

# The Practice of Presidential System in Indonesia

**Dr. A. Muhammad Asrun, SH.MH**

Lecturer at Law Faculty and Chairman of the Graduate Legal Studies Program,  
University of Pakuan

Email address : kajipublik@yahoo.com and  
dotalaw@gmail.com

**Abstract-** The recent change of governmental system to the Presidential system in Indonesia has raised many questions particularly relating to the implementation of such system. Whilst the meaning and scope of the presidential system outlined in the national constitution has nothing to do with the involvement of the parliament body, but in practice this condition cannot be realized. This paper aims at discussing the practice or implementation of the presidential system in Indonesia using arguments advanced in the literature as well as the national constitution. It was argued that political ethics should be put in front in implementing the Presidential system. The reason is partly because political ethics have ability to organize as well as to regulate desire of the interest group to have a dominant power by building institutions more equitable and dignified. By having political ethics the decision made will be fair and able to control and avoid as much as possible misuse of interests. The results will be the interests of the nation and the State rather than the interests of class or group. Also, it is argued that to be able to play an active role to implement the policies, the government or the state needs to have power and authority. These power or authorities are useful to foster cooperation and to resolve conflicts that may arise in the process of policy implementation and decision making. Therefore, political education to the elites is a must in order to make the presidential system that was agreed and guided in Pancasila and the 1945 National Constitution are effective. The importance of political ethics and education given to the members of parliament can also minimize any wrong doing toward corruption, collusion and nepotism.

**Index Terms**— Presidential systems, political ethics, National Constitution, Pancasila, members of parliament.

## I. INTRODUCTION

The National Constitution of the Republic of Indonesia stated directly that sovereignty is in the hand of the people. This is particularly stated in the Article 1 paragraph 2 of the 1945 National Constitution of the Republic of Indonesia. This statement is further expanded in the Article 6a paragraph (1) in that it was stated that the "President and Vice President can be elected as a pair directly by the people. Both of these articles showed that there are changes in the National Constitution regarding the system of government in Indonesia toward Presidential System.

However, changes that were made in the 1945 National Constitution toward the Presidential system in practice are not problems free. These problems become mounting as the Presidential system that was formed in the constitution has also been accompanied by the increasing number of political parties. As a consequence, there have been many conflicting interests between the legislative and executive bodies which further create constitutional deadlock or political grid lock.

To solve these problems, there are at least three suggestions advanced in the literature. The first solution is by creating

majority rule in the political system. The second is by making the state governmental system conducive to the differences in political interests. The third is by optimizing the number of political parties.

Apart from the three suggestions above, there is also other suggestion which emphasize on the important of political ethic. The political ethic is argued to be important as it can create harmony between government and political parties. Also, it is because political ethics is closely related to the field of moral discussion. Political ethics have ability to organize as well as to regulate desire of the interest group to have a dominant power by building institutions more equitable and dignified. By having political ethics the decision made will be fair and able to control and avoid as much as possible misuse of interests. The results will be the interests of the nation and the State rather than the interests of class or group. Thus, political ethics can minimize any conflicts between the executive and the legislative groups.

The objective of this paper is to discuss the practice of the presidential system in Indonesia using arguments advanced in the literature as well as the national constitution. However, before discussing the issue above, definition and scope of the ethics, politics, and political ethics are addressed as the background in the second section. This will be followed by the meaning of presidential system advanced in the literature in section 3. Section 4 then discussed what are the practice of Presidential system in Indonesia. Finally, concluding remarks of this paper is given in section 5.

## II. ETHICS, POLITICS AND POLITICAL ETHICS

Ethics and politics have different meaning. Suseno (1987) defines ethics as a fundamental critical thinking about the teachings and moral views. It does not only relate with how and why people should behave morally, but more importantly how people are responsible to what they do. This definition is also shared by Kattsoff (in Suseno, 1987) by saying that ethics is more concerned with the basic principles of justification in relation to human behavior.

The definition of ethics is indeed quite different with the definition of politics. The word of politics etymologically can be mean city or country (city state). It can also be *polites* or citizenship, *politea*-state or *politika* means government. Thus, in general politics relates with any activities within a political system (or state) concerning the process of determining the objectives of the system as well as the implementation of goals of the state. This means that the decision made as well as the implementation of policy by the state or government certainly relates to politics including the management and delivery or allocation of sources in a country.

However, to be able to play an active role to implement the policies, the government or the state needs to have power and authority. These power or authorities are useful to foster cooperation and to resolve conflicts that may arise in the process of policy implementation and decision making. In fact, politics usually is used to get something that is desired. Thus, politics deals with matters in the state power or actions undertaken by the state or government. It can also deal with the activities of various groups, including political parties and personal activities.

Whilst ethics and politics have its own meaning. Political ethics is also closely related to the field of moral discussion. However, political ethics is very much human behavior in decision making as well as action toward any matters in conjunction with community, nation and countries. The importance of political ethics is due to the facts of the increasing problems of government, institutions or parties which are against to the moral value. Jimly Assiddiqie (2014) argued that these problems arise partly because of globalization and tight competition. Due to these problems, it is no doubt that political ethics should be accommodated in any political activities related to public decision making. This is not only for political elites, government and the state, but it should be also undertaken by the community in general. Thus, democracy practice that is done in this country will go smoothly as expected.

### III. WHAT IS A PRESIDENTIAL SYSTEM?

In the study of the System of Government, there are two systems that are generally classified. The first is the Presidential System and the second is Parliamentary system (Sri Soemantri, 2014). Regarding the presidential system, two things need to be considered in the country based on the Republic, namely, President and Presidential system. The President is the person who has been given trust by the people of the country which based on the Republican system. This terminology is used to differ with the terminology of King/Queen in the country based on the Monarchy System.

However, not all countries based on the Republican system have a Presidential System in which the President acting as the head of state as well as the head of government. In the Republic of Singapore, for example, the head of the state is on the hand of the President, while the system of government is parliamentary. Thus, the President is not synonymous with a Presidential system. Similarly, the parliamentary system is not identical to the form of government Monarchy.

In the 1945 Indonesia's Constitution the word "President" has double roles in that the President as the position (occupation) and the President as the institution. According to Thomas Sargentich (in Sri Soemantri, 2014), variable distinguishing between presidential system of government with a parliamentary system of government lies in methodology used by countries in selecting and/or dismissing the head of government. This condition that make differences between the Presidential system and the Parliamentary system. In a parliamentary system, the Executive has accountability and responsibility to the Legislatives body, so that the Legislative body has the power to dismiss the Executive body directly. While the Presidential system, there is a clear division in which the Executive body has to be accountable to the Legislative body, and the Legislative body does not have the

authority to impose and / or dismiss the Executive body (see Table 1 for details).

**Table1. Characteristic Distinction between the Presidential System and the Parliamentary System**

Parliamentary system	Distinctions	Presidential System
Prime Minister as Head of Government	Leadership	President as the Head of State and Government
Function between the executive and legislative body	Separation Of Powers	Have different executive branch with legislative
Vote of No-Confidence or Party Vote	Removal from Office	Impeachment

Source : Sri 2014  
Soemantri,

From Table 1 it can be seen that the most fundamental difference from a Presidential system with a parliamentary system lies in the leadership model, the pattern of the distribution of powers and the system of imposition of the head of government. In terms of the pattern of leadership, the post of head of state and head of government in the presidential system are in the hands of the president. In other words, in a presidential system, the President is the head office of the country and plays role as the head of government. While in the parliamentary system, the head of the State is separated with the positions of the head of government.

According to Hague (2010), the Presidential Administration System consists of three (3) elements, namely: (a) the president is elected by the people and lead the government and appoint government officials concerned; (b) the President of the House of Representatives (the Legislature) has a fixed term and cannot be terminated; (c) there is no overlap status between the executive and the legislative bodies. This argument is also supported by Sumbodo Tikok (2011) in he stated that a presidential system of government is a government where the executive position is not accountable to the representative body of the people. In other words, the executive power is beyond the direct control of parliament. He further argued that a presidential system of government at least has some following characteristics. The first is that the President is the head of executive body who led cabinet that was appointed by him and they also responsible to the President. The terms of the presidency was also determined by the Constitution. The second, the President is not elected by the legislative body, but he/she was chosen by a number of voters. The third is that the President is not responsible to the legislative body and cannot be terminated by the legislative body. Finally, the president is the counterpart and cannot be dissolved by the legislative body.

Therefore, the separation of power is the main principle in the presidential system of government and it can also be regarded as a key differentiator that sets it apart from the Parliamentary system. The President as the head of government does not need to be accountable to the legislative body. The president, however, morally does have accountability directly to the people. General reelection will only be a way to

terminate the President and the only hope for the people to get a guarantee of good governance by the President as the Head of Government in a country. Due to these conditions, some countries like France, for instance, try to apply a combination system that combines the presidential system and the parliamentary system.

**IV. THE PRACTICE OF PRESIDENTIAL SYSTEM**

Indonesia is a unitary state in the form of Republic. This notion has been stated clearly in Pancasila and in the 1945 Constitution. Under these conditions, the President of Republic of Indonesia has two positions, namely, as the head of state and head of government. However, in practice these two types of power have not been in line with the law and constitutions. This is simply because there is an intervention given by the parliament. In other words, the government system in this country is not purely Presidential system, but it is a combination of the presidential system and parliamentary system. The changes of governmental system have occurred since Indonesia have independence in 1945. Details of these changes are shown at Table 2 as follows.

**Table 2. Changes of Governmental System in Indonesia, 1945 1998**

Government system	Period
Presidential System	1945- 1949
Parliamentary System	1949-1950
Parliamentary System with Liberal Democracy	1950-1959
Presidential System	1959- 1966
Presidential System	1967-1998

However, after the Soeharto era ended the governmental system changed into democratic system under reform era. In 1999 there has been an addendum made in the national constitution toward democratic system. The changes that were made in the constitution include the restrictions on the power of government or executive and the guarantee of human rights and the rights of citizens. The addendum of the national constitution was made for times in the year of 1999, 2000, 2001 and 2002 respectively.

After the changes made in the national constitution, the governmental system under the national constitution is in the form of the following.

1. Indonesia is still a unitary state with broad regional autonomy principle as this country is divided into provinces;
2. The form of government is still a republic, while the system of government is Presidential;
3. The President is the head of state and head of government as well. The President and vice president elected directly by the people in a single package.
4. Cabinet or a minister appointed by the president and is responsible to the president.
5. Parliament consists of two parts (bicameral), House of Representatives (DPR) and the Regional Representative Council (DPD). The board members are members of the Assembly. Parliament has legislative powers and authority oversees governance.

6. Judicial power is run by the Supreme Court and judicial bodies underneath., and the Constitutional Court.

However, the practice of the presidential system is also taking elements of the system of parliamentary government and also undertaken reform to eliminate the weaknesses that exist in the system. Several variations of the present practices of presidential system of government in Indonesia are as follows;

1. The President may at any time be dismissed by the Assembly upon the recommendation of the House of Representatives. So, Parliament still has the power supervise presidential though indirectly.
2. President in appointing state officials needs consideration or approval from the Parliament.
3. President in issuing certain policies need consideration or approval from Parliament.
4. Parliament is given greater powers in terms of shaping legislation and the right budget (budget).

Therefore, the present government system has quite different with the system previously. The changes were made to improve the previous presidential system. These changes include the emphasis on the direct election, the important of bicameral system, *checks and balances*, and also giving greater powers to the parliament to perform oversight and budgetary functions.

The above condition has been criticized particularly by law experts. It is suggested that if the nation intends to implement a pure presidential system of government, the President indeed cannot dissolve the House of Representatives. Also, the House of Representatives cannot topple President unless the condition required by the Constitution is violated. Furthermore, any issuance of law and/or regulation should be discussed by both the President and the Parliament. The law and/or regulation that was approved by both parties should be supported and executed in the proportional way.

**V. CONCLUDING REMARKS**

Indonesia has its own way in governing the nation under the Presidential system. This presidential system of government in Indonesia has been in combination with the multi parties. The combination of presidential system and multiparty system shows that there are "lack of maturity" of the political elite (MPR, DPR, DPD and the President). This also shows there is lack of awareness toward the implementation of political ethics of the elites in running the state administration authority under the presidential system of government.

Therefore, political education to the elites is a must in order to make the presidential system that was agreed and guided in Pancasila and the 1945 National Constitution are effective. The importance of political ethics and education given to the members of parliament can minimize any wrong doing toward corruption, collusion and nepotism.

**REFERENCES**

[1] Budiardjo, M. Democracy in Indonesia. Parliamentary Democracy and Democracy Pancasila. Jakarta: Gramedia Pustaka Utama. 1996.

- [2] Djokosutono. Constitutional Law. Harun Al Rasid collected. Lecture HTN. Jakarta: Indonesian Ghalia, 1982.
- [3] Huda, Ni'matul. Indonesian constitutional politics: Study on Dynamics Perubahan 1945. Cet. I. New York: FH UII Pres, 2003.
- [4] Jimly Assiddqie. Justice Constitution of Conduct and Ethics, Jakarta: Rays Graphic, 2014.
- [5] -----, Enforcing Ethics Organizers Election Jakarta: King Grafindo Persada, 2013.
- [6] Kusnardi and Harmaily Ibrahim. Introduction to the Law of the State of Indonesia system. Jakarta: Sinar Bakti.
- [7] Suseno. Political Ethics. Jakarta, 1987.
- [8] Sri Soemantri M. Constitutional Law Indonesia : Thoughts and Views. London: Rosda, 2014.
- [9] Sumbodo Tikok,2010, Construction Law of the State of Indonesia, Jakarta: Kencana.
- [10] \_\_\_\_\_, 2011. Construction Indonesia Constitutional Law Amendment to the 1945 Constitution Jakarta Post: Kencana.