sector but also has an impact on other sectors such as the economic, social, and cultural sectors. Quoted from Kompas online media on May 2, 2020, the President assigned the Vice President the task of managing the religious life of the community during the pandemic, while the President took care of everything related to logistical regulatory issues and so on.² From this assignment, it appears that

1 <https://nasional.kompas.com/read/2019/11/01/22462241/maruf-amin-ungkap-pembagian-tugas-presiden-dan-wapres> accessed on 1 November 2019

2 <https://nasional.kompas.com/read/2020/05/02/12381411/ini-tugas-wapres-maruf-dalam-penanganan-pandemi-covid-19>, accessed on 2 May 2020

in fact, the handling of this pandemic was initially without involving the Vice President. There is an impression that the President does not give the Vice President the authority to participate in tackling COVID-19. This can be traced, to the covid-19 pandemic in Indonesia that appeared in February 2020, but the assignment of the President to the Vice President was carried out in May 2020. Therefore, amid efforts to overcome the covid-19 pandemic, although there has been an assignment to the Vice President, however, it is again being questioned about what the Vice President has done to overcome the covid-19 pandemic.

Vice President Ma'ruf Amin, who is known as an expert in the field of sharia economics, should be given a proportional role according to his expertise, to organize the Indonesian economy due to the COVID-19 pandemic. In handling the COVID-19 pandemic, what is visible is only the role of the Ministers, while the role of the Vice President cannot be felt or seen. There are no obligations and authorities given by laws and regulations to the Vice President, so there are no sanctions for the Vice President when he does not play any role.

Based on the description above, constitutionally the authority of the Vice President in the Indonesian presidential system of government has not yet been clarified. The unclear and unequivocal authority of the Vice President often creates debate regarding what the Vice President does when the President is not available. Therefore, this study discusses the construction of the Vice President's authority in the Indonesian presidential government system. This research is intended to find the ideal construction of the authority of the Vice President of Indonesia.

B. RESEARCH METHODS

The approach method used in this research was normative juridical, namely legal research that puts the law as a building system of norms. The system of norms in question was the principles, norms, rules of the legislation, and the opinions of scholars. Normative juridical research examines the rule or rule of law as a building system related to a legal event.³ The type of data used was secondary data which includes primary legal materials, secondary legal materials, and tertiary legal materials obtained from books, literature, papers, laws and regulations, and other sources. Secondary data collection was carried out by literature study, using library materials that support research. The collection of legal materials was done by searching, collecting, and studying conventional documents such as reading, viewing, listening, or using information technology (internet media). Secondary data that had been collected and processed would be analyzed qualitatively which was then presented descriptively.

C. RESULT AND DISCUSSION

1. Regulation of the Presidential Institution in the Indonesian Constitutional System

3 Mukti Fajar dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif & Empi Republik Indonesia Serikat*, Cetakan I, Pustaka Pelajar, Yogyakarta, 2010, page 36

The day after the proclamation of independence was proclaimed, on August 18, 1945, in the session of the Preparatory Committee for Indonesian Independence, the 1945 Constitution (State Basic Law of The Republic Indonesia year 1945) was ratified. One of the state institutions that must exist based on the State Basic Law of The Republic Indonesia year 1945 is the People's Consultative Assembly. One of the powers granted to the People's Consultative Assembly is to elect the President and the Vice President, as stipulated in Article 6 paragraph (2) of the State Basic Law of The Republic of Indonesia of 1945, which reads: "The President and Vice President are elected by the People's Consultative Assembly with the majority of votes." When the People's Consultative Assembly was not formed, based on Article III of the Transitional Rules, for the first time the President and Vice President were elected by the Preparatory Committee for Indonesian Independence. After Article III of the Transitional Rules was approved and ratified, the Preparatory Committee for Indonesian Independence member Otto Iskandardinata suggested that Soekarno be elected as President, and Moh. Hatta be elected as Vice President. By acclamation, the proposal was accepted. President Soekarno had enormous power because the state institutions mandated by the 1945 State Basic Law of The Republic of Indonesia did not exist. As Article IV of the Transitional Rules of the Basic Law of the Republic of Indonesia of 1945, to avoid a vacuum, all powers are exercised by the President.⁴

When the 1945 Constitution of the Republic of Indonesia changed to the Constitution of the United States of Indonesia 1949 (Constitution of the United States of Indonesia 1949), the equipment of the United States of Indonesia included the President, Ministers, Senate, House of Representatives, Supreme Court of Indonesia, and Financial Supervisory Board. . According to the 1949 Constitution of the United States of Indonesia, a personal presidential institution consists of a President. The President is elected by the Electoral Council which consists of representatives from the states under certain conditions. Before carrying out his duties, the president takes an oath before the Electoral Council. The 1949 Constitution of the United States of Indonesia regulates the positions and powers, duties and authorities, as well as the rights and obligations of the presidential institution in more detail. In addition, in the systematics of the 1949 Constitution of the United States of Indonesia, matters that regulate the Presidential Institution are not located in one specific chapter but are spread across various articles. In the 1949 Constitution of the Republic of Indonesia, there is no Vice President. What is meant by the government is the President and

4 Article IV of the Transitional Rules reads, Before the People's Consultative Assembly, the People's Representative Council and the Supreme Advisory Council are formed according to this Constitution, all powers are exercised by the President with the assistance of a national committee, *From the sound of Article IV of the Transitional Rules*, the President's power is very large, because in addition to exercising his own power, the President also exercises the powers of the MPR (stipulates the Constitution and General Guidelines rather than the State Policy, elects the President and Vice President), and exercises power. DPR (stipulates laws).

Ministers. The President is domiciled in the seat of government, the President as head of state, not as head of government because the head of government is held by the Prime Minister. If the President is unable to carry out his duties, the President will appoint the Prime Minister to carry them out. If the President is permanently absent or dies, a new President will be elected. The President has the authority to appoint ministers and to appoint the Prime Minister among these ministers.

The 1949 Constitution of the United States of Indonesia was then replaced with the 1950 Provisional Basic Law. The 1950 Provisional Constitution placed the President only as the Head of State, as stipulated in Article 45 paragraph (1). While the Head of Government is the Prime Minister. There is the position of Vice President, and the Vice President is appointed by the President at the proposal of the People's Representative Council.⁵ The president and vice president are inviolable (Article 83 of the 1950 Provisional Constitution).

In 1959, the Provisional Basic Law became invalid because, with the Presidential Decree 5 July 1959, the 1945 Constitution of the Republic of Indonesia was re-applied. Based on Article 4 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, in carrying out his duties, the President is assisted by one Vice President. The nature of the Vice President's duties is to help only. The word "assisted" proves that the position of the President remains "the first man" while the Vice President is "the second man". The Vice President will appear as the first person in the absence of the President. This is constitutionally clearly stated in Article 8 of the 1945 Constitution of the Republic of Indonesia which states that: if the President dies, quits, or is unable to perform his obligations during his term of office, he is replaced by the Vice President until the end of his term. So the notion of being assisted by the Vice President remains valid as long as the President is still carrying out his functions properly.⁶

During the promulgation of the 1950 Provisional Constitution, there was a law governing the President, namely Act No. 29 of 1957 concerning Officials Performing the Job of the President, if President Dies, Quits, or is Unavailable, while the Vice President is Absent or Unavailable. Article 1 of Act No. 29 of 1957 stipulates that (1) If the Vice President is absent or unavailable, then if the President is absent, the Chairperson of the House of Representatives carries out the day-to-day office of the President. Paragraph (2) In the absence of a Vice President, if the President resigns, resigns, or is unable to perform his duties during his term of office, the Chairperson of the House of Representatives carries out the duties of the President until there is a President.

5 Article 45 paragraph (4) of the 1950 Constitution: For the first time the Vice President is appointed by the President from a recommendation put forward by the House of Representatives.

6 Dahlan Thaib, *Implementasi Sistem Ketatanegaraan Menurut Undang-Undang Dasar Negara Republik Indonsia Tahun 1945*, Liberty, Yogyakarta, 1993, page 37

When the President's power shifted from Sukarno to Suharto, the 1945 Constitution of the Republic of Indonesia remained in effect. The reign of President Suharto is known as the New Order. In the early days of the New Order government, the regulation regarding the presidential institution, apart from the 1945 Constitution of the Republic of Indonesia, was also regulated in the Decree of the People's Consultative Assembly Number II/MPR/1973 concerning Procedures for the Election of the President and Vice President of the Republic of Indonesia, the People's Consultative Assembly Decree. Number VII/MPR/1973 concerning the Absence of the President and/or Vice President of the Republic of Indonesia, and People's Consultative Assembly Decree Number III/MPR/1978 concerning the Position and Work Procedures of the Highest State Institution with/or between State High Institutions.

In 1998, the New Order government ended with the reform movement, one of whose demands was to amend the 1945 Constitution of the Republic of Indonesia. At the beginning of the Reformation Era, changes were made to the 1945 Constitution of the Republic of Indonesia (1999-2002). In the 1945 Constitution of the Republic of Indonesia (the 1945 Constitution of the Republic of Indonesia after being amended), the regulation of the presidential institution is contained in Chapter III (Power of State Administration), starting from Article 4 to Article 16. The number of articles that regulate institutions of the presidency shows that the arrangements can be said to be detailed. Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia reads: The President of the Republic of Indonesia holds governmental power according to the Constitution. Article 4 paragraph (2) states that in carrying out his obligations, the President is assisted by one Vice President. As in the 1945 Constitution of the Republic of Indonesia before the amendments, the Vice President's position remains as an assistant to the President. Article 8 paragraph (1) stipulates that if the President dies, quits, is dismissed, or is unable to carry out his obligations during his term of office, he is replaced by the Vice President until his term expires. Paragraph (2), in the event of a vacancy for the Vice President, at the latest within sixty days, the MPR shall convene a session to elect the Vice President from the two candidates proposed by the President. Paragraph (3), if the President and the Vice President die, resign, are dismissed, or are unable to carry out their obligations during their term of office simultaneously, the executor of presidential duties is the Minister of Foreign Affairs, Minister of Home Affairs, and Minister of Defense. At the latest thirty days after that, the MPR shall hold a session to elect the President and Vice President from the two pairs of candidates for President and Vice President proposed by a political party or a combination of political parties whose pairs of candidates for President and Vice President win votes. The first and second most votes in the previous general election, until the end of his term of office.

The term of office of the President and Vice President is five years and is limited to only two terms. The President and/or Vice President

may be dismissed during their term of office for certain reasons. The reason for the dismissal of the President and/or Vice President is based on Article 7A of the 1945 Constitution of the Republic of Indonesia, namely the President and/or Vice President may be dismissed during their term of office by The People's Consultative Assembly at the recommendation of the House of Representatives, whether proven to have violated the law in the form of treason against the state, corruption, bribery, other serious crimes, or disgraceful acts or if it is proven that they no longer meet the requirements as President and/or Vice President.

In the Reformation Era after the enactment of the 1945 Constitution of the Republic of Indonesia, the regulation regarding the President and Vice President was Act No. 23 of 2003 concerning the General Election of the President and Vice President. The Law was later revoked by Act No. 42 of 2008, and Act No. 42 of 2008 was revoked by Act No. 7 of 2017 concerning General Elections. The regulation in the law only relates to filling the positions of the President and Vice President, and does not further regulate the position and authority of the President and Vice President.

2. The Authority of the Vice President in the History of the Indonesian Constitution

President Soekarno's leadership occurred from 1945 until 1966 when the *Surat Perintah Sebelas Maret (Supersemar)* was issued. In the early days of independence, the position of Vice President held by Mohammad Hatta was very central and tended to complement each other with the position of President Soekarno, so Soekarno-Hatta's type of leadership was called the Soekarno-Hatta *Dwitunggal* leadership type.

The type of leadership of the *Dwitunggal* Soekarno-Hatta is a combination of the type of solidarity development (solidarity maker) represented by President Soekarno, and the type of administrator (administrator) represented by Vice President Mohammad Hatta. The Soekarno-Hatta *Dwitunggal* type, which is a combination of solidarity and administrator, is studied from the aspect of political science and Indonesian constitutional law, often seen as one type of leadership which is ideal for a plural country like Indonesia.⁷

President which had a wide impact in Indonesia's political and constitutional life, issuing two proclamations, namely the Vice President's Decree No. formation of political parties. The Vice President's edict was issued at the suggestion of several members of the Central Indonesian National Committee to prevent the President's absolute and revolutionary power (revolutionary and centralized governmental system). As a consequence of this announcement, the position of the Central Indonesian National Commission was upgraded to a legislative body. This

7 Satya Arinanto, dalam Kata Pengantar Buku Roy B.B. Janis, *Wapres: Pendamping atau Pesaing, Peranan Wakil Presiden dalam Sistem Ketatanegaraan Republik Indonesia*, Bhuana Ilmu Populer, Jakarta, 2008, page. 15-16

fact shows that during the physical revolution, the function and authority of the Vice President can be said to be as dominant as the functions and powers of the President and is a major setback in the power of the President which can be said to be dictatorial because the President must share his powers based on Article IV of the Transitional Law. 1945 Constitution of the Republic of Indonesia with the Central Indonesian National Commission and its Working Body.

The issuance of the Vice President's Declaration No. X of 1945 then continued with the determination of the political direction of the Government of the Republic of Indonesia on November 1, 1945, which was signed by Vice President Mohammad Hatta who later became known as "Hatta's Political Manifesto" which stated that "Indonesia can cooperate with every nations in the world who respect Indonesian independence". During the formation of the Hatta I Cabinet (January 29, 1948, to August 4, 1949), it was President Soekarno himself who "appointed" Vice President Mohammad Hatta as formate (former) of the Cabinet. Moh. Hatta's role is an ideal reflection of how a Vice President should carry out his functions and authorities in the Presidential Cabinet. Despite the differences in their views, the Soekarno-Hatta pair is still considered as a pair of President and Vice President who are able to carry out two roles in one breath, so they are considered ideal because both of them are considered to have personality traits that can give the impression of "unifying the nation" so as to provide a sense of security to the people.

Moh. Hatta was known to be very brave in criticizing Soekarno. Including being able to cover the shortcomings that exist in Soekarno's personality. Moh. Hatta was also able to "replace" Soekarno's role as President when the president was not in place without leaving the mandate, but still in the coordination that had been determined by the 1945 Constitution of the Republic of Indonesia that the Vice President was an "assistant" to the President.⁸

This type of *Dwitunggal* Soekarno-Hatta leadership, unfortunately, did not last long, because, in 1956, Mohammad Hatta chose to resign from his position due to differences of opinion, principles, and views, especially in the political and economic fields between the President and the Vice President. Of course, Moh. Hatta's resignation was very unfortunate because the *Dwitunggal*, which was ideal for guarding the birth of the Republic of Indonesia, later turned into a kind of "Dwidate". After the resignation of Moh. Hatta, the political and constitutional history of the Republic of Indonesia later noted that our country did not have a Vice President for a long period of time, which was about seventeen years, until the election of Sri Sultan Hamengku Buwono IX in the 1973 MPR General Session, which then became the first Vice

8 Johannes Johny Kojnja, Konstitusionalitas Fungsi dan Wewenang Wakil Presiden RI Setelah Amandemen Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, *Jurnal Hukum Jatiswara*, Fakultas Hukum Universitas Mataram, page 346-347

President during the New Order government to accompany President Soeharto.⁹

In 1968 (27 March 1968 to be precise) Suharto was appointed President based on the Provisional People's Consultative Assembly Decree Number XLIV/MPRS/1968 concerning the Appointment of the Provisional People's Consultative Assembly Decree No. IX/1966 as President of the Republic of Indonesia, which also stipulates that the term of office of this presidency is five years, from 1968 to 1973, following the 1945 Constitution of the Republic of Indonesia. As President, Suharto was not accompanied by a "Vice President" nor was he accompanied by a "United Republic of Indonesia, the Republic of Indonesia, the Great Union of State Policy". Regarding the Vice President, it has become the consensus of all New Order powers to abolish this position during this transitional period. For this reason, the Provisional People's Consultative Assembly did not appoint a Vice President following Suharto's appointment as President.¹⁰

During the reign of President Soeharto, his leadership was very prominent, seen from the implementation of his duties and authorities. The positions of the Vice Presidents who accompanied President Soeharto were Sri Sultan Hamengku Buwono IX (1973-1978), Adam Malik (1978-1983), Umar Wirahadikusuma (1983-1988), Sudharmono (1988-1993), Try the Suit Republic of the United States of Indonesia (1993) -1998), and B.J. Habibie (1998) seems to be just a kind of "spare tire" and a formality position in filling executive power which is exercised by the President. Although the position of the Vice President is directly under the President, from the perspective of constitutional law it is often asked what the difference is with the minister of state, because both are referred to as assistants to the President.¹¹

The function and authority of the Vice President changed slightly after Sudharmono filled the position of Vice President. Sudharmono pioneered the opening of the "5000 Post Box Program" which was programmed under the coordination of the Office of the Vice President of the Republic of Indonesia. Until the end of the New Order government, the "5000 Post Box Program" had succeeded in becoming a means of channeling people's complaints to the government. The functions and powers exercised by Vice President Sudharmono have enabled a direct relationship between the people and the government bureaucracy. The "5000 Post Box Program" is essentially a means to protect individual citizens from unlawful acts by the Government.

The Vice President's powers were a bit clear when B.J. Habibie accompanied President Suharto. There are three main tasks of the President that must be carried out by the Vice President, namely:¹²

9 Satya Arinanto, *op.cit.*, page. 16

10 <https://soeharto.co/1968-03-27/>

11 Satya Arinanto, *op.cit.*, page. 16-17

12 Johannes Johny Koynja, *op.cit.*, page 347-348

- a. Assisting the President in global affairs tasks, through various world organizations, such as the United Nations, the Non-Aligned Movement, Asia-Pacific Economic Cooperation, AKI, G-15 (Cooperation Group of 15 Developing Countries), G-8 (Cooperation Group of 8 Islamic Countries), ASEM (ASEAN - Europe Meeting) and Association of Southeast Asian Nations;
- b. Harmonizing industrial development which includes upstream and downstream industries, heavy, medium, and small industries, agro-industry, and home industries;
- c. Participate in fostering national unity and integrity based on faith and piety to God Almighty.

During the New Order era, the President never changed, only the Vice President changed, so that a kind of constitutional convention arose, and the position of the Vice President seemed to be limited to one term only. This can be seen in the fact that even though, through political and legal engineering, Suharto was then elected repeatedly as President, the position of Vice President was filled alternately by six Vice Presidents.¹³ The reign of the New Order ended when on May 21, 1998, Suharto declared his resignation as President and was replaced by Habibie. When Habibie became President he was not accompanied by a Vice President.

In 1999 at the General Assembly of the People's Consultative Assembly, Abdurrahman Wahid was elected President accompanied by Vice President Megawati. The position and role of the Vice President at this time seemed to have strengthened slightly. Megawati by the MPR was given the authority as a kind of "head of government". The granting of this authority gave birth to several Presidential Decrees which were signed by the Vice President, although sometimes there was a tug of war between the President and the Vice President. President Abdurrahman Wahid was directed to be positioned only as a kind of "head of state", in the issuance of these decisions. The existence of several Presidential Decrees signed by the Vice President at that time was almost the same as or similar to the Vice President's Decree Number X dated October 16, 1945, which was signed by Mohammad Hatta, which was also the result of legal and political tug-of-war with President Soekarno.¹⁴

During the reign of President Abdurrahman Wahid, major factions in the People's Consultative Assembly, particularly the Indonesian Democratic Party of Struggle Faction demanded the empowerment of the position of Vice President in the government. President Abdurrahman Wahid responded positively to the demands, and in front of the People's Consultative Assembly, the President stated that he would give a bigger task to Vice President Megawati Soekarno Putri. The President's statement received a positive response from the People's Consultative Assembly, although on the other hand there was controversy regarding the form of the legal product regarding the delegation of tasks between

13 Satya Arinanto, *op.cit*, page. 17

14 *Ibid.*,page. xviii

the President and the Vice President. Some want the form of the legal product to be a Presidential Decree, with the consideration that the issue of delegation of authority between the President and the Vice President is an internal matter of the government and becomes the authority of the President, not the authority of the People's Consultative Assembly. At the end of the Annual Session of the People's Consultative Assembly, an agreement was reached among the members of the People's Consultative Assembly that the arrangements regarding the delegation of tasks between the President and the Vice President were not regulated in the Decree of the People's Consultative Assembly, but were left to the Government entirely. The MPR recommendations were then outlined in the Decree of the People's Consultative Assembly Number VIII/MPR/2000 concerning the Annual Reports of State High Institutions.¹⁵

In relation to the position and duties of the Vice President, to follow up on the provisions in MPR Decree Number VIII/MPR/2000, President Abdurrahman Wahid issued Presidential Decree Number 121 of 2000 concerning Assignment of the President to the Vice President to carry out the daily technical tasks of the government.¹⁶ The content of the Presidential Decree is the assignment of the President to the Vice President to carry out technical tasks of daily government, because of President KH. Abdurrahman Wahid is seen by the People's Consultative Assembly as having many physical limitations so the People's Consultative Assembly considers the need for an "assignment" of the President to the Vice President. ' clearly and in detail. Although both regulations were later revoked after Megawati Soekarnoputri replaced KH. Abdurrahman Wahid (Gusdur) as President.¹⁷ Any task given by the President to the Vice President is of course the authority of the President and the result of an agreement between the President and the Vice President.

15 Ni'matul Huda, Peningkatan Peran Wakil Presiden Melalui Keppres No. 121 Tahun 2000, *Jurnal Hukum Ius Quia Iustum*, Vol. 7, No 14, page. 116

16 The contents of Presidential Decree Number 121 of 2000 determine the duties of the Vice President, among others:

Section 2:

In assisting the President in carrying out the function of implementing government policies as referred to in Article 1, the Vice President is tasked with:

- a. formulate the work program and agenda of the cabinet and determine the focus and priorities of government policies;
- b. chairing cabinet meetings, summarizing the results, and explaining them for the public to know;
- c. provide direction and direction to cabinet members;
- d. monitoring, supervising, and assessing the performance of cabinet members in implementing cabinet work programs and agendas;
- e. coordinate with other high state institutions to expedite the task of administering the government;
- f. take operational decisions in the context of carrying out daily technical government tasks; and
- g. signed a decree of the Republic of the United States of Indonesia the policy of stipulation that has been approved by the President.

17 Johannes Johny Koynja, *op.cit.*, page 348

The delegation of authority with the Presidential Decree only applies on paper. In reality, President Abdurrahman Wahid is not concerned with what authority has been delegated to the Vice President. This can be seen when on August 23, 2000, the President made a cabinet reshuffle, never discussing it with the Vice President. This disappointed the Vice President. The Vice President's disappointment was shown by his refusal to attend the inauguration ceremony of the Ministers. The relationship between the President and the Vice President was not harmonious. Often the Vice President does not attend events attended by the President, and there are often differences of opinion.¹⁸

President Abdurrahman Wahid's power ended when the People's Consultative Assembly held a Special Session on July 23, 2001. The People's Consultative Assembly dismissed Abdurrahman Wahid as President, and appointed Vice President Megawati as President. The position of Vice President left by Megawati was filled by Hamzah Haz.¹⁹ The existence of Hamzah Haz as Vice President again functions only as a kind of "spare tire", although it is sometimes seen that Hamzah Haz also plays a fairly good role as Vice President in accompanying the President when carrying out his duties, so that the relationship between the President and the Vice President looks friendly and harmonious.²⁰

Some of the things that Hamzah Haz did sometimes surprised some parties. For example, when on May 8, 2002 Hamzah Haz visited the Commander of Laskar Jihad, Ja'far Umar Thalib in the custody of the Indonesian National Police Headquarters. Ja'far Umar Talib was detained, among other things, for allegedly violating the provisions of Article 154 of the Criminal Code, namely publicly expressing hostility, hatred, or humiliating the Indonesian government, which carries a maximum sentence of seven years in prison. Likewise, when on May 29, 2002 Hamzah Haz visited the Al Mukmin Islamic Boarding School in Ngruki Village, Sukoharjo Regency to stay in touch with K.H. Abu Bakr Ba'asyir. Hamzah Haz's arrival to Ngruki was at the same time intended to ensure that this pesantren is linked to the Al Qaeda network, which the international community has accused of driving terrorism from the United States of Indonesia. Hamzah Haz said that he didn't want anyone to think that Islamic Education institutions were hotbeds for the United States of Indonesia terrorism, or creating a terrorist network of the United States of Indonesia that was linked to the United States of Indonesia terrorism in the world.

In managing the government, President Megawati seems to have learned a lot from President Soeharto during the New Order government, which constitutionally the President was the absolute ruler. While during the administration of President Soeharto, in general, the Vice President was given a role in the field of supervision, the role of Vice President

18 Roy B.B. Janis, *Wapres: Pendamping atau Pesaing, Peranan Wakil Presiden dalam Sistem Ketatanegaraan Republik Indonesia*, Bhuana Ilmu Populer, Jakarta, 2008, page 276

19 Ibid., page 280-281

20 Satya Arinanto, *op.cit.*, page xviii

Hamzah Haz was left to float. Hamzah Haz hardly played a significant role, so he too had to be good at maneuvering to show his existence as Vice President.²¹

The relationship between President Megawati and Vice President Hamzah Haz did not appear harmonious when Hamzah Haz as Vice President was not involved in the preparation of President Megawati's performance report to be read at the Annual Session of the People's Consultative Assembly in August 2002. Disharmonious relations between President Megawati and Vice President Hamzah Haz caused the two to not be paired again in the 2004 general election for the positions of President and Vice President for the 2004-2009 period.

In 2004 for the first time, the President and Vice President were directly elected by the people. In the 2004 election, the pair Susilo Bambang Yudhoyono-Muhammad Jusuf Kalla was elected and inaugurated as President and Vice President. In the 2009 election (for the 2009-2014 period), Susilo Bambang Yudhoyono again this time paired with Boediono to win the election.

The relationship between Susilo Bambang Yudhoyono and Muhammad Jusuf Kalla has had its ups and downs. They carry out their respective duties. However, the competition between the President and the Vice President began to emerge when in the United States of Indonesia, Muhammad Jusuf Kalla came first compared to Susilo Bambang Yudhoyono. For example, when the tsunami hit Aceh in December 2004, Muhammad Jusuf Kalla arrived first, while Susilo Bambang Yudhoyono was still in Papua. The moment of the tsunami disaster in Aceh was also used by Muhammad Jusuf Kalla to resolve the conflict with the Free Aceh Movement. The result was the signing of a peace memorandum of understanding in Helsinki, Finland on August 15, 2005. In 2006, Susilo Bambang Yudhoyono formed a Presidential Working Unit for Program Management and Reform, and when Muhammad Jusuf Kalla was asked by reporters about the work unit, he stated that he did not know anything and stated that they were never involved.

Muhammad Jusuf Kalla's statement illustrates the most open dispute between the President and the Vice President. Disputes also occurred when in September 2005, Muhammad Jusuf Kalla was absent three times from limited cabinet meetings chaired by Susilo Bambang Yudhoyono from the United States. When the President chaired a meeting to discuss the compensation fund for the increase in fuel prices, Muhammad Jusuf Kalla chose to attend a ceremonial event for providing additional food for toddlers at the Golkar of The Central Executive Board. Likewise, when the President chaired a meeting via teleconference discussing the issue of eradicating corruption, the Vice President chaired a meeting in his office discussing the destruction of Free Aceh Movement weapons. Several observers considered that the remote meeting conducted by the President showed that the President no longer trusted

21 Roy B.B. Janis, *op.cit.*, page 317-318

the Vice President, because normally, when the President is traveling abroad, all domestic matters are delegated to the Vice President.²²

Based on the pattern of relations between President Bambang Yudhoyono and Muhammad Jusuf Kalla, it can be said that although the 1945 Constitution of the Republic of Indonesia states that the Vice President is an assistant to the President, in real politics it must be acknowledged that Muhammad Jusuf Kalla is different from the previous vice presidents. , Muhammad Jusuf Kalla felt that he was the Vice President with great struggle, so he felt entitled to a more appropriate role and authority.²³ From the point of view of observers, the occurrence of such practices is seen as the emergence of a kind of "twin sun" in government.²⁴

Not wanting any controversy to continue, Muhammad Jusuf Kalla emphasized that he was still a representative, whose actions were taken based on the direction and permission of the President. Susilo Bambang Yudhoyono did not doubt Muhammad Jusuf Kalla's commitment to remain focused on managing the joint government until his term ended in 2009. As the General Chair of the Golkar Party, Muhammad Jusuf Kalla also stated that he had left his loyalty to his party for the country. Muhammad Jusuf Kalla guarantees that he will carry out his state duties as Vice President as well as possible. He showed this by carrying out various tactics and lobbying in suppressing various council maneuvers to shake the government.²⁵ Susilo Bambang Yudhoyono-Muhammad Jusuf Kalla can complete their duties until the end of their term of office.

The relationship between Susilo Bambang Yudhoyono and Boediono is different from his relationship with Muhammad Jusuf Kalla. As Vice President, Boediono has always supported all the policies of President Susilo Bambang Yudhoyono. For five years accompanying Susilo Bambang Yudhoyono, Boediono is far from being a twin sun for the President. Boediono stated that as Vice President, his duty was to assist the President in accordance with the provisions of the law. What is a program from the President is assisted by the Vice President, because the President from time to time consults with the Vice President about whether or not the program will be implemented. When the program has been approved, it becomes a constitutional duty for the President to assist the President in implementing the program.²⁶

In the relationship between Susilo Bambang Yudhoyono and Boediono, it appears that Boediono's role as Vice President seems to only follow the President's orders. Boediono always has the same views and opinions on the policies issued by Susilo Bambang Yudhoyono. Boediono only carried out state administration practices when Susilo Bambang Yudhoyono was unable to attend, such as chairing cabinet meetings,

22 *Ibid.*, page 346-348

23 *Ibid.*

24 Satya Arinanto, *op.cit.*, page. 18

25 Roy B.B. Janis, *op.cit.*, page. 354

26 <https://news.detik.com/berita/d-3000478/tugas-wapres-di-mata-boediono>.

evaluating cabinet performance, compiling work agendas from various Ministries, and giving directions to various government institutions, and so on. It can be said that Boediono's role is only as a supporter of several political narratives echoed by the Government, especially President Susilo Bambang Yudhoyono.²⁷

Susilo Bambang Yudhoyono's power ended after two terms as President. In the 2014 election, the Joko Widodo-Jusuf Kalla pair were elected as President and Vice President for the 2014-2019 period. Jokowi was elected for the second time as President in the 2019 election in pairs with Ma'ruf Amin. Muhammad Jusuf Kalla's relationship with Jokowi is certainly different from when he accompanied Susilo Bambang Yudhoyono. Prior to the inauguration of the President and Vice President, Muhammad Jusuf Kalla stated that it may not be possible to repeat his trail mate as 'the man of action'. This is because there are differences in provisions regarding the role of the President and Vice President in the government under the leadership of Jokowi. There is no division of tasks with the Vice President, there are special assignments that are ad hoc in nature.

Joko Widodo's leadership style is different from that of Susilo Bambang Yudhoyono. Jokowi often visits and visits areas. Regarding this, Muhammad Jusuf Kalla said that he and Jokowi were compact in managing the government. Muhammad Jusuf Kalla emphasized that no one worked alone or on a 'one man show' because there was already a division of tasks. Muhammad Jusuf Kalla's job is different from Jokowi's. The Vice President's duties are mostly concerned with preparing government programs.²⁸

Muhammad Jusuf Kalla admitted that the division of authority between himself as Vice President and President was much clearer in the 2004-2009 period when he was paired with President Susilo Bambang Yudhoyono. When paired with Jokowi, the division of tasks between the Vice President and the President was not clear. While accompanying Susilo Bambang Yudhoyono, Muhammad Jusuf Kalla and Susilo Bambang Yudhoyono worked based on the initial agreement. When accompanying Jokowi, he did not agree at all before stepping into a presidential and vice-presidential candidate. Thinking is how to win the election. There is no talk of division of labor. However, according to Muhammad Jusuf Kalla, there are no important decisions that are not taken through a meeting mechanism. Since the beginning of the government, two hundred meetings have been held, and policies are always taken together.²⁹

The relationship between Jokowi and Muhammad Jusuf Kalla was rumored to be cracked in connection with the regional head election,

27 Hananto Widodo, Dicky Eko Prasetyo, Fradhana Putra Disantara, Relasi Kekuasaan Antar Presiden dan Wakil Presiden dalam Sistem Ketatanegaraan Republik Indonesia, *Jurnal Pandecta*, Vol. 15, No. 1, June 2020, page. 20-21

28 <https://news.detik.com/berita/d-3326564/jk-cerita-pembagian-tugas-dengan-jokowi>

29 <https://www.beritasatu.com/nasional/334895/jk-tentang-pembagian-kewenangan-semua-kebijakan-diputuskan-di-rapat>

including the election for the Governor of the Special Capital Region of Jakarta. Muhammad Jusuf Kalla is said to support Anies Baswedan, while Jokowi supports Ahok. Regarding this matter, Muhammad Jusuf Kalla stated that he and Jokowi had never specifically discussed it.³⁰

In the 2019 election, Ma'ruf Amin was elected as President to accompany Jokowi. Ma'ruf Amin has main duties and functions in the fields of people's welfare, education, religion, social, disaster, and tourism. After only one year of the Jokowi-Ma'ruf administration, the COVID-19 pandemic has hit the world, including Indonesia. Jokowi-Ma'ruf Amin must try to overcome the COVID-19 pandemic.

The policy for handling the COVID-19 pandemic carried out by the government is considered less involving the Vice President. Likewise in the implementation of the policy. It seems that the distribution of roles between the President and the Vice President is not visible. It is precisely the Coordinating Minister for Maritime Affairs and Investments Luhut Binsar Panjaitan who has played a large role in handling the COVID-19 pandemic. Policies like this show that for Jokowi, Ma'ruf Amin from the start was only a complement, not a collaborator. This has resulted in the strengthening of people outside the President and Vice President, namely the Ministers who sometimes seem to act excessively.

Public perception then suspected that the people behind President Jokowi actually did not want Ma'ruf Amin to become Vice President. And President Joko Widodo does not seem to want to involve his Vice President in determining and implementing policies, so the division of tasks and responsibilities between Jokowi-Ma'ruf is not clear.

The President's policies related to the economic sector also did not involve Vice President Ma'ruf Amin. Whereas Ma'ruf Amin is considered to have competence in the field of Islamic economics. Unfortunately, Ma'ruf Amin is not much involved in handling the COVID-19 pandemic, even though the COVID-19 disaster has not only had an impact on the health sector, but also the economic sector. The lack of the Vice President's role in handling the COVID-19 pandemic certainly has an impact on his success. At first, the Vice President carried out the task of monitoring and evaluating the handling of the COVID-19 pandemic in the regions, but in the end, everything was returned to the regions. The handling of the Covid-19 pandemic is considered not all to go well. Moreover, the policies taken often overlap, both between ministers and between the central government and regional governments.

After two years of government, Ma'ruf Amin's significant role has not been seen. The level of public distrust of the Vice President is quite high. The public considers Vice President Ma'ruf Amin as just an unused spare tire. Ma'ruf Amin was also nicknamed by the Unnes BEM as the King of Silent because, during the handling of the covid-19 pandemic, Ma'ruf Amin was more silent as if doing nothing.

30 <https://nasional.tempo.co/Penjelasan> Jusuf Kalla Soal Keretakan Hubungan dengan Jokowi

The authority of the Vice President is not explicitly regulated in the constitution, although the 1945 Constitution of the Republic of Indonesia has been amended four times. The position and authority of the Vice President are in the executive power, both as deputy head of state and as head of government. With the lack of clarity in the 1945 Constitution of the Republic of Indonesia in regulating the authority of the Vice President, the assignment and authority of the Vice President are highly dependent on the President. The Vice President is not responsible to the President but is responsible to the people.³¹

The regulation of the authority of the President and the Vice President which is not yet clear in the 1945 Constitution of the Republic of Indonesia requires further deepening of the existence of the Vice President to provide clarity on the division of tasks and powers of the president and vice president, as well as the accountability system.³²

3. The Construction of the Authority of the Vice President of the Indonesian State Administration System

The authority of the Vice President is not defined clearly and unequivocally in the articles or paragraphs of the 1945 Constitution of the Republic of Indonesia and the laws and regulations under it. The division of authority between the President and the Vice President has so far been carried out based on a compromise or an internal and personal agreement between the President and the Vice President. Often the division of authority in the form of a compromise or agreement is not stated in written form so not many people know about it. The authority of the Vice President can be known when the President, or the Vice President, or the spokesman for the President and Vice President give a statement or answer if there are questions from the mass media. From this statement, the opinion developed that the Vice President received certain duties and authorities from the President. If no statement is submitted, the public will not know what the actual authority given by the President to the Vice President is. Therefore, so that there is clarity on how the division of authority between the President and the Vice President, and what should be the authority of the Vice President, further elaboration is required in the law that regulates the presidential institution.

The material content of the law regarding the presidential institution is related to what powers the Vice President has. Of course, his main authority is to help the President. The provisions in the law are not very detailed or specific but are basic. For example, the President is given authority in the economic field to improve welfare, as well as in the mental and spiritual development of the community. The law on the

31 Mozes Raynoldly Cantona Harahap, I Nengah Suantra, Edward Thomas Lamury Hadjon, Kedudukan Wakil Presiden dalam Memperkuat Sistem Pemerintahan Presidensial di Indonesia Berdasarkan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, *Jurnal Kertha Negara*, Vol. 06, No. 05, November 2018.

32 Mochamad Isnaeni Ramdhan, 2015, *Jabatan Wakil Presiden Menurut Hukum Tata Negara Indonesia*, Sinar Grafika, Jakarta, page 148

presidential institution will later serve as the legal basis for the President to share authority with the Vice President. With the division of authority, there will be clarity as to what is the authority of the Vice President, so that when a problem occurs, it can be resolved quickly and thoroughly, without throwing responsibilities at each other. The clarity of the division of authority will also greatly assist the People Council in carrying out its supervisory function. The DPR can assess whether the Vice President exercises the authority that is on him properly or abuses his authority, deviates from his authority, or exceeds his authority. Likewise, the people can evaluate the performance of the Vice President, because the Vice President together with the President is directly elected by the people, of course, they must also be accountable to the people regarding the implementation of their authority. It is hoped that the DPR and the President will soon form a law that regulates the presidential institution as well as other state institutions which have already been regulated in law. The position of the Vice President remains as an assistant to the President, but the authority of the Vice President must be clear so that his responsibilities are also clear.

Determine the content of the law governing the presidential institution concerning the scope of authority of the Vice President, one can reflect on the history of the Indonesian state administration, for example when the Vice President was held by Moh. Hatta with President Soekarno, Muhammad Jusuf Kalla with President Susilo Bambang Yudhoyono, and also reflects on the others state with a clear division of authority between the President and the Vice President. Thus, the Vice President will work throughout his term of office, not just being a spare tire whose function only appears when the President is absent.

D. CONCLUSION

The regulation of the presidential institution in the Indonesian state administration system has so far only been contained in the Constitution, starting from the 1945 Constitution, the 1949 Constitution of the United States of Indonesia, the 1950 United States Constitution, and the 1945 Constitution. 1945 Constitution of the Republic of Indonesia. The enacted laws only relate to filling the positions of President and Vice President. There has never been a law governing the presidential institution that regulates the division of tasks between the President and the Vice President. The authority of the Vice President is not regulated clearly and unequivocally in the 1945 Constitution of the Republic of Indonesia. This ambiguity causes the authority of the Vice President to vary. As an assistant to the President, the division of authority between the President and the Vice President is highly dependent on the President. The Vice President must be given clear authority to carry out during his term of office so that the Vice President does not only appear to function when the President is absent. To clarify the authority of the Vice President, a law is needed that regulates the presidential institution. The law will become the legal basis for the President

to share authority with the Vice President and will make it easier for the DPR to carry out its supervisory function.

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