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The fall of Executive Power in Indonesia: the need to strengthen legal arrangements

A queda do Poder Executivo na Indonésia: a necessidade de fortalecer os arranjos legais

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Abstract

This paper discusses interesting findings related to the weakening of executive power in Indonesia during the mid-term. The main finding is that the executive tends to choose to resign rather than face impeachment or an institutional vote of no confidence. In addition, Indonesian history records that constitutional crises have also led to changes in the structure of the state and government. Weaknesses in legal arrangements have contributed to

Resumo

Este artigo discute conclusões interessantes relacionadas com o enfraquecimento do Poder Executivo na Indonésia durante o médio prazo. A principal conclusão é que o executivo tende a optar pela demissão em vez de enfrentar um impeachment ou um voto institucional de desconfiança. Além disso, a história da Indonésia registra que as crises constitucionais também levaram a mudanças na estrutura do Estado e do governo. As deficiências nos acordos legais contribuíram

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the unclear role of impeachment and no-confidence motions in maintaining government legitimacy. Through a historical and comparative approach, this article asserts that the majority of executive power falls in Indonesia have been caused by causes other than the official constitutional fall of government procedures.

para o papel pouco claro do impeachment e das moções de censura na manutenção da legitimidade do governo. Através de uma abordagem histórica e comparativa, este artigo afirma que a maioria das quedas do poder executivo na Indonésia foram causadas por outras causas que não a queda constitucional oficial dos procedimentos governamentais.

Keywords: judicial independence; constitutional courts; EU law; CJEU; Rule of Law.

Palavras-chave: queda; Poder Executivo; Indonésia; Constituição; disposições legais.

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1. INTRODUCTION

As a way of ensuring that the head of government (executive) does not abuse power and violate the constitution, a mechanism is established to be able to dismiss the executive in the middle of his term of office¹. For example, in a presidential system, impeachment is a formal indictment of the legislature if the President is found guilty of a serious breach of law or ethical violation².

Another process is also found in parliamentary systems, where the head of government can also be removed through a vote of no confidence. Through a vote of no confidence, parliament votes no confidence in the prime minister or government. This is a mechanism used by the legislature to express their dissatisfaction with the leadership of the government and request a change of leadership. However, there are also times when the downfall of the executive is not due to institutional procedures but due to social instability or interruption caused by protests, changes in the constitutional system or coups.

The executive interruption can occur as a result of a constitutional crisis that results in changes in the manner of government and the structure of the state³. Con-

¹ MANUEL, Paul; CAMMISA, Anne Marie. **Checks and Balances?: How a Parliamentary System Could Change American Politics**. Westview Press, 1998.

² ARSIL, Fitra. **Teori Sistem Pemerintahan: Pergeseran Konsep dan Saling Kontribusi Antar Sistem Pemerintahan di Berbagai Negara**. Jakarta: Rajawali Press, 2017.

³ PÉREZ-LIÑÁN, Anibal. A Two-Level Theory of Presidential Instability. **Latin American Politics and Society**, Miami, vol. 56, n. 1, p. 34-54, 2014.

stitutional crises can result from serious disagreements over the constitution or major changes in the political structure of a country, either through constitutional processes or outside the constitutional framework⁴.

Stability in maintaining executive tenure over a certain period is important in a country's government. In Indonesia, as has been observed in recent decades, executive power sometimes experiences a significant decline during this period. This article aims to shed light on the interesting findings surrounding this phenomenon, with a focus on the legal aspects surrounding it.

The paper finds it interesting that there is a tendency for heads of government to step down before they are formally removed from their mandate. It is also found that there have been some changes in the constitutional system that have led to changes in heads of government. These tended to occur before the "Reformation Era" in 1998. Post-Reformation constitutional changes through four series of amendments to the 1945 Constitution (the Indonesian Constitution) gave birth to a new, more assertive mechanism regarding impeachment that is specifically regulated in the 1945 Constitution.

It is quite rare for studies on executive instability to take Indonesia as their object of research. Research by Leiv Marsteintredet in 2014 focused on presidential interruption in Latin America⁵. His research also mentioned that executive interruption in Indonesian studies was found in the case of President Abdurahman Wahid in 2001⁶.

This paper seeks to explain several other events that occurred during the period when Indonesia was still using the parliamentary system of government. Herbert Feith noted that during the four years of practicing the parliamentary system in Indonesia, there were 33 changes of government⁷.

One of the main findings is that the executive in Indonesia tends to prefer to resign rather than face impeachment or a vote of no confidence. Presidential impeachment or a vote of no confidence in the government is a complicated and controversial process, involving many political actors. Therefore, in some cases, the chief executive may find it more prudent to end his or her term voluntarily rather than face an uncertain process.

In addition, Indonesian history records several cases of the fall of the executive due to constitutional crises. Constitutional crises often trigger changes in the structure

⁴ LEVINSON, Sanford; BALKIN, Jack M. Constitutional Crises. **University of Pennsylvania Law Review**, Pennsylvania, vol. 157, n. 3, p. 707-753, 2008.

⁵ MARSTEINTREDET, Leiv. Explaining Variation of Executive Instability in Presidential Regimes: Presidential Interruptions in Latin America. **International Political Science Review**, vol. 35, n. 2, p. 173-194, 2014.

⁶ TOMSA, Dirk. Regime Resilience and Presidential Politics in Indonesia. **Contemporary Politics**, vol. 24, n. 3, p. 266-285, 2018. p. 275.

⁷ FEITH, Herbert. **The Decline of Constitutional Democracy in Indonesia**. Ithaca: Cornell University, 1962.

of the state and government. Serious disagreements over the manner of governance, the rights and obligations of the executive, or key elements in the constitution can result in fundamental changes in the country's constitution.

Another finding is that weaknesses in legal arrangements contribute to the unclear role of impeachment and no-confidence motions in maintaining government legitimacy⁸. Legal arrangements that are ambiguous or lack rigour in explaining when and how these processes should be implemented can create uncertainty in the country's politics.

This paper specifically discusses the phenomenon of the fall of executive power in Indonesia from 1945 to 2001. It specifically examines the causes and institutional procedures used to bring down a sitting head of government. There are at least 21 periods of leadership that are the subject of this paper. All of them were heads of government who stepped down in the middle of their term. The rest of the study of other executives who stayed in office until the end of their term is not discussed in this paper.

This paper uses a historical and comparative approach to emphasize that most executive power falls in Indonesia due to weaknesses in legal arrangements rather than attempts to follow constitutional processes. This suggests that it is important to improve and clarify the legal regulations governing impeachment procedures and no-confidence motions to minimize uncertainty and maintain political stability in the country. In the context of a rapidly evolving democracy, strengthening the legal framework is crucial to maintaining political stability and the sustainability of democracy.

2. THE EXECUTIVE INTERRUPTION

In a parliamentary system of government, the fall of government (the executive interruption) is considered relatively easier if there is no stability between the executive (usually represented by the prime minister) and the legislature (parliament)⁹. This is because parliamentary government relies on the support of a parliamentary majority. If the government loses the confidence of parliament or does not have majority support, it can fall relatively quickly¹⁰.

On the other hand, in a presidential system of government, the president has independent legitimacy and does not come from the legislature. However, the statement emphasises that the president in a presidential system cannot ignore the dynamics that

⁸ DARUSMAN, Yoyon Mulyana; WIYONO, Bambang; SUYADI, Asip. **The Change of Parliamentary System Towards Presidentially System of the Government of Republic Indonesia. The 1st International Conference on Research in Social Sciences and Humanities (ICoRSH 2020)**, Atlantis Press, pp. 622-628, 2021.

⁹ SLATER, Dan. The Ironies of Instability in Indonesia. **Social Analysis**, vol. 50, n. 1, p. 210-212, 2006.

¹⁰ SLATER, Dan. The Ironies of Instability in Indonesia. **Social Analysis**, vol. 50, n. 1, p. 210-212, 2006.

occur in the legislature.¹¹ Although executive power does not come from the legislature, a good relationship between the executive and the legislature is still important for effective governance.

Legislatures in presidential systems use oversight and monitoring tools to enhance their bargaining power and influence the president's political decisions. These can include impeachment proceedings, committees of enquiry, interpellation rights, and other oversight rights.¹² By using these tools, parliaments can strengthen their role in overseeing government and ensuring executive accountability.

Although there are differences in the way parliaments in presidential systems of government and parliaments in parliamentary systems of government operate, this statement shows that essentially, similar concepts of legislative oversight and influence exist in both types of systems.¹³ In both cases, the legislature attempts to play an important role in maintaining the balance of power and ensuring that the executive acts in accordance with the interests of society and the constitution.

Impeachment in Latin America is not only a way to replace a president, but also serves as a control tool for the legislature to address disharmony with the executive. This illustrates how legislators play a significant role in maintaining the balance of power within a presidential system.¹⁴ Although the president is directly elected by the people and does not depend on legislative support for initial legitimacy, poor relations with the legislature can affect the president's legitimacy in the eyes of the public, which can ultimately lead to political instability.

It is important to understand that while a president does not require legislative support to gain initial legitimacy, poor relations with parliament can cause the president to lose legitimacy. When the president does not receive enough support in the legislature or refuses to negotiate to gain support, this can create tension that leads to governmental disruptions or even impeachment.¹⁵

Negretto's research covering the period from 1978 to 2003 in Latin America found 14 cases in which presidents were replaced or experienced executive interruptions during their terms.¹⁶ All these cases show a breakdown in cooperation between

¹¹ NEGRETTO, Gabriel L. *Minority Presidents and Democratic Performance in Latin America*. **Latin American Politics and Society**, Miami, vol. 48, n. 3, p. 63-92, 2006.

¹² SÁEZ, Manuel Alcántara; MONTERO, Mercedes García; LÓPEZ, Francisco Sánchez. **Funciones, Procedimientos y Escenarios: Un Análisis del Poder legislativo en América Latina**. Universidad de Salamanca, 2005.

¹³ CHEIBUB, José Antonio. **Presidentialism, Parliamentarism, and Democracy**. Cambridge University Press, 2007.

¹⁴ PÉREZ-LIÑÁN, Aníbal. **Presidential Impeachment and The New Political Instability in Latin America**. Cambridge University Press, 2007.

¹⁵ PÉREZ-LIÑÁN, Aníbal. **Presidential Impeachment and The New Political Instability in Latin America**. Cambridge University Press, 2007.

¹⁶ NEGRETTO, Gabriel L. *Minority Presidents and Democratic Performance in Latin America*. **Latin American Politics and Society**, Miami, vol. 48, n. 3, p. 63-92, 2006.

the president and the legislature, leading to political instability. When this relationship breaks down, the resulting political conflicts can undermine the president's legitimacy, which ultimately pushes legislators to use impeachment as a means of changing the government.

The study also noted that governmental stability is more likely when the president has majority support in the legislature or comes from a single-party government. In such cases, executive interruptions and impeachments are less frequent. This indicates that strong political support in the parliament is a crucial factor in maintaining political stability in countries with a presidential system.

In Latin America, impeachment has become somewhat of a tradition for replacing an incumbent president. Previously, military coups were the primary method for removing presidents, but now impeachment has taken over that role.¹⁷ Impeachment has become a tool for legislators to control presidents who no longer have enough political support, highlighting that the relationship between the legislature and the executive significantly impacts government stability. If the president fails to establish a good relationship with the legislature, this can lead to impeachment or even the replacement of the president during their term.

This phenomenon highlights the tension between the executive (president) and the legislature (parliament) in Latin American countries. Disharmony between the two can cause government instability, even resulting in the replacement of the president during their term. Impeachment, often used to replace a president during their term, has become a common occurrence in Latin America. This phenomenon is in stark contrast to countries like the United States, where impeachment is rare and only used under very specific circumstances.¹⁸

There are several examples of presidents in presidential systems who faced problems because they had minority support in parliament and refused to negotiate. Presidents Collor de Mello, Abdalla Bucaram, and Alberto Fujimori, for example, faced pressure from parliament and the public that resulted in them resigning early in their terms. So while the executive has independence in its duties, maintaining support or co-operating with parliament can be a key factor in maintaining the legitimacy and stability of a presidential government.¹⁹ It should be noted that the practice of government systems around the world has undergone rapid development. The assumption

¹⁷ PÉREZ-LIÑÁN, Aníbal. **Presidential Impeachment and The New Political Instability in Latin America**. Cambridge University Press, 2007.

¹⁸ PÉREZ-LIÑÁN, Aníbal. **Presidential Impeachment and The New Political Instability in Latin America**. Cambridge University Press, 2007.

¹⁹ PÉREZ-LIÑÁN, Aníbal. A Two-level Theory of Presidential Instability. **Latin American Politics and Society**, Miami, vol. 56, n. 1, p. 34-54, 2014.

of parliamentary system practice, which is often considered to have a high degree of instability because it is easy to fall, has actually experienced significant improvement.

In Indonesia, some scholars have argued that the parliamentary system is a disaster for political stability. This is partly due to experience with the practice of the system in Indonesia. Herbert Feith noted that during the 4 years of the parliamentary system in Indonesia, there were 33 changes of government.²⁰ This reality led to many opinions in Indonesia rejecting the use of this system completely.

However, in current practice, many countries have managed to overcome various potential instabilities in the parliamentary system. Therefore, the parliamentary system is said to have a fixed term of office just like the presidential system. In addition, the assumption that the direct election of the president in a presidential system has a high potential to produce a president who ignores parliament has also changed. The president, who considers himself accountable only to the people directly because his source of legitimacy does not come from parliament, now seems to pay close attention to the dynamics of the legislature.

The current practice of presidential systems in various countries shows that the legislature has been given considerable room to influence the course of government. The legislative majority has become more important in countries with presidential systems, just as in parliamentary systems. This phenomenon is referred to by some as the “parliamentarisation” of the presidential system. It shows that the role of parliament is strengthened in presidential systems, which has a positive impact on political stability and the relationship between the branches of government.

3. THE FALL OF EXECUTIVE POWER IN THE PARLIAMENTARY GOVERNMENT IN INDONESIA

The analysis of the fall of executive power in Indonesia will begin to be discussed through its most frequent practice, namely in the parliamentary system of government. The enactment of the parliamentary system of government in Indonesia occurred during the enactment Vice Presidential Decree Number X of 1945 and the enactment of the Temporary Law (UUUDS 1950).²¹ Although it only occurred for a very short period of time, the parliamentary system of government was in place in Indonesia and had a high practice of executive downfall.

In 1949, after passing through the Dutch colonial period and the early period of independence, Indonesia adopted the Constitution of the Republic of Indonesia Union (RIS) in 1949-1950. This constitution created a federation-based system of government, in which Indonesia was divided into autonomous states with regional

²⁰ FEITH, Herbert. **The Decline of Constitutional Democracy in Indonesia**. Ithaca: Cornell University, 1962.

²¹ INDONESIA, **Undang-Undang Dasar Sementara**, Jakarta: 1950.

self-government.²² Later on in 1950, Indonesia replaced the RIS Constitution with the Temporary Constitution (UUDS) 1950. The UUDS 1950 changed the system of government from a federation to a unitary state. The UUDS 1950 retained the parliamentary system of government. However, with this change, the federation structure was abolished, and Indonesia became a unitary state with a stronger central government.

The UUDS 1950 also stipulated that the president was elected by the House of Representatives (DPR), which was the legislative body at the national level, which was one of the characteristics of the parliamentary system of government. The period of enactment of the RIS Constitution and the 1950 UUDS was an important phase in the development of Indonesia's system of government. It reflected an attempt to establish a parliamentary system accountable to parliament in the Indonesian government at the time. However, subsequent political and constitutional changes, including the change to a presidential system with the 1945 Constitution in 1959, replaced the existing parliamentary system, and since then Indonesia has had a presidential system of government until today.

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The constitutional history of the Republic of Indonesia shows that the level of government instability that has ever been formed in Indonesia is quite high. The phenomenon of parliamentary instability reveals an intriguing fact. The parliamentary system of government that provides a mechanism for a vote of no confidence in the fall of a cabinet has never turned out to be a way to bring down an executive in the constitutional history of the Republic of Indonesia. There have been only two attempts at a vote

²² LIDDLE, R. William. Indonesia's Democratic Past and Future. **Comparative Politics**, vol. 24, n. 4, p. 443-462, jul. 1992. p. 452.

of no confidence against the entire cabinet, and only once has it been decided in a vote that ended in the failure of said vote. The cessation of cabinets during the implementation of the parliamentary system was dominated by two reasons: changes in the state constitutional system and resignations from the cabinet.

TABLE 1. THE FELL OF THE EXECUTIVE POWER IN INDONESIA IN PARLIAMENTARISM GOVERNMENT SYSTEM²³

Executive	Period	Government System	Executive Interruption	Background
<i>Sjahrir I</i>	14 November 1945 – 26 February 1946	Parliamentarism	Resignation	As a result of the opposition movement from outside the parliament: “Union of Struggle”
<i>Sjahrir II</i>	12 March 1946 – 2 October 1946	Parliamentarism	Changes in the constitutional system	The issuance of Presidential Decree No. 1 of 1946, changed to a presidential system
<i>Amir Sjarifuddin I</i>	3 July 1947 – 11 November 1947	Parliamentarism	Resignation	The addition of the coalition’s party participants
<i>Amir Sjarifuddin II</i>	11 November 1947 – 23 January 1948	Parliamentarism	Resignation	Coalition rift, withdrawal of major parties supporting the coalition
<i>Mohammad Hatta</i>	29 January 1948 – 14 December 1949	Parliamentarism	Changes in the constitutional system	The establishment of the RIS and the enactment of the 1949 RIS Constitution
<i>Muhammad Natsir</i>	7 September 1950 – 21 March 1951	Parliamentarism	Resignation	The withdrawal of the coalition parties and the rift of Masyumi as the prime minister’s party in responding to Hadikusumo’s motion against the policy of the Minister of Home Affairs Assaat

²³ ARSIL, Fitra. Sistem Parlementer Indonesia: **Kajian Pemberlakuan Sistem Parlementer di Indonesia**. Jakarta: Publica Indonesia Utama, 2023.

<i>Sukiman Wirjosandjojo</i>	27 April 1951 – 23 February 1952	Parliamentarism	Resignation	The withdrawal of the coalition parties in response to Sunario's motion against Minister Ahmad Subarjo.
<i>Wilopo</i>	3 April 1952 – 3 June 1953	Parliamentarism	Resignation	Coalition parties split in response to Sidik Kertapati's motion plan. His party supported the motion.
<i>Ali Sastroamidjojo I</i>	1 Agustus 1953 – 24 July 1955	Parliamentarism	Resignation	Withdrawal of coalition parties due to deteriorating relations between the cabinet and the army
<i>Burhanudin Harahap</i>	12 Agustus 1955 – 3 Maret 1956	Parliamentarism	Changes in the constitutional system	The success of the first general election in 1955 led to the formation of a new parliament so that the cabinet had to be drawn up based on the composition of the new parliament.
<i>Ali Sastroamidjojo II</i>	24 Maret 1956 – 14 Maret 1957	Parliamentarism	Resignation	The withdrawal of the coalition parties as a response to the many rebellions in the regions and the birth of President Soekarno's Conception which was considered unconstitutional.
<i>Djuanda</i>	9 April 1957 – 6 July 1959	Parliamentarism	Changes in the constitutional system	Guided Democracy is enacted.

3.1. Changes in the Constitutional System

The reason for the change in the constitutional system is that, as a new state, there are ideas about the system that is most suitable to the conditions and character of the Indonesian nation, so it is necessary to try to apply these systems in practice. In addition, as a new country, it also faces various problems that come from within the nation itself as well as from other nations that need to be addressed by making adjustments to the constitutional system. The first change in the state administration system that had direct implications for cabinet changes was the change in the government system adopted by the 1945 Constitution to a parliamentary system of government as desired by the November 1945 Declaration. This change immediately had implications for the dissolution of the first cabinet led by Sukarno and the formation of the parliamentary cabinet, which at that time had been successfully formed by Sutan Sjahrir.

Then there was a change in the state administration system back to the presidential system when the Sjahrir II Cabinet was in power. This step was taken because he faced a chaotic domestic situation and was considered a threat to the country, therefore Soekarno took over the power of the cabinet and concentrated the administration of government to the president as is usually found in a presidential system.

During the promulgation of the 1945 Constitution, several changes to the state administration system resulted in the cessation of a cabinet and its replacement with a new cabinet based on a different system. The change in the government system occurred due to an emergency or under normal conditions, but it was decided to change the applicable system.

The cessation of the cabinet due to changes in the state administration system first occurred when the government system changed based on the Government Declaration of November 14, 1945. The birth of this declaration was preceded by the issuance of the Vice President's Decree Number X of 1945, which resulted in the President's power starting to decrease and the KNIP's power starting to expand. The KNIP Working Body proposes to the President that the Minister's accountability be carried out to Parliament and this proposal is approved by the President. This change in the accountability of the Minister to Parliament means that the Indonesian Cabinet must adopt a parliamentary system.²⁴ In response to this, the government issued a decree on November 14, 1945, which stated that the First Cabinet (Presidential Cabinet) was formed only temporarily when the country was in a state of crisis. Therefore, it is necessary to change the composition of the cabinet where the most important thing in changing the composition of the new cabinet is regarding the responsibility of the government to be in the hands of

²⁴ SUPRAPTO, Bibit. *Perkembangan Kabinet Dan Pemerintahan di Indonesia*. Jakarta, Ghalia Indonesia, 1985.

the Prime Minister who is responsible to parliament. This edict also talks about the plan to hold the first general election and recommends that people join political parties.²⁵

The change from the presidential system to the parliamentary system at the same time ended the working period of Soekarno's Presidential Cabinet (First Presidential Cabinet). Even though the cabinet that ruled for two months and twelve days experienced a lot of pressure from foreign parties and domestic battles, this First Presidential Cabinet did not fall due to foreign attacks by both Japanese and Dutch troops as well as Allied troops. This cabinet, too, did not fall as a result of a coup or be overthrown by the KNIP. This cabinet also did not experience a split in its internal body. This First Presidential Cabinet ended automatically due to a change in the government system from presidential to parliamentary.²⁶

The resignation of Sjahrir II's cabinet was also due to the precarious situation at that time, so President Soekarno, with the approval of the KNIP, took over the government to be directly led by him and also responsible to the president. Thus, the government system, which at that time was a parliamentary system, turned into a presidential system again with Soekarno as head of state as well as head of government. Sjahrir II's Cabinet ruled in conditions of increasingly violent opposition from the United Struggle, culminating in the kidnapping of Prime Minister Sjahrir on June 28, 1946, which is considered the end date of this cabinet. Soekarno took over the power of the cabinet and changed the cabinet system to a presidential cabinet on the grounds of an emergency.

Other changes in the constitutional system also occurred when the unitary state changed to the Republic of the United States of Indonesia, which used the 1949 RIS Constitution. The 1949 RIS Constitution did not apply for a long time because the following year it was decided to return to a unitary state, which was accommodated by the 1950 Constitution. The implementation of these two constitutions had direct implications for cabinet change.

The last event that can be categorized as the last change in the state administration system was when the era of parliamentary democracy ended because Soekarno implemented his idea to implement guided democracy. This event also marked the end of the era of freedom for political parties in carrying out their activities, both in the formation and management of government as well as in carrying out functions in the legislature.

²⁵ OSMAN, Raliby. *Documenta Historica : Sedjarah Dokumenter Dari Pertumbuhan dan Perjuangan Negara Republik Indonesia*. Jakarta: Bulan Bintang, 1953.

²⁶ SUPRAPTO, Bibit. *Perkembangan Kabinet Dan Pemerintahan di Indonesia*. Jakarta, Ghalia Indonesia, 1985.

3.2. Resignation

Cabinets formed through coalitions, apart from dealing with opposition movements from their political opponents in parliament, also deal with internal dynamics in their cabinets among coalition participants. The larger the coalition formed, the greater the risk of potential dynamics among coalition participants or the more difficult it is to control the coalition. Each political party has its own ideology, vision, program, and policies, which can be different or even contradictory. If they gather in the same coalition, they need to make efforts to synergize, which in practice is not always successful. The failure to synergize between political parties in the coalition can have implications for cabinet instability.

This phenomenon also occurs in parliamentary cabinets in the constitutional history of the Republic of Indonesia, and there is even a phenomenon of failure to build internal synergy within a political party, which has implications for cabinet instability. Several cabinets began to disrupt the synergy among coalition participants when dealing with steps taken by opposition groups in or outside parliament. When the parliament begins to raise motions or even decide on motions against policies made by the cabinet, there is a phenomenon where coalition participants do not face it unanimously; they tend to have their own opinions. During the implementation of the parliamentary system, both in the 1945 Constitution and the 1950 Constitution, the cabinet leadership, when faced with this reality, did not wait for a vote of no confidence in the cabinet but chose to take the step of resigning because they felt that their support from the coalition participants themselves was not strong.

Scenarios such as the one above occurred among others in the cabinets of Sjahrir III, Amir Sjarifuddin, Natsir, Sukiman, Wilopo, Ali Sastroamidjojo I and Ali Sastroamidjojo II. All of the cabinet leaders resigned by handing over their mandate to the president because they had lost the support of the coalition participants themselves.

The civil service attitude of state leaders or a political culture that upholds high integrity led to the resignation of state officials who felt they were not optimal or received less support, which often occurred in the early days of independence. The prime minister at that time resigned several times, which resulted in the dissolution of the cabinet he led.

Sutan Sjahrir, who led three cabinets during the 1945 Constitution, lost his cabinet twice due to his resignation from the position of prime minister. Sjahrir's first resignation occurred when he led the Sjahrir I Cabinet, which was the first cabinet in a parliamentary system. Sjahrir's resignation at that time was due to the widespread opposition movement carried out by the Union of Struggle, led by Tan Malaka. The Union of Struggle (Persatuan Perjuangan) succeeded in gathering various socio-political forces both inside and outside the parliament. This group explicitly wanted the fall of the Sjahrir I Cabinet and the formation of a cabinet that accommodates the political forces

that are members of the Union of Struggle.²⁷ The attitude conveyed by the Union of Struggle can be said to have received great support, especially because it brought up the issue of “national unity” and managed to portray itself as representing a broad national desire even more than that represented in the KNIP, which was the people’s representative institution at that time.²⁸ The great support for the United Struggle caused their pressure to be ignored by KNIP as parliament and by Sukarno as head of state.²⁹ Sjahrir, realizing that his position lacked support, suddenly resigned.³⁰ Thus, the fall of Sjahrir I’s Cabinet was not due to the decision of the vote of no confidence mechanism in parliament, but because of political pressure which caused Sjahrir to resign.

Sjahrir also resigned when he led the Sjahrir III Cabinet because he felt he had lost the support of the influential political parties at that time. The political pressures that resulted in Sjahrir’s resignation began with the attitude of the political parties towards the Linggarjati Agreement carried out by the Sjahrir Government with the Dutch. The political parties felt that the agreement did not benefit Indonesia, plus the policies made by Sjahrir in response to the agreement gave more concessions to the Dutch. As a result, political parties expressed their refusal, even those that initially supported Sjahrir. Although no vote of confidence was carried out in parliament, because he felt his support was getting smaller, Sjahrir resigned on June 27, 1947.³¹

4. THE FALL OF EXECUTIVE POWER IN THE PRESIDENTIAL SYSTEM IN INDONESIA

Moh. Kusnardi and Harmaily Ibrahim share the same view in categorizing the Indonesian system of government. They stated that, according to the 1945 Constitution, the government system follows a quasi-presidential model³². They argue that the provisions in Articles 4 and 17 of the 1945 Constitution, which determine the president as head of government (chief executive) yang memberikan kewenangan bagi presiden untuk appoint and dismiss ministers, indicate that this system is presidential. However, when looking at the president’s accountability to the People’s Consultative Assembly (or in Bahasa it calls Majelis Permusyawaratan Rakyat (MPR)), it is clear that the 1945 Constitution employs the characteristics of a parliamentary system. The position of the president as the mandate of the MPR also shows the existence of parliamentary supremacy.³³

²⁷ SUPRAPTO, Bibit. **Perkembangan Kabinet Dan Pemerintahan di Indonesia**. Jakarta, Ghalia Indonesia, 1985.

²⁸ SUPRAPTO, Bibit. **Perkembangan Kabinet Dan Pemerintahan di Indonesia**. Jakarta, Ghalia Indonesia, 1985.

²⁹ SUPRAPTO, Bibit. **Perkembangan Kabinet Dan Pemerintahan di Indonesia**. Jakarta, Ghalia Indonesia, 1985.

³⁰ SUPRAPTO, Bibit. **Perkembangan Kabinet Dan Pemerintahan di Indonesia**. Jakarta, Ghalia Indonesia, 1985.

³¹ NOER, Deliar. **Partai Islam Di Pentas Nasional 1945-1965**. Jakarta: Grafiti Press, 1987.

³² KUSNARDI, Moh; IBRAHIM, Hermaily. **Pengantar Hukum Tata Negara Indonesia**. Jakarta: Sinar Bakti, 1988.

³³ KUSNARDI, Moh; IBRAHIM, Hermaily. **Pengantar Hukum Tata Negara Indonesia**. Jakarta: Sinar Bakti, 1988.

Moh. Mahfud MD uses the same terminology as Moh. Kusnardi and Harmaily Ibrahim in naming the Indonesian government system according to the 1945 Constitution. According to Mahfud MD, the 1945 Constitution's constitutional system of government is quasi-presidential. Mahfud explained that there are characteristics of the presidential system contained in the body and explanation of the 1945 Constitution, namely: (a) Article 4 paragraph (1) which states the President as the holder of government power, (b) Article 17 paragraphs (1) and (2) which state that the President is assisted by ministers of state, and the ministers are appointed and dismissed by the President, (c) In the explanation of the 1945 Constitution there is a key point that emphasizes the characteristics of the presidential system, namely in the fourth point of view, which states that the President is the organizer of the state government and that the powers and responsibility rest with the president. Furthermore, the characteristics of the presidential system are contained in the sixth main idea, which states that the ministers of state are assistants to the President. State ministers are not responsible to the House of Representative (or in Bahasa it called Dewan Perwakilan Rakyat (DPR)). The president appoints and dismisses ministers who are not responsible to the DPR. Its position does not depend on the council, but rather on the President. They are assistants to the president.³⁴

Mahfud added that, in addition to the presidential characteristics, there are also features of a parliamentary system, which makes the government system in the 1945 Constitution called "quasi-presidential". According to Mahfud, although the President is not responsible to the DPR and the DPR cannot overthrow the President, the President is responsible to the MPR; while the members of the DPR are all members of the MPR. The regulation regarding the President being responsible to the MPR, was considered by Mahfud, in fact the President was indirectly responsible to the DPR which are member of the MPR.³⁵

The opinion of the scholars of constitutional law who considers that the system of government according to the 1945 Constitution contains two characteristics of the government system at the same time seems parallel to the discussion in the BPUPK, which presents a critique of the two popular government systems in the world at that time (parliamentary and presidential) as well as the desire to formulate a unique system with its own characteristics. Combining the characteristics of a parliamentary and presidential system of government in a system of government that applies in a state can be said to be an original thought from the formulators of the 1945 Constitution. The mixed system of government was only popular around the world after France imposed it in the French Fifth Republic in 1958.³⁶

³⁴ MD, Mahfud. **Dasar dan Struktur Ketatanegaraan Indonesia**. Jakarta: Rineka Cipta, 2001.

³⁵ MD, Mahfud. **Dasar dan Struktur Ketatanegaraan Indonesia**. Jakarta: Rineka Cipta, 2001.

³⁶ MANUEL, Paul; CAMMISA, Anne Marie. **Checks and Balances?: How a Parliamentary System Could Change American Politics**. Westview Press, 1998.

However, there are also constitutional law experts who view what was actually formulated by the formulators of the 1945 Constitution as a presidential system. Jimly Asshiddiqie is one of the experts who explicitly states that the government system adopted by the 1945 Constitution is a presidential system. It even mentions that the 1945 Constitution does not regulate the existence of a parliamentary cabinet government at all. For example, the case of the implementation of the 1945 Constitution shows presidential characteristics, namely when the first cabinet was formed on September 2, 1945, whose cabinet composition was responsible to President Soekarno.³⁷

In the group that believes that Indonesia adheres to a pure presidential system, there is the name Abdul Hamid Attamimi, who explicitly states that the 1945 Constitution adheres to a pure presidential system. This professor in the field of legislation stated that the system of government according to the 1945 Constitution places the president as the state administrator who runs the state government.³⁸ Hamid Attamimi clearly distinguishes the positions of the DPR as a representative institution and the MPR as an institution that embodies the people's sovereignty (based on the explanation of the 1945 Constitution).³⁹ The position of the MPR is not a representative institution, Attamimi does not place the MPR as a parliament. Attamimi places the MPR as an institution that fully implements the sovereignty of the people, so that the MPR can be considered as the people themselves. Thus, all the arrangements for the relationship between the president and the MPR contained in the 1945 Constitution cannot be considered as a form of relationship between the executive and the legislature.

Bagir Manan is also an expert in constitutional law who argues that the system of government according to the 1945 Constitution is a presidential system. Manan explained the misunderstanding regarding the position of the MPR that led to differences of opinion regarding the system of government according to the 1945 Constitution. Bagir Manan first explained the presidential characteristics in the 1945 Constitution. According to him, apart from the fact that the president is the head of government, there are also: a). There is a certainty that the presidential term of office is five years. b). The President is not responsible to the DPR c). The President cannot dissolve the DPR (Manan, 1995). Then Manan explained that there were differences in interpreting the government system contained in the 1945 Constitution. According

³⁷ ASSHIDDIQIE, Jimly. **Konstitusi dan Konstitusionalisme Indonesia**. Jakarta: Sekretariat Jenderal dan Kepaniteraan MKRI, 2005.

³⁸ ATTAMIMI, Hamid. **Peranan Keputusan Presiden Republik Indonesia dalam Penyelenggaraan Pemerintahan Negara Suatu Studi Analisis Mengenai Keputusan Presiden yang Berfungsi Pengaturan Dalam Kurun Waktu Pelita I-Pelita IV**. Doctoral Dissertation Universitas Indonesia, 1990.

³⁹ ATTAMIMI, Hamid. **Peranan Keputusan Presiden Republik Indonesia dalam Penyelenggaraan Pemerintahan Negara Suatu Studi Analisis Mengenai Keputusan Presiden yang Berfungsi Pengaturan Dalam Kurun Waktu Pelita I-Pelita IV**. Doctoral Dissertation Universitas Indonesia, 1990.

to him, the assumption of a parliamentary system in the 1945 Constitution was due to understanding the position of the MPR as a legislative body so that the president's responsibility to the MPR was considered the responsibility of the executive power to the legislature.⁴⁰

Manan argues that the MPR is not a legislator. The 1945 Constitution stipulates that laws are formed by the president with the approval of the DPR. Therefore, the MPR is not a legislative body, so the president's responsibility to the MPR is not an accountability to the legislature, nor is the cabinet's responsibility to the parliament as contained in the parliamentary system. Accountability to the MPR is a constitutional effort for checking and balancing. Thus, according to Bagir Manan, there is no characteristic of the parliamentary system adopted by the 1945 Constitution.⁴¹

Differences in interpretation of the system adopted by the 1945 Constitution, as stated by Bagir Manan, can indeed be seen from differences in understanding of the concept of the President's responsibility to the MPR or more focused on the position of the MPR in the constitutional structure. For those who think that the MPR is a parliament or legislative body, they will assume that there is a parliamentary feature in the 1945 Constitution, but if they consider the MPR to be neither a parliament nor a legislative body, they will conclude that the system of government according to the 1945 Constitution is a presidential system.

In the 1945 Constitution, there are no specific rules regarding the formation and management of coalitions, but the rules related to the government system that contain elements in the parliamentary system and presidential system cause coalition arrangements according to the 1945 Constitution to occur in the parliamentary system and presidential system at the same time. In the perspective of the coalition, elements in the parliamentary system seem to have more influence in the formation and management of government. The position of the MPR as a form of executive power and at the same time determining the continuity of executive power makes the MPR like a parliament that forms a government in a parliamentary system. The formation of government in the MPR is similar to that found in a parliamentary system, where elections do not form the government because the winner of the general election is not always the holder of executive power. Thus, the ability to get support in the MPR will determine a person's success in winning executive power. Every political power that wants to win the presidential seat must expand its support in the MPR. In an election that is not won with absolute certainty, the ability to assemble a coalition will determine the success of winning the election in the MPR. Likewise, in order to survive in his administration, a president must be able to maintain majority support in the MPR because according to

⁴⁰ MANAN, Bagir. **Perkembangan dan Pertumbuhan Konstitusi Negara**. Bandung: Mandar Maju, 1995.

⁴¹ MANAN, Bagir. **Perkembangan dan Pertumbuhan Konstitusi Negara**. Bandung: Mandar Maju, 1995.

the 1945 Constitution and its elucidation, the MPR plays a large and decisive role in the dismissal of the president.

However, the post filling in the MPR and the status of the MPR which is not as a parliament, cause the practice of coalitions as in the parliamentary system to not be fully enforced. MPR is not fully filled through political representation; there is a mechanism for filling MPR positions through regional delegates and group representatives, whose recruitment process can be through appointment. Even the DPR, which is a political representative institution, is not explicitly defined by the 1945 Constitution and must be elected through general elections. With this arrangement, it is possible that the political power in the MPR will be dominated by those who have the power to appoint regional delegates, group representatives, or even members of the DPR. The president, who also acts as head of state, is the most likely person to take this action. Thus, the president will be able to continue to maintain his power because he has dominant support in the MPR.

TABLE 2. THE FELL OF THE EXECUTIVE POWER IN INDONESIA IN THE PRESIDENTIAL GOVERNMENT SYSTEM⁴²

Executive	Period	Government System	Executive Interruption	Background
<i>Soekarno</i>	18 Agustus 1945 – 14 November 1945	Presidentialism	Changes in the constitutional system	The publication of the Declaration of November 14, 1945, changed to a parliamentary system
<i>Sjahrir III</i>	2 October 1946 – 27 June 1947	Presidentialism	Resignation	The rift in the Socialist Party which is the prime minister's party and the rift among the coalition participants
<i>Sjafruddin Prawiranegara (Indonesia's Emergency Government)</i>	19 December 1948 – 13 Juli 1949	Presidentialism	End of state of emergency	Emergency government in Bukittinggi

⁴² ARSIL, Fitra. **Sistem Parlemen Indonesia: Kajian Pemberlakuan Sistem Parlemen di Indonesia**. Jakarta: Publica Indonesia Utama, 2023.

<i>Susanto Tirtoprodjo (RI)</i>	20 December 1949 – 21 January 1950	Presidentialism	Changes in the constitutional system	Return to the unitary state and the enactment of the 1950 Constitution
<i>Abdul Halim (RI)</i>	21 January 1950 – 6 September 1950	Presidentialism	Changes in the constitutional system	Return to the unitary state and the enactment of the 1950 Constitution
<i>Soekarno</i>	9 July 1959 – 25 July 1966	Presidentialism	Impeachment	The Special Session of the MPRS issued Decree No. XXXIII/MPRS/1967 concerning Revocation of Power of State Administration from President Soekarno (Sunarno, 2011).
<i>Soeharto</i>	27 March 1968 – 21 May 1998	Presidentialism	Resignation	Declaring for resignation and hand over the position to Vice President Habibie.
<i>B.J. Habibie</i>	21 May 1998 – 20 October 1999	Presidentialism	Changes in the constitutional system	Accountability of B.J. Habibie was rejected by the MPR, but was not followed up by the dismissal from the position of President. Although it was not followed up with dismissal, it was followed by the election of the President

4.1. Changes in the constitutional system

Indonesia's system of government has undergone repeated changes. Initially, Indonesia used the Presidential system of government as stipulated in the 1945 Constitution. However, there was a change in the system of government to parliamentary that was marked by the Vice Presidential Decree Number X of 1945 dated 14 November 1945 which placed the Central Indonesian National Committee as a temporary representative body of the people/parliament until the holding of general elections. This

condition made Soekarno as President lose his executive power and was replaced by Sutan Syahrir who served as Prime Minister.

From then on, the Indonesian government system used a parliamentary system until the emergence of Presidential Regulation Number 1 of 1946 which contained the return of the holder of executive power to the President. This change resulted in the fall of the Syahrir II cabinet which was then replaced by the Syahrir III cabinet. The cabinet was then replaced by the Amir Syarifuddin Cabinet which again used the Parliamentary Government System.

The change of government system to presidential again occurred during the emergency government of the Indonesian republic. At this time, executive power was held by Syafruddin Prawiranegara as President of the government. This government ended at the end of the emergency period, which was marked by the return of the mandate to President Soekarno and the election of Mohammad Hatta as Prime Minister.

After that, the presidential system of government came back into effect after the formation of the Republic of Indonesia Union (RIS), which was the result of the Round Table Conference that gave Dutch recognition of Indonesia's independence. The formation of the RIS did not eliminate the existence of the Republic of Indonesia which remained in the Indonesian constitutional system. The repeated changes of government system in a short period of time resulted in government instability because there was no certainty of governance.

The validity of the Presidential system of government in Indonesia itself ended when the Temporary Constitution of 1950 was enacted which re-implemented the Parliamentary system of government. This system was in effect until the Presidential Decree of 5 July 1959 which restored the enactment of the 1945 Constitution. After that, Indonesia has consistently applied the presidential system of government until today.

4.2. Resignation

Resignation is one of the ways for a president to relinquish power according to the 1945 Constitution. Article 8(1) of the 1945 Constitution states that: "(1) If the President dies, resigns, is dismissed, or is unable to perform his obligations during his term of office, he is replaced by the Vice President until the end of his term of office". The meaning of the word stop, according to Yusril Ihza Mahendra, includes the resignation of the President/Vice President. The article in fact has existed since the original 1945 Constitution, which indicates that Indonesia has regulated the existence of the transfer of power using the resignation mechanism.

In Indonesian constitutional practice, there was only one resignation by President Soeharto. The resignation was carried out on 21 May 1998 and handed over power to President Habibie after more than 32 years in power. This resignation itself was unique because it did not mention the word resign at all and instead mentioned the word stop from office, which is the same as mentioned in the 1945 Constitution.

4.3. Impeachment

Impeachment is also one of the ways of dismissing the president regulated in the 1945 Constitution. Unfortunately, impeachment in the original 1945 Constitution did not have a clear arrangement. This led to the emergence of conditions of abuse of power that occurred in the application of impeachment before the amendment of the 1945 Constitution where its implementation was based solely on political elements. This can be seen from the impeachment cases against President Soekarno and President Abdurrahman Wahid. In the case of President Soekarno, TAP MPRS Number XXVII/MPRS/1966 regarding the Revocation of Mandate to President Soekarno was issued after the rejection of President Soekarno's Accountability Report related to the handling of crimes committed by the Indonesian Communist Party and the uncontrollability of the economy marked by high commodity prices. A more political element can be seen in the impeachment of President Abdurrahman Wahid on 23 July 2001. Abdurrahman Wahid was impeached based on MPR Decree No. II/MPR/2001 on the revocation of his mandate. This impeachment action was motivated by the occurrence of scandalous cases accused of President Abdurrahman Wahid such as Buloggate and Bruneigate which were never tried legally, so the truth was unknown.

4.4. End State of Emergency

An emergency situation in Indonesia occurred on 19 December 1948 when the Dutch captured President Soekarno and Vice President Mohammad Hatta in Yogyakarta, causing a power vacuum. The power vacuum triggered the Emergency Government of the Republic of Indonesia in Bukittinggi led by Syafruddin Prawiranegara. The existence of this Emergency Government ended with the end of the emergency condition marked by the handover of the mandate back to President Soekarno by Syafruddin Prawiranegara.

5. THE FAILURE OF EXECUTIVE POWER IN INDONESIA

TABLE 3. EXECUTIVE INTERRUPTION’S CLASSIFICATIONS

Govt System		Changes in the constitutional system		
Presidentialism	Soekarno, 1945	Abdul Halim, 1950	Susanto Tirtoprodjo, 1950	B.J. Habibie, 1998
	Sjahrir II, 1946	Syafruddin Prawiranegara, 1948	Hatta, 1949	Burhanuddin Harahap, 1955
Parliamentary	Djuanda, 1959			
Govt System		Resignation		
Presidentialism	Soeharto, 1998			
	Sjahrir I, 1946	Sjahrir III, 1947	Amir Sjarifuddin I, 1947	Amir Sjarifuddin II, 1948
Parliamentary	Natsir, 1951	Sukiman, 1952	Wilopo, 1953	Ali Sastroamidjojo I, 1955
	Ali Sastroamidjojo II, 1957			
Govt System		Impeachment		
Presidentialism	Soekarno, 1966	Abdurrahman Wahid, 2001		

Based on its constitutional journey, Indonesia has repeatedly changed its system of government. This certainly led to frequent changes in the holders of executive power. This condition resulted in the instability of the government in Indonesia, especially in the early days of Indonesian independence. This can be seen from the repeated resignations made by a Prime Minister who led the cabinet.

The resignation occurred due to executive interruption in the form of cabinet instability that occurred due to the withdrawal of support from the coalition political parties from the cabinet. This has happened several times in the case of Indonesia, as happened to Natsir who resigned because of the withdrawal of support from his own party, the Masyumi Party, due to policies taken by the Minister of Home Affairs Asaat. In

addition, there are non-formal political reasons for the resignation of a prime minister as happened in the case of Ali Sastroamidjojo I's cabinet who resigned because of the strained relationship between the government and the military.

The failure that occurred in Indonesia is in line with the arguments of experts who state that the parliamentary system of government is a disaster for the stability of a country's government because of its dependence on the support of the supporting political parties. The conditions in Indonesia are basically more complicated than what is theoretically arranged. This is because Indonesia at the beginning of independence often experienced changes in the constitution and form of state which resulted in changes in the system of government. The repeated changes in the system of government created instability, especially when the parliamentary system of government was used.

With various configurations of cabinet appointments becoming more complicated, a parliamentary system of government would ideally be more stable. Unfortunately, this is not the case in Indonesia where the government under a parliamentary system of government is more easily overthrown even for non-formal reasons. This led to negative assumptions about the parliamentary system of government that led to the change to a presidential system of government that continued to apply in Indonesia after the issuance of the Presidential Decree on July 5, 1959.

The presidential system of government basically raises a fundamental problem in the form of the presence of double legitimacy because the holders of executive and legislative powers are directly elected by the people. This results in both institutions feeling that they have direct popular support, leading to friction and poor relations between the two. Apart from this, the existence of the presidential system of government is the answer to the uncertainty of the term of office of the parliamentary system of government with the concept of a fixed term for the term of office of a holder of executive power, in this case the President.

With the existence of an unharmonious relationship between the President and the Legislative Institution, it raises the vulnerability of the impeachment process against the president. This is the case in Latin America, which has experienced dozens of impeachments during the presidential system of government.⁴³ Impeachment is often followed by a military coup, which means the abolition of the democratic system in a country.

As a comparison, the phenomenon of the change of executive power in the United States can be seen. In the history of the US federal government, there have been nine changes of President in a period of more than two centuries (1789–2023). Eight times the change was due to death (four times due to killing and four times due to illness), while the resignation occurred only once, namely with the resignation

⁴³ PÉREZ-LIÑÁN, Aníbal. **Presidential Impeachment and The New Political Instability in Latin America**. Cambridge University Press, 2007.

of President Richard Nixon (the 37th President (1969–1974)). There has never been a change in presidential power in the United States because the president was removed from office or declared incapable of health (declaration of inability).

This is not the case in Indonesia where there have only been two impeachments throughout the Indonesian constitutional process, against President Soekarno and President Abdurrahman Wahid. Both impeachment cases were political and determined by the legislature alone. In the case of President Soekarno, impeachment was carried out by issuing TAP MPRS Number II/MPRS/1966 concerning the revocation of the government mandate from President Soekarno. The revocation of the mandate was due to the MPRS rejection of the accountability report given by President Soekarno on the issue of PKI crimes and the uncontrollability of the economy, which in this case was reflected in soaring commodity prices.

More complicated conditions were experienced during the impeachment of President Abdurrahman Wahid on July 23, 2001. President Abdurrahman Wahid was impeached by the MPR through TAP MPR Number II/MPR/2001 on the revocation of his mandate on the basis of his involvement in the Bruneigate case, which involved the management of aid funds from the Sultan of Brunei to Indonesia, and Buloggate, which involved the regulation of food commodity prices. With these tendentious accusations, President Abdurrahman Wahid did not have the opportunity to prove his guilt legally because there was only a political process taking place against him.

The conditions that befell President Abdurrahman Wahid prompted the creation of special arrangements regarding Impeachment in Articles 7A and 7B which provide restrictions on impeachment based on rigid reasons such as treason against the state, corruption, misconduct, and criminal acts. Furthermore, the restriction is strengthened by the existence of a rigid procedure that includes the judicial power, namely the Constitutional Court, to prove the wrongdoing alleged against the President. With such rigid arrangements, it is evident that no Indonesian President has experienced Impeachment after the amendment of the 1945 Constitution of the Republic of Indonesia.

6. UPDATE OF THE EXECUTIVE INTERRUPTION MECHANISM IN INDONESIA

The political process is indeed decisive in the process of impeaching the president in Indonesia because it lies at the beginning and the end of the process. However, the political process of making the final decision on the dismissal of the president still leaves opportunities for the president who fails to build a majority coalition in the DPR. The existence of a legal process with the involvement of the judiciary as a determinant of whether a violation of the law occurs or not, which results in the continuation or termination of the impeachment process, adds to the protection for the Indonesian

president from dismissal decisions. Although Indonesia's presidential system provides an opportunity to impeach the president, the process can be said to be difficult.

One more opportunity for the dismissal of the president, which is widely applicable in the presidential systems of Latin American countries, is the declaration of incapacity, which provides the parliament with the opportunity to dismiss the president in the event that the president no longer meets the requirements as president. In the constitutions of countries in Latin America, the president is considered incapacitated if he is physically and mentally ill. The process of dismissal through this route seems more political because the involvement of institutions other than parliament as a determinant in this process is limited and contains controversy. There are countries that involve the judiciary, as stated in the Chilean Constitution, while others involve authorities in the health sector, such as doctors, as contained in the El Salvador Constitution.

In the 1945 Constitution of the Republic of Indonesia, there are two provisions that can be interpreted as conditions of incapacity that make it possible to change the president. These provisions are contained in Article 7A or Article 8 paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Article 7A is an article that contains the reasons a president can be impeached, which consist of violations of the law (treason to the state, corruption, bribery, serious crimes, and despicable acts) and because the president no longer qualifies as president. The condition no longer meets the requirements as president according to Article 10 paragraph (3) letter e of Law Number 24 of 2003 concerning the Constitutional Court is a requirement as stipulated in Article 6 of the 1945 Constitution of the Republic of Indonesia, namely an Indonesian citizen since his birth and has never received other nationalities of their own free will, have never betrayed the state, and are spiritually and physically capable. These conditions seem broader than the conditions of incapacity contained in the constitutions of Latin American countries, which are generally associated with health requirements.

If the president does not meet the conditions based on Article 6 paragraph (1) of the 1945 Constitution post amendment then the DPR can start the impeachment process, and the next procedure is the impeachment process as mentioned above. This means that it must go through a legal process and then be decided by the MPR. Thus, the process of dismissing the president because of incapacity is the same as because the president has violated the law. In Article 8 paragraph (1) there is indeed one reason for the change of president, which can also be interpreted as experiencing incapacity or inability, namely that the president is replaced because he is "unable to carry out his obligations". However, the 1945 Constitution post amendment and other laws and regulations do not further stipulate the criteria for "unable to carry out its obligations," which institutions determine which institutions, and what procedures must be followed to process these conditions.

From the entire mechanism for dismissing the president and the cabinet contained in the 1945 Constitution post amendment other laws and regulations, it seems that it is not easy to dismiss the president in the presidential system that applies in Indonesia. There are fewer ways to dismiss a president than those found in presidential countries in Latin America, more difficult procedures, and the political process, although it has an important role, is not absolutely dominant in all steps towards presidential dismissal. Therefore, the majority coalition will indeed reduce the threat of dismissal, but stability is still possible even though the coalition built by the president in parliament is not an absolute majority.

In the context of supervising the government, the DPR institutionally has an instrument for using the DPR's Supervisory Rights which consist of the right of interpellation, the right of inquiry, and the right to express opinions, as confirmed by Article 20A paragraph (2) of the 1945 Constitution post amendment. The culmination of the implementation of the DPR's supervisory function, Article 7B paragraph (2) of the 1945 Constitution post amendment, states that the DPR can declare a violation of the law committed by the president and/or vice president.

When compared with Latin American countries, the rules for supervising the executive power that can result in the dismissal of executive power in Indonesia tend to be of less variety. The 1945 Constitution post amendment does provide an opportunity for the process of dismissing the president more firmly than the original 1945 Constitution, but in the process, there are protections for the president and/or vice president. In addition to the dismissal of the president through impeachment, Indonesia does not explicitly regulate the dismissal through the declaration of incapacity, which in Latin America is also the path taken to dismiss a president who is in power. In addition, Indonesia's presidential system also does not give parliament the power to carry out a motion of censure against a minister or the cabinet as a whole, which could result in the dismissal of a minister or the dissolution of the cabinet.

The dismissal of the president was explicitly included in the Indonesian Constitution in the Third Amendment of the 1945 Constitution. Article 8 paragraph (1) of the 1945 Constitution post amendment states that the basis for replacing a president who is in his term of office consists of 4 (four) types, namely passing away, quitting, being dismissed, and being unable to perform their obligations. This provision is a change from the previous rule in the original 1945 Constitution, which only contained three basic changes to the president during his term of office: death, retirement, and being unable to perform his obligations.

The 1945 Constitution post amendment also contains the reasons for the dismissal of the president in Article 7A and the mechanism that must be followed in the dismissal of the president in Article 7B. When compared with the impeachment mechanism found in the United States and Latin American countries as discussed in Chapter

II, the impeachment process regulated in the 1945 Constitution post amendment appears to be classified in the judicial model or judiciary dominant because the judicial power is quite decisive in the process. However, the impeachment process in Indonesia is still initiated by representative institutions, and the decision is finally made by the people's representative institutions (DPR).

In Article 7A, it can be seen that the reasons for impeachment are legal reasons. Every president and/or vice president who wants to be impeached must be suspected of violating the law in the form of treason against the state, corruption, bribery, other serious crimes, disgraceful acts, or no longer fulfilling the requirements as president and/or vice president. However, it is the DPR that accuses the president of violating the law. This is where the political process has begun; moreover, there is a form of violation in the form of a "disgraceful act" that has not been well defined as a legal offense. This means that the political process determines whether the president should be charged with violating the law or not. Furthermore, the process will be continued at the Constitutional Court, which will decide within 90 days whether the president has actually violated the law as charged by the DPR or not. If it is true that they have violated the law, the DPR will propose to hold an MPR Session to decide on the dismissal of the president. The Constitutional Court, as the implementing agency of judicial power, does determine the continuation of an impeachment process, but the decision to dismiss the president is based on the session of the political institution, namely the MPR.

Thus, as stated by Colomer and Negretto, Llanos and Marsteintredet, and Perez Linan, the parliament still has a decisive role in any impeachment process. Therefore, the opinions expressed by these experts also apply that the president's ability to form a majority coalition in parliament and the ability to maintain the solidity of the coalition determines the president's success in dealing with the threat of dismissal. Hamda Zoelva, Chairman of the Indonesian Constitutional Court, also has a similar opinion in the study of impeachment of the president in Indonesia. According to Zoelva, the relationship between the president and the legislature, which has great authority in the impeachment process, is very decisive in the impeachment process.

In its development, the law that further regulates this process is actually trying to protect the president through tough rules for the DPR to determine which president should be charged with violating the law. Law Number 27 of 2009, for example, provides a large quorum rule for making decisions on the right to express opinions, which is the entry point for the impeachment process of the president. Based on Article 184, paragraph (4) of Law no. 27 of 2009 concerning the MPR, DPR, DPD, and DPRD, stipulates that the proposal for the right to express the opinion of the DPR is approved if the DPR plenary meeting is attended by at least 3/4 (three-quarters) of the total members of the DPR and a decision is taken with the approval of at least 3/4 (three-quarters) of the number of DPR members present. The existence of this provision means that the

impeachment of the president can only be carried out by political forces that can form very large coalitions because they must control a minimum of 420 seats out of the total 560 seats in the DPR.

In practice, such a very large majority (qualified majority) will be very difficult to achieve by any political power because the president, however, still has political support from either his own party or other political parties that join his cabinet. Interestingly, this provision for a quorum is greater than the rules for initiating the process of indicting the president by the DPR as regulated in Article 7B paragraph (3) of the 1945 Constitution of the Republic of Indonesia. In this Article, it is determined that the submission of a request from the DPR to the Constitutional Court can only be made with the support of at least 2/3 of the total members of the DPR present in the plenary session attended by at least 2/3 of the total members of the DPR.⁴⁴

This prompted a review of the article by the Constitutional Court because the existence of Article 184 paragraph (3) of Law no. 27 of 2009 is considered contrary to the constitution and has the potential to weaken the oversight of the president and hinder the implementation of the constitutional rights of the DPR. (Indonesia Constitutional Court, 2010).⁴⁵ This means that the law does not succeed in increasing the requirements for presidential impeachment beyond those stipulated in the Constitution.

7. CONCLUSION

Political resignation as a form of instability in Indonesia turned out to be commonly used in the history of the state administration in Indonesia. In both the history of parliamentary and presidential systems, the resignation of the chief executive before a vote of no confidence or impeachment is a feature of the Indonesian constitution. According to this study, there are only two governance processes in the fall of the executive. The dominance of resignation in the process of the fall of executive power in Indonesia is a finding that demonstrates the executive's unwillingness to follow the constitutional legal process. This paper shows that this condition can occur, one of which is due to the absence of legal guarantees in the protection of motions of no confidence or impeachment prior to the amendment of the 1945 Constitution. Therefore, reforms in legal arrangements related to the imposition of executives are critical to the state process as part of the legitimacy of government power and constitutional legitimacy.

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