



RESEARCH ARTICLE

## The Oversight Function of the House of Representatives in Efforts to Strengthen the Presidential Government System in Indonesia

Hardiman Mustakim<sup>1\*</sup>, Muin Fahmal<sup>2</sup>, La Aude Hussein<sup>3</sup>, Nurul Qamar<sup>4</sup>

<sup>1,2,3,4</sup> Indonesian Muslim University, Indonesia

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**ABSTRACT**

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The research objective is to analyze the supervisory function of the People's Representative Council to strengthen the presidential government system in Indonesia. The type of research that will be carried out is doctrinal (juridical-normative) legal research. The research results show that the implementation of the DPR's supervisory function towards the President is carried out by supervising the implementation of the Law and the APBN. The supervisory function is carried out with the DPR's 3 (three) rights, namely the right to interpellation, the right to inquiry and the right to express an opinion. The DPR's supervisory function over the President which could result in the President's dismissal during his term of office will not weaken the presidential system.

**\*Corresponding Author:**

hardiman.mustakim@umi.ac.id

### INTRODUCTION

A rule of law is a state that guarantees the security of its citizens, making the law the highest supremacy.<sup>[1]</sup> The principle of the rule of law should be applied in practice in Indonesia, for the sake of the continuity of life in society, nation and state. Indonesia as a country of law means that all aspects of life in the territory of the Unitary State of the Republic of Indonesia must be based on law and all legislative products and their derivatives that apply in the territory of the Republic of Indonesia.<sup>[2]</sup>

Indonesia is a country which implemented a presidential system of government since the beginning of its independence, although for a time the current parliamentary system implemented the form of a union state (United Republic of Indonesia).<sup>[3]</sup> The consequences of implementing the system presidential in the Indonesian government system means to power the government is fully controlled by the President in office as head of state and principal of his government, according to the characteristics main presidential system of government.<sup>[4]</sup> In carrying out his authority the President is assisted by one person Vice President and by ministers elected by the President in a structured cabinet.<sup>[5]</sup>

A presidential system of government that makes this possible centralized government power on the President, potentially to misused when unaccompanied the existence of balanced authority owned by other areas of power.<sup>[6]</sup> To prevent this, then *Montesquieu* expressed his view that state power must be separated and differentiated structurally in the organs of countries that do not interfere with each other's affairs one and other. Theory *Trias Politica* Which was put forward by Montesquieu. Theory *Trias Politica* This is what is implemented in the presidential government system in Indonesia, with the separation of and distribution of state power to each state institution based on the constitution. Separation of power is horizontal The meaning of power is separated into reflected functions in state institutions that equal and balance each other (*checks and balances*). Meanwhile,

the division of power is vertical in the sense of the embodiment of that power distributed vertically downwards to the highest institutions of the country under the people's sovereign authority.<sup>[7]</sup>

The existence of separation and division of power in the Indonesian government system that is practised in Indonesia, in Soepomo's view, has its system. Soepomo stated that although in the division of powers, each state institution already has certain tasks, it is possible to cooperate between one state institution and another. A different view was expressed by Ismail Suny, who stated that it is not important whether a legal state adheres to Trias Politica or not, but whether or not the instruments of power can be protected from bureaucratic and tyrannical practices. This does not depend on the separation of powers itself but on the existence of a democratic state, namely popular sovereignty.

*Utrecht* believes that the theory of separation of powers results in the existence of state bodies in which other state bodies do not or cannot supervise, leaving open the possibility for state bodies to act beyond their powers. He added that the division of powers is necessary but does not justify an absolute separation of powers, thereby closing the possibility of mutual supervision.

Separation of powers is often accompanied by the implementation of checks and balances between areas of state power. This aims to ensure that state institutions in exercising their authority can balance and supervise each other to prevent monopolies in one area of power. Even in a presidential system, the President, who has the position of head of state and head of government, is not immune from supervision by other state institutions. This can be understood by referring to Kusnardi's view which states that about the implementation of the separation of powers in the state, executive power must be prevented from allowing its power to exceed other powers, by limiting its power to being subordinate to the legislative body, for example by establishing parliament as a government oversight body. Implementing effective supervision of the government is by holding ministers accountable. In this case, for example, in the constitution of the United States, the President in several cases in carrying out his duties is required to obtain further approval from the senate.

Kusnardi's opinion is also supported by the latest facts showing that there are efforts to dismiss Donald Trump as President of the United States which have been determined by the House of Representatives. This decision was based on allegations that President Trump had committed an abuse of power and threatened the security of United States intelligence. However, on February 6 2020, the United States Senate acquitted President Trump of the dismissal. On the other hand, the President can also supervise the performance of a country's legislative institutions, as regulated in the United States with the authority possessed by the President of the United States to use veto rights regarding laws enacted by his legislative institution. In contrast to this mechanism, the process of Presidential supervision of legislative institutions in Indonesia is carried out with the President's authority to participate in the implementation of the authority of other institutions. For example, the formation of laws in Indonesia is the authority of the People's Representative Council (DPR), but the implementation of this authority needs to be accompanied by joint approval given by the President, as regulated in the constitution. On the other hand, the supervision carried out by the DPR on the President is carried out with the supervisory functions possessed by DPR members, including the right of interpellation, the right to inquiry and the right to express opinions.

Supervision will be carried out by the DPR if there is a government policy that is deemed odd and requires the government to request information or explanation, or requires further investigation. As is the case in the United States, supervision carried out by the President can also lead to the President's impeachment process in Indonesia. So the existence of this supervisory function seems to exclude the main characteristic of the presidential system of government, namely *fixed term executive*.

## **RESEARCH METHODS:**

The type of research that will be carried out in this dissertation is doctrinal (juridical-normative) legal research, namely legal research carried out by examining library materials (*library research*) which uses the object of writing study in the form of existing libraries, in the form of books, journals, and regulations that are related to the discussion of problems so that this writing also has the character of library writing (*library research*).

## DISCUSSION

Every modern country adheres to a different government system depending on the socio-cultural conditions of the people in that country, which is usually contained in the country's constitution. Likewise, Indonesia, as a modern country, also has a Constitution, namely the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), which reflects its government system.<sup>[8]</sup>

At the beginning of Indonesian independence, on 18 August 1945, the Indonesian government system was a presidential government system, which was reflected in Article 4 paragraph (1) of the 1945 Constitution which states that the President of the Republic of Indonesia holds government power according to the Constitution. Thus, apart from being head of state, the President is also head of government.

The government system was based on the 1945 Constitution, then changed in 1949, marked by the enactment of the 1949 RIS Constitution (27 December 1949 - 17 August 1950), namely a parliamentary system. Article 69 paragraph (1) states "The President is Head of State". Thus, those who carry out and are responsible for government duties are the Prime Minister and ministers. In a parliamentary government system, the government is responsible to parliament (DPR). Meanwhile, the position of the President is as Head of State.<sup>[9]</sup>

The validity period of the RIS Constitution was then changed to the Temporary Constitution which was officially implemented starting on August 17 1950, namely with the enactment of Law no. 7 of 1950. The government system based on UUDS is a Parliamentary government system. Article 45 paragraph (1) states that the President is the Head of State.<sup>[10]</sup> Apart from that, Article 84 states that the President has the right to dissolve the People's Representative Council. The Presidential Decree declaring the dissolution also ordered elections for a new House of Representatives within 30 days. The 1950 UUDS did not make any changes to the political constellation at that time, as was the basis for the publication of the 1950 UUDS, namely changing and forming a new Constitution, so that President Soekarno, on July 5 1959, issued a Presidential Decree and considered that the Constituent Assembly had failed to carry out its mandate, namely forming New Constitution. With the re-enactment of the 1945 Constitution, the presidential system of government in its implementation deviated far from the presidential system as it should. The Presidential Decree could not reduce political conflict, so the March Eleventh Order was issued.

This transfer of power, known as the New Order where the system of government adopted was a presidential system of government, only saw the sacralization of the 1945 Constitution. This sacralization reached its peak with the issuance of MPR Decree Number IV/MPR/1983 concerning Referendum and Law Number 5 of 1985 about the Referendum. This sacralization, gave rise to political turmoil in society, resulting in a transition of power known as the Era of Reform, which was marked by the possibility of changes to the 1945 Constitution, where the system of government that some constitutional law experts call the presidential system of government or the Quasi-Parliamentary-Presidential system of government with based on amendments to the 1945 Constitution of the Republic of Indonesia.

The amendment to the 1945 Constitution that has not changed is Chapter III concerning the Powers of State Government. Article 4 states;

1. The President of the Republic of Indonesia holds governmental powers according to the Constitution.
2. In carrying out his obligations, the President is assisted by one Vice President.

Apart from that, the 1945 Constitution of the Republic of Indonesia does not provide for the position of President to be regulated in a law. This will have the consequence of centralizing presidential power (*concentrated on president power*), thus leading to a constitutional autocracy system of government power.

The President's power is not only limited to the executive sector but also to the legislative and judicial sectors. In the legislative sector, the President has the authority to propose Draft Laws and Government Regulations and has the right to enact Government Regulations instead of Laws (Article 5 in conjunction with Article 22 paragraph (1) of the 1945 Constitution of the Republic of Indonesia).

Meanwhile, in the Judiciary sector, the President has the authority to grant pardon, rehabilitation, amnesty and abolition as well as appoint Supreme Court Judges and also has other prerogative rights (Article 14 in conjunction with Article 24A paragraph 3 of the Constitution of the Republic of Indonesia). This shows how extensive the powers the President has, making it very interesting to study and analyze in more depth.<sup>[11]</sup>

The theory of the rule of law as the most popular concept applied in underlying a country's government system, requires 3 (three) things, namely the application of the principle of legality in government, separation of state powers, and protection of Human Rights (HAM). The principle of legality in government administration is implemented by ensuring that every government action is based on applicable laws and regulations.<sup>[12]</sup> In this way, government power can be limited by legislation. Furthermore, state power is divided by referring to Trias Politica, as the most popular theory of separation of powers which is applied to separate state power into 3 (three) areas, namely legislative, executive and judicial. The existence of this separation of powers is also a requirement in a legal state.

The consequence of implementing Trias Politica is that it must be accompanied by the implementation of checks and balances to prevent the monopoly of state power and arbitrary actions of the authorities. This, human rights protection is a substantial matter in the rule of law so that arbitrary actions by the government against its citizens do not occur. So it can be concluded that the main core in the theory of the rule of law is an effort to prevent government arbitrariness for the welfare of citizens.

Trias Politica teaches that state power cannot be placed in just one institution, but must be separated into three branches of power legislative (making laws), executive (implementing laws), and judicial (adjudicating violations of laws). Another view of the Trias Politica was also put forward by John Locke, who divided it into legislative power (making laws), executive power (carrying out laws), and federative power (government power in foreign relations).

In both Montesquieu's and John Locke's views, these separate areas of power are then given an equal position to each other, with their respective attributional authority. Even though they exercise their authority independently, each area of power must still carry out supervision and balance between one area of power and another.

The Indonesian government system adopts the Trias Politica by forming state institutions that will function in one area of power. In each area, power will be exercised by one or more other state institutions. So the existence of state institutions is an integral part of the existence of the state. The existence of this state institution is a necessity for filling and administering the state. The formation of state institutions is a manifestation of the mechanism for people's representation in administering government. So, definitively, state institutions are institutions that were formed to carry out state functions.

Jimly Asshiddiqie further explained the characteristics of state institutions, namely:

1. The state organ is elected or appointed to occupy a specific position or function;
2. The function is carried out as the main profession or even legally exclusive; And
3. Because of his function, he is entitled to receive a salary from the state.

These state institutions will then be classified based on the source of the regulations which are the basis for their formation or the legitimacy of the institution, namely:

1. Institutions established based on the Constitution which are regulated in or by Law, Government Regulation (PP), Presidential Regulation (Pepres), and Presidential Decree (Kepres);
2. Institutions formed based on laws that are further regulated and determined in PP, Presidential Decree and Presidential Decree;
3. Institutions formed based on a PP or Presidential Decree which is further determined by the Presidential Decree;

4. Boards formed based on Ministerial Regulations which are further determined by Ministerial Decisions or decisions of offices under the Minister.

Furthermore, the institutions established by the Constitution are referred to as the main state institutions whose duties and authority are determined by the Constitution, occupying one area of power in the Trias Politica. Sri Soemantri's interpretation places 8 (eight) state institutions based on the 1945 Constitution of the Republic of Indonesia, namely the Supreme Audit Agency (BPK), DPR, Regional Representative Council (DPD), People's Consultative Assembly (MPR), President and Vice President, Supreme Court (MA), Court Constitution, and Judicial Commission. This opinion is based on the idea that the state institutional system based on the amendments to the 1945 Constitution of the Republic of Indonesia is divided into 3 (three) fields or functions, namely the field of legislation, the field of supervision, and relating to the appointment of Supreme Court judges.

The division of state power towards state institutions in the Indonesian government system based on the constitution can be described in the following table:

**Table of state institution Structure in the Indonesian government system based on the 1945 constitution of the republic of Indonesia**

UU 1945		
MPR	PRESIDENT	MA / MK
DPR / MPR	VICE PRESIDENT	Judiciary
Legislative	Executive	

Each area of power will supervise the performance of other areas of power. So that a reciprocal relationship will be created in terms of supervision of the government system in Indonesia. The President as the executive will supervise the performance of the DPR as the legislature in forming laws. On the other hand, the DPR will supervise the President's performance when implementing the law. Likewise, the MK as the judicial authority will supervise the DPR as the legislature through the institution of judicial review. Meanwhile, the DPR will supervise the Constitutional Court in terms of the selection process for prospective Constitutional Court judges which is carried out at the DPR. This process also includes supervision between the judicial power and the executive and vice versa.

Checks and balances as a consequence of the separation of state powers aim to prevent monopoly of just one area of power. Supervision in government administration according to Siagian is all activities to ensure and guarantee that tasks/work have been carried out by predetermined plans. The policies that have been outlined and the orders (rules) that have been given. Meanwhile, Kansil added that supervision is important to ensure the implementation of government policies.

Another definition of supervision according to Situmorang and Jusuf Juhir is every effort and action to find out the extent of the implementation of tasks according to the provisions and targets to be achieved.

This supervision, in terms of the implementing agency, can be divided into internal supervision and external supervision. Daly Erni describes internal supervision as supervision carried out by people from agencies/units/agencies within the unit. Carried out using direct superior supervision or attached supervision. Meanwhile, if supervision is carried out by a body/unit/agency outside the institution being supervised, it is called external supervision.

Eza Aulia also added that internal supervision (*internal control*) can be exemplified by the existence of an ethics council/honorary council/honorary council in an institution which has special authority to supervise the ethics, performance and behaviour of the institution or individual being supervised. External supervision (*external control*) is usually carried out by an independent institution and the assessment is objective.

In connection with these two types of supervision, the supervisory function carried out by the DPR towards the President is classified as external supervision. So external supervision can be transformed into the implementation of checks and balances between institutions because it allows other institutions to supervise other institutions. The institution that carries out the supervision may be an institution whose authority is only to carry out supervision, such as the BPK. Apart from that,

external supervision can also be carried out by other institutions when there is an authority that is exercised jointly between two or more areas of power, for example, the President's participation in the formation of laws constitutes executive supervision in the law formation process. Apart from that, some institutions carry out supervisory functions as one of their authorities along with their main authority, such as the DPR's supervisory function over the government even though their main authority is in the legislative field.

The essence of the supervisory function of the People's Representative Council (DPR) to strengthen the presidential system of government in Indonesia lies in the principle of **checks and balances**. This supervisory function is a key instrument to ensure that the President as chief executive does not act arbitrarily, as well as ensuring that the government carries out policies transparently, accountably and by the law.

## CONCLUSION

The supervisory function of the House of Representatives (DPR) to strengthen the presidential system of government in Indonesia lies in the role of the DPR as a legislative institution whose task is to control and ensure that the executive (President and his cabinet) carry out their duties and policies by the constitution, laws and regulations and people's interests.

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