

## **IS THE POST-REFORMATION SYSTEM OF THE INDONESIAN GOVERNMENT A PARLIAMENTARY FORM?**

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### ***Abstract***

*Indonesia's democratic government system has experienced ups and downs based on history, where at the beginning of independence Indonesia used a presidential system, then changed to a parliamentary and then returned to a presidential system. The reformation period was a milestone in changing the government system where previously the president was elected by the MPR as the highest state institution to switch to direct presidential elections carried by a party or a coalition of parties - due to the existence of regulation on the threshold for nomination (parliamentary threshold) - but to maintain the implementation of the presidential campaign promise to establish a coalition of parties supporting the government which has an impact on the role of the People's Representative Council only as a stamp of government interests. The problem in this study is how the presidential system exists in the post-reform Indonesian government system. The form of the research method used is normative juridical with a statutory approach and an analytical descriptive approach that examines primary and secondary legal materials, besides examining the synchronization and harmonization of law. The conclusion is that the current Indonesian government system tends to be parliamentary. This is due to the weak bargaining position of the DPR in supervising the running of government because the majority of DPR members are supporters of the government, while the opposition forces are unequal with the majority, which prioritizes the most voting system over consensus deliberation for the benefit of the people. so that checks and balances - separation of powers - turned into a division of powers - dividing power.*

**Keyword:** *Check and Balance, Presidensial, Parleментар*

### **A. INTRODUCTION**

The government system in Indonesia is weak in oversight between institutions, this happens because the function of the three high state institutions which function to supervise each other seems to have disappeared due to the power relations of the coalition political parties supporting the government and parliament so that the oversight power of

the opposition parties seems to be only a complement in the life of the nation-state. If this is not corrected, there will be an abuse of power where the interests of the people are ignored in favor of only prioritizing the interests of their supporting groups and parties, so that the goals of the state are impossible to achieve.

Indonesia's presidential system of government where the division of powers with the principle of checks and balances has been formulated and ratified in the constitution, however, there is a need for improvements related to limiting the authority of the executive and there is a need for clarity on the role of parliament regarding legislative functions, oversight of government and the function of people's representatives - a mandate from people's sovereignty - besides that, there is a need for empowerment of the MPR since it is no longer the highest institution as a form of embodiment of people's sovereignty and increasing the authority of the judiciary.<sup>1</sup>

In research, Josef M. Monteiro said that the model of the Indonesian government was in the form of a combination of presidential and parliamentary. However, after the amendment and also the reform period, it aims to restore the presidential function purely, but in practice, it is still the same, in the context of a coalition, it is fragile and not fully effective because members Cabinet members from political parties do not always support government policies. this was demonstrated in the early independence period when ministers were formed and accountable to parliament - the era of liberal democracy. Likewise, during the New Order era, the president was responsible to the People's Consultative Assembly – another form of the parliamentary model.<sup>2</sup>

Syauyiid Alamsyah and Nurdin's research shows that the comparison of government systems in Indonesia and the UK is different where the British government adheres to a parliamentary system while Indonesia adheres to a presidential model of government and a combination with a multi-party system, where presidential elections are determined by a threshold proportion of twenty percent of the votes of political parties in parliament. to maintain the stability of the government. Power relations in a parliamentary system have more power in the process of formulating policies – in the consideration of policies put forward by the executive branch – where disagreement has the potential for a vote of no confidence while in a presidential system, there is the potential for deadlock due to disagreements in the policies offered by the government – the essence of power relations of

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1 Ahmad Yani, "Sistem Pemerintahan Indonesia: Pendekatan Teori dan Praktek Konstitusi Undang-Undang Dasar 1945," *Jurnal Ilmiah Kebijakan Hukum* 12, no. 2 (2018): 119.

2 Josef M. Monteiro, "Perpaduan Presidensial dan Parlemerter dalam Sistem Pemerintahan RI," *Jurnal Hukum PRIORIS* 5, no. 3 (2016): 204.

the two systems of government to guarantee the public interest in public policy formulation. In the concept of democracy, the dynamics and political conflicts in the power relations of public representative institutions will always be dynamic.<sup>3</sup> Low coalitions have an impact on government instability because of the potential for political conflict with the opposition, but on the contrary, it causes abuse of power due to the weakness of the opposition in its oversight function.

In her research, Dewi Mulyati stated that the mechanism of impeachment is a means used to dismiss chief executives who adopt a presidential government system - while the reasons for dismissal are regulated in the constitution, including criminal reasons, violating the oath of office, and human rights, violating public trust and the country's constitution - corruption, treason against the state, reasons for constitutional law and state administrative law – defects in terms of being a president.<sup>4</sup> In Wahyu Wibisana's research, it is said that the president's enormous power in administering government is related to the prerogative right to elect cabinet members by considering the political strategy of building coalitions to realize government stability in which parliament is formed from a multi-party election system. The application of the presidential prerogative in appointing ministers in Indonesia is indeed different from the United States and the Philippines, which both use a presidential system. Likewise, there are differences in the concept of prerogative according to experts. Whether the prerogative is absolute or not, in the sense that it also needs to go through the considerations and approval of other institutions. The Constitutional Court (MK) once provided an interpretation of the concept of prerogative rights in a decision. The Constitutional Court intrinsically states that prerogative rights are not absolute. The President has prerogative rights in certain matters but the President also has a legal obligation to comply with laws and regulations.<sup>5</sup>

The advantages and disadvantages of previous research can be shown that Josef M., Monteiro said that the Indonesian government model is in the form of a combination of presidential and parliamentary in practice because after the amendment the government system is purely presidential. Agree with Syauiid Alamsyah and Nurdin that the Indonesian government model is in the form of a combined system with a multi-party system, in which the

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3 Syauiid Alamsyah, "Lembaga Representatif Publik: Relasi Kekuasaan Dalam Perspektif Perbandingan Sistem Presidensial Vs Sistem Parlementer Studi Kasus Indonesia Dengan Inggris," *Jurnal Adhikari* 2, no. 3 (2023): 398.

4 Dewi Mulyanti, "Mekanisme Pemberhentian Presiden dalam Sistem Pemerintahan Presidensial di Indonesia (Tinjauan Perbandingan Hukum di Negara Amerika Serikat, Filipina dan Sudan)," *Jurnal Ilmiah Galuh Justisi* 6, no. 2 (2018): 201.

5 Wahyu Gunawan, *Kekuasaan Dan Mekanisme Pengangkatan Menteri Pada Sistem Presidensial Di Indonesia*: PhD diss., 2018.

presidential election is determined by a threshold proportion of twenty percent of political party votes in parliament to ensure government stability but has the potential for abuse of power due to weak opposition oversight if the majority coalition because policymakers are not based on deliberation for consensus but are more inclined to vote members, besides that the role of party leaders in directing members of parliament is more dominant than fighting for the aspirations of the people, this is because the position of parliament must be subject to the chairman of the political party not to its function as a people's representative.

In her research, Dewi Mulyati stated that in a parliamentary presidential system, the chief executive cannot drop the chief executive unless there are violations of the constitution, violations of the oath of office, and violations of human rights, and serious crimes can be reduced through the impeachment mechanism. In Wahyu Wibisana's research, it is said that the president's enormous power in administering government is related to the prerogative right to elect cabinet members by considering the political strategy of building coalitions to realize government stability in which parliament is formed from a multi-party election system. The application of the president's prerogative in appointing ministers in Indonesia is not absolute. It must obtain approval from other institutions, in this case, the parliament, and based on the Constitutional Court's decision that prerogative rights are limited because there is an obligation to comply with laws and regulations.

In this study, the authors assume that the presidential system is not a combined or hybrid form of government system in nature, but due to the large threshold for the nomination of the president and vice president, it has the potential to give absolute power to the president due to the existence of a large coalition of supporting political parties and the weakness of the opposition, resulting in weak oversight. Based on the background above, the author aims to analyze the position and existence of the post-reform government system.

## **B. RESEARCH METHODS**

The author uses a form of empirical juridical research with a statutory regulation approach with analytic descriptive analysis that uses primary and secondary legal sources in the process of concluding.<sup>6</sup> As for the secondary legal sources obtained through the study of literature and norms relating to the system of government and also the constitution.<sup>7</sup>

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6 Muhammad Saeful Mu'min and Sanusi Sanusi, "Implikasi Ambang Batas Parliametary Threshold Terhadap Kursi Parlemen." *Hukum Responsif* 11, no. 1 (2020): 13

7 Retno Saraswati, "Desain sistem pemerintahan presidensial yang efektif," *Masalah-Masalah Hukum* 41, no. 1 (2012): 139.

### C. DISCUSSION

As a constitutionalist state, the state on behalf of the people operates in the administration of the state with the guarantee that there will be no abuse of power - because there are restrictions in the constitution. Adnan Buyung Nasution said that governance is carried out through the separation and/or division of powers - the anatomy of a power relationship between the executive, legislature, and judiciary. The relationship between the three functions is balanced and respects the human rights and political rights of its citizens. Thus the position of the constitution as a highest state norm that must be obeyed by the state and government officials -Government by laws, not by men. Therefore, administrators who ignore guarantees for the protection of citizens' rights and people's sovereignty cannot be categorized as a constitutional state - because it places all power in the hands of a leader - whereas a constitutional state adopts the principle of official political power which places law as supremacy in every exercise of its authority.<sup>8</sup>

In the administration of government based on constitutionalism people's sovereignty and legal sovereignty are regulated based on the constitution which aims to prosper the people (welfare state) as the holder of the highest sovereignty of the state. For this reason, the exercise of this power originates from, is carried out by, and is intended for the people. Amendments to the 1945 Constitution in the reformation era were aimed at realizing a democratic state as well as a rule of law state through changes in the structure and mechanisms of state organs as well as changes in the concepts of democracy and nomocracy which were adopted simultaneously and complement each other, enacting the principle of checks and balances and purifying the presidential system.<sup>9</sup>

In carrying out democracy, the existence of political parties is inseparable from the existence of political parties as a vehicle for channeling people's votes in selecting state administration organs through general elections - a representative democratic system. The transfer of rights is carried out through democratic instruments, namely general elections by Article 22E paragraph (1) of the 1945 Constitution as follows: "General elections are held directly, publicly, freely, confidentially, honestly and fairly every five years." The running of government by the president is stable if there is synergy with the DPR so that something is needed. However, if we look at the current conditions, it is often difficult for government policies to get support from the DPR. One reason for this weak support is that there are

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8 Taufiqurrohmah Syahuri, "Negara Konstitusional Bukan Sekedar Memiliki Konstitusi," *Jurnal Konstitusi* 1, no. 1 (2008): 22.

9 Sholahuddin Al-Fatih, "Model pengujian peraturan perundang-undangan satu atap melalui Mahkamah Konstitusi," *Legality* 25, no. 2 (2018): 250.

too many political parties in parliament. Therefore, the parliamentary threshold is expected to be a solution to limit the number of political parties entering the DPR.

The system of government is a whole structure consisting of various components of government that work interdependently and influence each other in achieving the goals and functions of government. According to Moh. Mahfud MD, the state government system is the working mechanism and coordination or relationship between the three branches of power, namely the legislature, executive, and judiciary. The real difference between parliamentary and presidential lies in who exercises executive power and the form of classifier of the government system of supervision. It is called parliamentary if the ruling party (majority) acts as the executor of the government and is directly supervised by the parliament, and is said to be presidential if the executor is held by someone outside the legislative power - because he is directly elected by the people - and is not directly supervised by the legislature.<sup>10</sup> The presidential government system carries out the trias-politica which divides power into the executive, legislative, and judiciary, and the president as the highest authority in the field of government and the head of state.<sup>11</sup>

In a presidential system, the positions of the executive and the legislature always face each other (face to face). Because it is based on the concept of separation of powers, the positions of each high state institution are strictly separated but supervise each other (check and balance). In addition, the two institutions are directly elected so that they cannot overthrow each other - except through impeachment (DPR Court). Coordination between the executive and the legislature in the election of cabinet members must be carried out where the parliament (legislative body) approves the executive's proposal, but the accountability of cabinet members is directly to the president - so that the position of the executive branch is more stable because it is not dependent on parliament. As for members of the cabinet, the prerogative of the president, in addition to that, the executive power is outside the direct supervision of parliament so that the position of the president tends to be absolute, and policies are determined through the results of bargaining between the executive and the legislature so that decisions can occur that are not firm and take a long time.<sup>12</sup>

In building a government system, of course, there is a close relationship between the building of the party system and the electoral

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10 Gregorius Sahdan et al., "State Corporatism in Village Development Planning," *Jurnal Ilmu Sosial dan Humaniora* 12, no. 2 (2023): 407.

11 Josef M. Monteiro, "Perpaduan Presidensial dan Parlemerter ...," (2016): 206.

12 Muhammad Taufik, "Dinamika Dalam Penerapan Sistem Pemerintahan Presidensial Dan Parlemerter Di Indonesia," *Qaumiyah: Jurnal Hukum Tata Negara* 1, no. 2 (2020): 132.

system. If the government system adopted by Indonesia according to the 1945 Constitution is presidential, then this system must be consistently lowered into party system policy settings, the legislative election system, and the presidential election system. Political parties have a very strategic position and role in every democratic system. The party plays a very strategic liaison role between governmental processes and citizens. Many even argue that it is political parties that determine democracy. Therefore, the party is a very important pillar to strengthen the degree of institutionalization in every democratic political system.

Law Number 7 of 2017 concerning General Elections is a hot topic of discussion because this Law regulates a Simultaneous General Election System. This means that the legislative and executive elections are held simultaneously. This law emphasizes that elections are held based on the principles of direct, general, free, confidential, honest, and fair. In holding elections, election organizers must carry out elections based on the principles referred to, and their implementation must meet the principles of being independent, honest, fair, with legal certainty, orderly, open, proportional, professional, accountable, effective, and efficient. In addition to the simultaneous election system, Law Number 7 of 2017 also regulates the concept of a Parliamentary Threshold. The Parliamentary Threshold is the threshold for the minimum vote acquisition of political parties in general elections to be included in the determination of the acquisition of seats in the People's Representative Council and the Regional People's Representative Council. This provision was first applied in the 2009 election. Parliamentary Threshold is a way to realize legal politics towards a simple multi-party system. Subsequently, the Election Law was changed to Law Number 7 of 2017, with the provision that the parliamentary threshold was again raised, to 4% (four percent) of the national valid votes.

The implementation of simultaneous general elections in Indonesia still maintains the Parliamentary Threshold provisions for political parties to be used for calculating the acquisition of seats in the DPR RI. This is as stated in Article 414 paragraph (1) which reads: "Election Contesting Political Parties must meet the vote acquisition threshold of at least 4% (four percent) of the total number of valid votes nationally to be included in the determination of the DPR member seats." Article 415 which reads: "Election Contesting Political Parties that do not meet the threshold for vote acquisition as referred to in Article 414 paragraph (1) are not included in the calculation of the DPR seats acquired in each electoral district".

A distinctive feature of constitutional democracy is the idea that a democratic government is a government that has limited power and is not justified in arbitrating its citizens. State power is divided in such a way that

opportunities for misuse are minimized, namely by handing it over to several state organs. General Election of Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council. Provisions regarding the parliamentary threshold or threshold for political parties to be able to place their members in parliament reap the pros and cons. Indeed, in general, both the DPR and observers are of the view that the theoretical parliamentary threshold is good. However, from the dynamics that have developed related to the level of awareness of the people's political culture, it seems that this idea will experience obstacles. The application of the parliamentary threshold is considered by some to be able to stifle the democratic process that has only taken place since the 1998 reform. It is also considered that the application of the parliamentary threshold does not accommodate the interests of all components of the nation's political potential.

In practice, the administration of the state in the election of the head of government is carried out directly by the people but in the promotion of the president and vice president through proposals from political parties or a coalition of political parties. In a multi-party system, it is inevitable to form a coalition because there is a presidential threshold for the nomination of president and vice president, this condition becomes contradictory and contradicts democracy itself because the right to be elected and to vote is held hostage to the threshold provisions. even though every citizen has the right to vote and be elected to an equal position in law and government.<sup>13</sup>

The initial purpose of the parliamentary threshold is to limit the parties participating in the election because a presidential system usually involves a few political parties - as in America consisting of two political parties, the democrat and Republic - where the winner will become the head of government and the loser becomes the opposition as a manifestation of check and balances by the executive and legislature. The executive position in the presidency is not directly responsible to the people's representative body, in other words, the executive power is outside the (direct) parliamentary oversight. But what's interesting is that the presidential system implemented in Indonesia involves multi-party, so the modification of the multi-party system adopts a coalition system that is usually applied in parliamentary systems, but in practice, the losing coalition does not necessarily become the opposition, instead, it becomes part of the government, this can have an impact on the full power of the chief executive because it is supported by a fat coalition and little opposition and the more

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13 Isnaini, "Koalisi Partai Politik Dalam Sistem Pemerintahan Presidensial Indonesia," *CIVICUS: Pendidikan-Penelitian-Pengabdian Pendidikan Pancasila dan Kewarganegaraan* 8, no. 1 (2020): 97.

dangerous is the absence of opposition.<sup>14</sup>

Thresholds applied in both legislative and executive elections through the Presidential Threshold and Parliamentary Threshold limit the rights of citizens so that the position of people's sovereignty becomes unequal - there is no equality, or fairness for citizens - because a democratic system like this is just a camouflage for the political elite who prioritize group.<sup>15</sup> The presidential candidate election should have referred to the provisions of Article 6A paragraph 2 of the 1945 Constitution whereby each party has the right to nominate a presidential pair regardless of threshold.<sup>16</sup>

The threshold provisions in the nomination of the presidential and vice presidential pairs are vulnerable to the political interests of the bearer party (transactional politics) which makes the president hostage in making his policies. Besides that, the threshold has revoked the political rights of small parties to benefit from candidate pairs - violating the constitution regarding the right to vote and to vote and equal status in law and government - as well as hampering the rights of citizens to participate in making their choices intelligently and efficiently.<sup>17</sup>

And the president has the authority to form a cabinet that is responsible to the head of state both from professionals and representatives of coalition political parties in parliament and considers parliamentary logic – party members supporting the president and vice president. Deviations in the Indonesian government system often occur, where inconsistency in implementing the government system is in practice a common thing to happen in Indonesia since the first time a Cabinet was in 1945 when the cabinet was parliamentary - under Prime Minister Sutan Syahrir - while the system of government was presidential,<sup>18</sup> including after an amendment to the constitution.

The ruling party has the potential to be authoritarian because to maintain its power it prevents other parties from being equal in their position in government - the twenty percent presidential threshold limit has the potential to create a gap in political rights or democratic rights between parties with majority votes and parties with minority votes, therefore the ruling party will try to maintaining power by prioritizing the interests of the party compared to the interests of the people, thus giving rise to the

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14 *Ibid*

15 Josef Mario Monteiro, "Presidential Threshold and Parliamentary Threshold Setting in Elections," *Journal of Progressive Law and Legal Studies* 1, no. 02 (2023): 79.

16 Gibral Ibrahim, "Presidential Threshold Dalam Sistem Demokrasi Indonesia Berdasarkan Undang-Undang Dasar 1945," *lex privatum* 9, no. 5 (2021): 143

17 Fadhlan Fahmi Tarigan, Fiyan Hamdi Lubis, and Abdul Hadi Musthofa, "Problematics Of The Implementation Of The Presidential Threshold In Elections," *NOMOI Law Review* 4, no. 1 (2023): 37.

18 Josef M. Monteiro, "Perpaduan Presidensial dan Parlemerter ...," (2016): 208.

characteristics of authoritarian law.<sup>19</sup> A legal reform is needed that guarantees equality between political parties so that it can present more alternative pairs of candidates so that the public can choose between competing candidate pairs and not only be presented with presidential candidates from dominant political parties, but not by the expectations and needs of the community. according to the guarantees of the constitution.<sup>20</sup> Some of the rights of citizens have been lost due to the existence of thresholds for the nomination of president and vice president and contrary to democratic principles which guarantee freedom and openness in participation in the administration of the state and government.<sup>21</sup>

Most countries in the world used a parliamentary system of government after it was first initiated by the British as a parliamentary founder, where the executive and legislative relations are so close because of the concept that cabinet members are ordered to be responsible to parliament because cabinet members receive full support from the parliamentary majority coalition. in running the wheels of government, so that if it is not in line with the will of the parliament it will be removed through a vote of no confidence. High interdependence between parliament and the executive is a key principle in a parliamentary system. Likewise, according to Jimly Assidique's opinion, the close relationship between the executive and the legislature and the government led by the prime minister is formed by a parliament that has a majority vote or a coalition of party coalitions in parliament where the head of state only functions as a symbol of the state so that accountability cannot be held but the head the state can dissolve the cabinet under certain conditions. And if the cabinet disagrees with the parliament, it can be brought down through a vote of no confidence.<sup>22</sup>

Meanwhile, in a presidential system, he is appointed by the people or the constitution and is responsible to the people and the constitution, however, the position of the president is not immune from juridical or political accountability. The president could have been removed from office or removed from office through the impeachment process.<sup>23</sup>

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19 Adjie Hari Setiawan, "Politik Hukum Presidential Threshold 20% Dalam Undang-Undang Nomor 7 Tahun 2017," *JAPHTN-HAN 2*, no. 1 (2023): 174.

20 Sidi Ahyar Wiraguna, and Zudan Arief Fakrulloh, "Legal Reforms In Indonesia Related To" Presidential Threshold" OF Presidential Candidate in Law No. 7/2017 Concerning General Elections," *Ius Positum (Journal Of Law Theory And Law Enforcement)* (2023): 62.

21 Catur Wido Haruni, "Presidential Threshold in the Presidential Election from the Perspective of Constitutional Democracy and State of Law," *KnE Social Sciences* (2022): 414.

22 Rezky Robiatul Ismail, and Adam Setiawan, "Corak Sistem Pemerintahan Negara Republik Indonesia Pasca Amandemen Undang-Undang Dasar Negara Republik Indonesia 1945," *Jatijajar Law Review 1*, no. 1 (2022): 77.

23 Sri Bintang Gelang, *Reformulasi Bentuk Pertanggungjawaban Presiden dalam Sistem Pemerintahan Presidensial*. PhD diss., 2020.

Checks and balances is one of the concepts that underlies the amendment to the 1945 Constitution whereby the president's powers are amputated in part and become parliamentary powers, but essentially it is not his powers that are limited but how to exercise these powers as a form of mutual oversight between high state institutions. Apart from that, there are additions and affirmations of the inherent rights that are already owned by the DPR. The addition of rights includes interpolation rights, inquiry rights, and the right to express opinions, which before the amendment of these rights were considered parliamentary institutions. Too much presidential power will give birth to authoritarianism and if vice versa it will give birth to an ineffective government, both of which will have an impact on not achieving state goals.<sup>24</sup>

The responsibility of the president to the constitution and its voters raises the consequence that the president cannot be removed by parliament, so if the president violates the constitution, then there is a mechanism that can be carried out by the provisions of the constitution that normatively - Article 3 Paragraph (3), Article 7A, &B, 24 C Paragraph (2) of the 1945 Constitution – in which the three high state institutions are the People's Representative Council, the Constitutional Court and the People's Consultative Assembly. The House of Representatives submits an opinion to the Constitutional Court that the President has violated the law, then the Constitutional Court examines the truth of this opinion legally and the results of the examination are returned to the DPR which then proposes to the MPR to dismiss the President through a plenary session.<sup>25</sup>

As a constitutionalist state, the state on behalf of the people operates in the administration of the state with the guarantee that there will be no abuse of power - because there are restrictions in the constitution. Adnan Buyung Nasution said that governance is carried out through the separation and/or division of powers - the anatomy of a power relationship between the executive, legislature, and judiciary. The relationship between the three functions is balanced and respects the human rights and political rights of its citizens. Thus the position of the constitution as a highest state norm that must be obeyed by the state and government officials - Government by laws, not by men. Therefore, administrators who ignore guarantees for the protection of citizens' rights and people's sovereignty cannot be categorized as a constitutional state - because it places all power in the hands of a leader - whereas a constitutional state adopts the principle of official political power which places law as supremacy in every exercise of its authority.<sup>26</sup>

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<sup>24</sup> *Ibid*

<sup>25</sup> Dewi Mulyanti, "Mekanisme Pemberhentian Presiden dalam ...," (2018): 204.

<sup>26</sup> Taufiqurrohman Syahuri, "Negara Konstitusional Bukan Sekedar ...," (2008): 24.

The formation of an NKRI state with a system of people's sovereignty and legal sovereignty - the highest sovereignty of the state - which is contained in the constitution and aims to prosper its people (welfare state) as the holder of the highest sovereignty of the state. For this reason, the exercise of this power originates from, is carried out by, and is intended for the people. Amendments to the 1945 Constitution in the reform era were aimed at realizing a democratic state as well as a rule of law state through changes in the structure and mechanisms of state organs as well as changes in the concepts of democracy and nomocracy which were adopted simultaneously and complement each other, enacting the principle of checks and balances and purifying the presidential system.<sup>27</sup>

The government system in organizational theory shows that the weak model is the parliamentary model, while the presidential government system shows a strong model. Reflecting on Indonesia's dynamics in the application of these two models of government systems from the Old Order era to the Reformation Order era.<sup>28</sup>

The political administration organization shows aspects of the authority and responsibility of the executor in making decisions to achieve goals by mobilizing its members by political leaders where the organizational leaders are formed through complex coalitions of individuals.

Coalitions of political individuals in gaining power are influenced by political activity through individual-maneuvering-organizational coalitions, and in these coalitions, the condition of conflict is a form of changing the equilibrium of power and the system of sanctions and formal legitimacy of power through the integration model - the pattern of power relations between the legislature and the executive in the parliamentary and presidential system of government is the upheaval of the integration model. In one system it gives color to the weak executive model (parliamentary system), in another system it gives color to the strong executive model (presidential system). However, in the context of government in Indonesia, this system or model of integration has occurred successively in several eras of government.<sup>29</sup>

The parliamentary and presidential combination has also been carried out since the reformation until now, as evidenced in the formation and reshuffle of the cabinet, which is largely determined by coalition parties, which have low and fragile cohesiveness because their representatives in the cabinet and parliament do not necessarily support government programs.

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27 Ismail Hasani, *Pengujian Konstitusionalitas Perda*; Kepustakaan Populer Gramedia, 2020.

28 Winengan, "Struktur Kekuasaan Eksekutif pada Periodisasi Sistem Pemerintahan Indonesia (Tinjauan Teori Integrasi Organisasi)." *Jurnal Ilmiah Manajemen Publik dan Kebijakan Sosial* 1, no. 1 (2017): 4

29 *Ibid*

Because there are no real friends who have an eternal interest in the concept of political parties. The system of government based on *regeringdaad* governance is in the legislative function where there are three systems namely presidential, parliamentary, and hybrid. However, in countries that adhere to a system where the president is the head of government and head of state, his powers are not limited and tend to have all functions of power in the hands of the president, so there are no checks and balances. Jimly Assiddiqie and Douglas V. Vemey said that in a purely presidential system, the president is the sole holder of government (executive) power, however, the positions of head of government and head of state are an inherent unit. The President is not elected by the DPR but through direct election by the people and is also not responsible to the representative council but is responsible to the constitution and the electorate, so that parliament cannot be brought down for political reasons – but can be removed through the impeachment procedure due to violations of the law stipulated in the law - and serve for a fixed period and the president has the authority to form cabinets.<sup>30</sup>

The Indonesian government model since the amendments to the 1945 Constitution has adopted a purely presidential system of government - because the president's accountability to the MPR is a form of accountability to the constitution and people's sovereignty represented by the MPR. The Parliamentary and Presidential models are the embodiment of democratic values, the feasibility of each of these models of government is determined by the implementation of democracy itself. Some experts argue that Indonesia uses a hybrid (semi-presidential) which tends to lead to a parliamentary system as was the case in the constitutional period of the United Republic of Indonesia (RIS) and the 1950.<sup>31</sup> Constitution. A parliamentary system in which government policy-making can be carried out quickly - due to the weakness of the opposition parties in parliament due to the coalition of the majority party, but weak in oversight of government policies - because political parties seem to be a cadre of executive positions. So the system used by Indonesia is a mixed system of two models of government systems.<sup>32</sup>

Most countries in the world used a parliamentary system of government after it was first initiated by the British as a parliamentary founder, where the executive and legislative relations are so close because of the concept that cabinet members are ordered to be responsible to parliament because cabinet members receive full support from the

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30 Josef M. Monteiro, "Perpaduan Presidensial dan Parlementer ...," (2016): 213.

31 Muhammad Taufik, "Dinamika Dalam Penerapan Sistem ...," (2020): 134.

32 *Ibid*

parliamentary majority coalition. in running the wheels of government, so that if it is not in line with the will of the parliament it will be removed through a vote of no confidence. High interdependence between parliament and the executive is a key principle in a parliamentary system. Likewise, according to Jimly Assidique's opinion, the close relationship between the executive and the legislature and the government led by the prime minister is formed by a parliament that has a majority vote or a coalition of party coalitions in parliament where the head of state only functions as a symbol of the state so that accountability cannot be held but the head the state can dissolve the cabinet under certain conditions. And if the cabinet disagrees with the parliament, it can be brought down through a vote of no confidence.

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Meanwhile, in a presidential system, he is appointed by the people or the constitution and is responsible to the people and the constitution, however, the position of the president is not immune from juridical or political accountability. The president may be removed from office or removed from office through the impeachment process.<sup>34</sup>

Checks and balances is one of the concepts that underlies the amendment to the 1945 Constitution whereby the president's powers are amputated in part and become parliamentary powers, but essentially it is not his powers that are limited but how to exercise these powers as a form of mutual oversight between high state institutions. Apart from that, there are additions and affirmations of the inherent rights that are already owned by the DPR. The addition of rights includes interpolation rights, inquiry rights, and the right to express opinions, which before the amendment of these rights were considered parliamentary institutions. Too much presidential power will give birth to authoritarianism and if vice versa it will give birth to an ineffective government, both of which will have an impact on not achieving state goals.<sup>35</sup>

The presidential system with a multi-party system is faced with conditions of low party institutional level and political power in parliament is not stable, it tends to be pragmatic to achieve the interests of the party, where party power is distributed evenly and it is difficult to get a majority coalition, whereas, in a presidential system, stability is the main factor in running the wheel. government so that it is necessary to get the support of the majority even though it is not an absolute necessity. Besides that, coalitions that occur in Indonesia are temporary and easily shaken, because

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33 Rezky Robiatul Ismail, and Adam Setiawan, "Corak Sistem Pemerintahan Negara Republik Indonesia Pasca ...," (2022): 78.

34 Sri Bintang Gelang, *Reformulasi Bentuk Pertanggungjawaban ...*: PhD diss., 2020.

35 *Ibid*

coalitions of political parties are a form of maintaining balance and stability of the political system and government, even though this choice has political consequences that seem to hold the interests of the people hostage at large and for the interests of some partisans of political parties.

The support of the majority political parties in parliament that support the president is an ideal form even though it is a form of executive and parliamentary compromise. A president is obliged to maintain political stability in government even though there is an impression of intervention in the structure of his power because it is a necessity in a multi-party situation to accommodate the interests of political parties. The power relations between the executive and parliament (checks and balances), the relationship between the president and political parties, as well as the configuration of a coalition of parties supporting the government in parliament, have the potential to emerge in the dilemma of a combination of pragmatic presidential and multi-party systems (compromising presidential), presents a consequence of the dilemma in mutually beneficial power relations. dependence both in terms of the institution and personality of the president. Compromises and coalitions based only on the fact of integrity will not have legal implications if there is a withdrawal of support in the middle of the road which has the potential to disrupt government stability – regulations at the level of laws need to be regulated to support a strong and efficient government, even though coalitions are a characteristic of a parliamentary system.<sup>36</sup>

Effective government is formed from the coalition format of political parties in the government system in Indonesia - although it is still temporary and short term - which is strengthened by the existence of laws and regulations related to coalitions which can have an impact on the establishment of a pattern of conducive relations between the executive and the legislature.

Idealism in the formation of an effective government while maintaining the principle of separation of powers which is based on the principle of checks and balances through the formation of coalitions, the formation of oppositions, and the simplification of political parties to strengthen and deepen democracy because there is no dominant political party. Mainwaring and Linz said that without a majority coalition, there will be a deadlock when a political constellation occurs because a presidential system is only suitable for two political parties participating in the contestation - so that an effective and stable government system is guaranteed. Opposition institutions must exist to maintain power relations that are not mutually dependent on one

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36 Zulfan, "Analisis Pengaturan dan Praktik Pemisahan Kekuasaan Sistem Pemerintahan Presidensial Berdasarkan Konstitusi," *Jurnal Media Hukum* 25, no. 1 (2018): 63.

another and to have control over government and supervision of executive power so that its policies are in the interests of the people, the interests of the nation, and the state.<sup>37</sup>

The existence of opposition institutions is very important for controlling government policies offered to parliament, so important is this opposition institution that it must be the willingness of the party that loses the election to become the opposition to take a path outside the government – as an enforcer of checks and balances mechanisms. If these two conditions are met, a permanent coalition and the existence of a coalition will not only create a strong and effective presidential government but also the establishment of a democratic and stable presidential government system. However, this condition has not yet been realized perfectly where the current presidential system tends to lead to an absolute government in which policies from the government will be directly accepted by the parliaments as the executive branch. For this reason, it is necessary to regulate opposition institutions to create political and governmental stability in Indonesia to guarantee the running of the wheels of government in the right direction and encourage the creation of a presidential government system that is by Indonesian characteristics.<sup>38</sup>

The democratic government that was built in Indonesia with a presidential system of government with a proportional election system involving multiple parties - as a consequence of pluralism and complex social strata - creates instability in the administration of the country, this is due to incompatibilities in the three systems, as we know that multi-party is more suitable for a parliamentary system so that it is difficult to implement it in an effective presidential system, for that we need an institutional and non-institutional reform.<sup>39</sup> Where the relations between institutions are by legal corridors and the character of the president himself is strong for the creation of high state institutions that are equally strong and the function of checks and balances runs effectively.<sup>40</sup>

#### **D. Conclusion**

The explanation above, shows that the presidential government system in Indonesia has not been purely implemented, because with the existing multi-party level it is necessary to make the wheels of government not run effectively without the support of a majority of political parties in parliament, so the President needs to make a compromise with political parties. through a coalition of parties supporting the government in a

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37 *Ibid*

38 *Ibid*

39 Retno Saraswati, "Desain sistem pemerintahan ...," (2012): 140.

40 Isnaini, "Koalisi Partai Politik Dalam Sistem ...," (2020): 99.

majority as a guarantee of stability, however, these conditions make presidential power no longer a prerogative because of intervention from parties supporting the coalition, on the one hand, the president's power seems unlimited because the majority of the members of the department as supporters of the government so that the legislative body is weak and only as stamp of government policy. The ineffectiveness of opposition institutions in parliament has increasingly shown that the function of checks and balances is not working properly.

The multiparty system that usually exists in a parliamentary system was adopted by the Indonesian government as a consequence of the multicultural and social nature of Indonesian society which should not be compatible with the presidential system, adding to its complexity with the presence of a presidential threshold which seems to castrate some citizens' rights to participate in government. The tendency of the post-reform Indonesian government system to be like a parliamentary system because the power of the political parties in parliament is the majority as a supporter of the government and if all government policies are in line with the policies of the parliament all government policies will be accepted without any consideration and rejection due to unequal opposition forces, things this gives the impression that the legislative body is weak and the executive branch is strong.

So the post-reform Indonesian government system is a merger of two systems by combining the characteristics of the parliamentary and presidential systems. This can be seen from the formation of a coalition of government supporters which is commonly used in a parliamentary system to ensure the stability of government, while the president cannot be brought down by the parliament and is not responsible to the parliament as a form of a presidential system of government.

The democratic government that was built in Indonesia with a presidential system of government with a proportional election system involving multiple parties - as a consequence of pluralism and complex social strata - creates instability in the administration of the country, this is due to incompatibilities in the three systems, as we know that multi-party is more suitable for a parliamentary system so that it is difficult to implement it in an effective presidential system, for that we need an institutional and non-institutional reform. [42] where the relations between institutions are by legal corridors and the character of the president himself is strong for the creation of high state institutions that are equally strong and the function of checks and balances runs effectively.

## BIBLIOGRAPHY

### Books:

- Gelang, Sri Bintang. *Reformulasi Bentuk Pertanggungjawaban Presiden dalam Sistem Pemerintahan Presidensial*: PhD diss., 2020.
- Gunawan, Wahyu. *Kekuasaan Dan Mekanisme Pengangkatan Menteri Pada Sistem Presidensial Di Indonesia*: PhD diss., 2018.
- Hasani, Ismail. *Pengujian Konstitusionalitas Perda*; Kepustakaan Populer Gramedia, 2020.

### Journals:

- Alamsyah, Syauiid. "Lembaga Representatif Publik: Relasi Kekuasaan Dalam Perspektif Perbandingan Sistem Presidensial Vs Sistem Parlementer Studi Kasus Indonesia Dengan Inggris." *Jurnal Adhikari 2*, no. 3 (2023): 392-405.
- Al-Fatih, Sholahuddin. "Model pengujian peraturan perundang-undangan satu atap melalui Mahkamah Konstitusi." *Legality 25*, no. 2 (2018): 247-260.
- Haruni, Catur Wido. "Presidential Threshold in the Presidential Election from the Perspective of Constitutional Democracy and State of Law." *KnE Social Sciences* (2022): 408-421.
- Ibrahim, Gibral. "Presidential Threshold Dalam Sistem Demokrasi Indonesia Berdasarkan Undang-Undang Dasar 1945." *Lex Privatum 9*, no. 5 (2021): 141-151
- Ismail, Rezky Robiatul, and Adam Setiawan. "Corak Sistem Pemerintahan Negara Republik Indonesia Pasca Amendemen Undang-Undang Dasar Negara Republik Indonesia 1945." *Jatijajar Law Review 1*, no. 1 (2022): 70-85.
- Isnaini, Isnaini. "Koalisi Partai Politik Dalam Sistem Pemerintahan Presidensial Indonesia." *CIVICUS: Pendidikan-Penelitian-Pengabdian Pendidikan Pancasila dan Kewarganegaraan 8*, no. 1 (2020): 93-104.
- Monteiro, Josef M. "Perpaduan Presidensial dan Parlementer dalam Sistem Pemerintahan RI." *Jurnal Hukum PRIORIS 5*, no. 3 (2016): 201-218.
- Monteiro, Josef Mario. "Presidential Threshold and Parliamentary Threshold Setting in Elections." *Journal of Progressive Law and Legal Studies 1*, no. 02 (2023): 75-87.
- Mu'min, Muhammad Saeful, And Sanusi Sanusi. "Implikasi Ambang Batas Parliamentary Threshold Terhadap Kursi Parlemen." *Hukum Responsif 11*, no. 1 (2020): 12-23
- Mulyanti, Dewi. "Mekanisme Pemberhentian Presiden dalam Sistem Pemerintahan Presidensial di Indonesia (Tinjauan Perbandingan Hukum

- di Negara Amerika Serikat, Filipina dan Sudan)." *Jurnal Ilmiah Galuh Justisi* 6, no. 2 (2018): 195-209.
- Sahdan, Gregorius, Minardi Minardi, Mohamad Firdaus, and Junior Hendri Wijaya. "State Corporatism in Village Development Planning." *Jurnal Ilmu Sosial dan Humaniora* 12, no. 2 (2023): 403-411.
- Saraswati, Retno. "Desain sistem pemerintahan presidensial yang efektif." *Masalah-Masalah Hukum* 41, no. 1 (2012): 137-143.
- Setiawan, Adjie Hari. "Politik Hukum Presidential Threshold 20% Dalam Undang-Undang Nomor 7 Tahun 2017." *Japhtn-Han* 2, no. 1 (2023): 169-186.
- Syahuri, Taufiqurrohman. "Negara Konstitusional Bukan Sekedar Memiliki Konstitusi." *Jurnal Konstitusi* 1, no. 1 (2008): 19-29.
- Tarigan, Fadhlhan Fahmi, Fiyam Hamdi Lubis, and Abdul Hadi Musthofa. "Problematics Of The Implementation Of The Presidential Threshold In Elections." *Nomoi Law Review* 4, no. 1 (2023): 33-42.
- Taufik, Muhammad. "Dinamika Dalam Penerapan Sistem Pemerintahan Presidensial Dan Parlementer Di Indonesia." *Qaumiyah: Jurnal Hukum Tata Negara* 1, no. 2 (2020): 127-141.
- Winengan, Winengan. "Struktur Kekuasaan Eksekutif pada Perodesasi Sistem Pemerintahan Indonesia (Tinjauan Teori Integrasi Organisasi)." *Jurnal Ilmiah Manajemen Publik dan Kebijakan Sosial* 1, no. 1 (2017): 1-17.
- Wiraguna, Sidi Ahyar, and Zudan Arief Fakrulloh. "Legal Reforms in Indonesia Related To" Presidential Threshold" Of Presidential Candidate in Law no. 7/2017 Concerning General Elections." *Ius Positum (Journal Of Law Theory And Law Enforcement)* (2023): 58-69.
- Yani, Ahmad. "Sistem Pemerintahan Indonesia: Pendekatan Teori dan Praktek Konstitusi Undang-Undang Dasar 1945." *Jurnal Ilmiah Kebijakan Hukum* 12, no. 2 (2018): 119.
- Zulfan, Zulfan. "Analisis Pengaturan dan Praktik Pemisahan Kekuasaan Sistem Pemerintahan Presidensial Berdasarkan Konstitusi." *Jurnal Media Hukum* 25, no. 1 (2018): 60-67.