

The development of Indonesian State Concerns before and After Amendment to the 1945 Constitution

Sudi Fahmi^a, Adrian Faridhi^b, Hasnati^c, ^{a,b,c}Faculty of law Universitas Lancang Kuning Pekanbaru, Email: ^asudifh@unilak.ac.id, ^badrian@unilak.ac.id, ^chasnati@unilak.ac.id,

The state of Indonesia is a state of law, which experienced the development of state administration before and after the 1945 Amendments. Changes in the governmental system from presidential to parliamentary and vice versa occurred in the history of Indonesian state administration. The method used is a type of normative research. The formulation of the problem examined concerns the development of the Indonesian state administration before and after the amendment of the 1945 Constitution. The results of the research detail the Indonesian constitutional system after the amendment to the 1945 Constitution that has undergone very fundamental changes. These changes also affected the structure and structural mechanism of the organs of the Republic of Indonesia which could no longer be understood by old ways of thinking. Many new ideas were adopted within the framework of the 1945 Constitution.

Key words: *1945 Constitution, President, Amendment.*

Preliminary

The State of Indonesia is a State of law, as regulated in the 1945 Constitution Article 1 paragraph (3). The state of Indonesia, claims to be a state that has both written (Basic Laws) and unwritten constitutions (Constitutional Conventions and Conventions), therefore as a consequence all actions taken by both the state apparatus and its citizens must be based on the applicable constitution. This means that anything that does not obtain legality is seen as an unjustified act. The constitutional model that needs to be developed, namely the constitution which is determined and develops democratically based on the sovereignty of the people.



In carrying out state functions, Indonesia adheres to the principle of popular sovereignty. This is reflected in the provisions of Article 1 paragraph (2) of the 1945 Constitution (hereinafter abbreviated to 1945 Constitution), stating that "Sovereignty is in the hands of the people and fully implemented by the People's Consultative Assembly". After the amendment, Article 1 paragraph (2) reads "Sovereignty that is in the hands of the people and implemented according to the Basic Law". Thus, it can be stated that sovereignty is entirely in the hands of the people based on the Constitution .

According to Attamimi, the Indonesian state administration, especially in the government system, actually adheres to a purely presidential government system as adopted by the United States, the difference only lies in state ideals and state theory which embody e different state government systems between the United States and Indonesia (Attamimi, 1992: 2). The United States adheres to its own system on the basis of the principle of trias politica and Indonesia follows its own system on the basis of the president holding the power of state government according to the 1945 Constitution (Kusnardi, 1986: 171). Furthermore, the unclear system of government in Indonesia is also caused by changes in the 1945 Constitution which is partial, so that with this condition the process of making relations and working systems of the highest state institutions often overlap, and even tend to obscure the constitutional system itself.

The blurring of the government system as described above is only one example of the blurring of state administration in Indonesia. This research intends to carry out a critical analysis of the Indonesian state administration after the proclamation of 1945, which emphasizes the period before and after the amendment to the 1945 Constitution.

Formulation of problem

Based on the background of the research described above, the formulation of the problem in this study was raised in the form of research questions, namely the development of Indonesia's state administration before and after the amendment to the 1945 Constitution.

Research methods

This research uses normative legal research. Normative legal research is research conducted by examining the laws and regulations that apply to a particular legal problem. It is often referred to as doctrinal research, that is, research the object of which While the method used in this research is the statute and conceptual approacheskeeping the problems examined and discussed in this study are about the Indonesian constitution before and after Amendments to the Basic Law of the Year 1945.



The legal material collection techniques used in this study are description, interpretation and argumentation. Furthermore, legal material processing is carried out by means of a cyclical process (continuous). Activities undertaken in processing these legal materials are the collection of such materials for reducing legal documents, exposure to legal materials and conclusions or verification (conclusion/verification). This processed legal material is then concluded by the inductive method, which is to process from special to general conditions.

Results

Before the 1945 Constitutional Amendments

Both presidential and parliamentary systems applied in President Sukarno's political era in the early days of independence better known as the revolutionary period of independence, especially between August and November 1945, the functions of the People's Consultative Assembly, the House of Representatives, and the Supreme Advisory Council were fully carried out by President Sukarno, in accordance with Article 4 of the Transitional Rules of the 1945 constitution in force at the time.

Based on these considerations, the Vice President issued Information No. X, October 16, 1945 which included two things,,: permission to form parties and second, the objective of the Vice President's Declaration was the formation of the Central Indonesian National Committee as a substitute for the People's Consultative Assembly. The aim was "division of power" so that the House of Representatives and the People's Consultative Assembly were no longer held by the President. Then, starting on November 1, 1945, the cabinet was responsible to the Central Indonesian National Committee for Work, so that in practice what happened was the creation of a parliamentary system in which the central Indonesian national commission acted as Parliament (Magenda, 2007: 119).

Another reason for the change in the governmental system from presidential to parliamentary is that Indonesia wants to show other countries that it is a democratic independent state. Democratic countries according to Western nations at that time were always identical with multi-party and parliamentary systems. This is a strategy that was deliberately raised by the figures at the time so that Indonesia's independence would immediately be recognized by Western nations.

The ongoing parliamentary system in the context of the presidential 1945 Constitution did indeed create instability because the fate of the cabinet was determined by the central Indonesian national commission and not by the President. The President was merely the Head of State and not the Chief Executive Officer, which was actually held by the Prime Minister. Until the formation of the United Republic of Indonesia in December 1949, there were 3 (three) Prime Ministers, namely Sutan Sjahrir, Amir Sjarifuddin, and Muhammad Hatta.



Sutan Sjahrir and Amir Sjarifuddin both became Prime Minister on two occasions while Muhammad Hatta led the Presidential cabinet, but remained responsible to BP KNIP.

Dutch efforts to return to power in Indonesia provoked disputes, efforts were made to resolve Dutch disputes with the Republic of Indonesia, the United Nations intervened by holding a Round Table Conference in The Hague (Netherlands) from 23 August to 2 November 1949. This conference was attended by representatives of the Republic of Indonesia, BFO (Bijeenkomst voor Federal Overleg, which were a combination of puppet states formed by the Netherlands), and the Netherlands, as well as a UN commission for Indonesia.

As a consequence of the Round Table Commission, the state was formed in accordance with Article 1 paragraph (1) of the RIS Constitution which reads "An independent and sovereign Republic of the United States of America is a democratic and federated state of law". By changing into a union state (federation), the government system used during the enactment of the RIS Constitution is a parliamentary system. With the establishment of RIS on 27 December 1949, the Republic of Indonesia became one of the states of RIS.

Apart from the division of state territory, the RIS constitution also regulates the government system used, which is as follows. First, the prime minister is appointed by the president, not by parliament as is the usual custom. Second, the Prime Minister's power is still controlled by the President. Third, the Cabinet is formed by the president, not by parliament. Fourth, the Cabinet cannot declare a motion of no confidence in the cabinet. Fifth the President of RIS holds a dual position, namely head of state as well as the President of the Republic of Indonesia. Sixth, the President is the head of state whose authority cannot be contested and is elected by the people authorized by the regional governments.

The desire to reunite the union states was set out in the Charter of Agreement on May 19, 1950. To transform the union state into a unitary state requires a Constitution of the Unitary State. The Constitution will be obtained by inserting the contents of the 1945 Constitution plus a good portion of the Indonesian Republic's Constitution. On August 15, 1950 Federal Law No. 7 of 1950 concerning the 1950 Provisional Constitution was enacted, effective from August 17, 1950. The 1949 RIS Constitution was replaced by the 1950 Provisional Constitution, and the Republic of the United Republic Indonesia.

The 1950 Provisional Constitution consists of the Preamble and Body, which includes 6 Chapters and 146 Articles. The return of the unitary state form stated in Article 1 paragraph (1) of the 1950 provisional constitution "An independent and sovereign Republic of Indonesia is a democratic and unitary constitutional state." The provisional constitution of 1950 is a combination of elements from the Provisional Constitution of 1945 and from the Constitution of the Republic of Indonesia. According to the 1950 provisional constitution,



legislative power is vested in the president, cabinet and parliament. The government has the right to issue emergency laws or government regulations, although they also need to be approved by the People's Consultative Council in the next session. The president can also issue a decree if necessary. Nevertheless, the cabinet, both as a whole and individually, is still responsible to the House of Representatives who have the right to topple the cabinet altogether or to dismiss its ministers individually. The system of government adopted during the entry into force of the 1950 Provisional Constitution was a parliamentary system of government. In Article 83 paragraph (1) of the 1950 Provisional Constitution, it stated that "the President and Vice President cannot be sued." Subsequently, in paragraph (2) it is stated that "Ministers are responsible for all government policies, both together for all as well as each for its own part." This means that those responsible for all government policies are ministers. The ministers are responsible to the parliament or the House of Representatives. The president and vice president do not have daily functions of government, but are symbolic, for example by approving a new prime minister.

This parliamentary system has two main weaknesses: First, the fragmentation of the Indonesian parliament, where there is no majority seat controlling half of the parliamentary seats so that it is easy for political shocks to occur due to differences in political policy. Second, marginalizing state institutions such as the Indonesian National Army.

On July 5, 1959, the 1945 Constitution which was enacted as a provisional constitution, was declared in effect to replace the 1950 Constitution. In terms of government, in addition to giving a strong position to the government, the 1945 Constitution was more a guarantee of stable government. There are various other reasons for enacting the 1945 Constitution such as returning to the spirit of proclamation, not liberalism. Various weaknesses of the 1945 Constitution include strong executive power (the President) without executive checks and balances. Without an adequate balance of power system, the president's great power becomes less controlled and can lead to an authoritarian power system.

The government system in the era of New Order based on the 1945 Constitution prior to the amendment was a quasi-presidential (semi-presidential) government system because the system adopted by its presidential character was more prominent with parliamentary features, namely the existence of a People's Consultative Assembly whose status was as an institution highest state, where the president must submit and be responsible (Asshiddiqie, 2006: 324). In this case, the president is the organizer of the highest state government under the People's Consultative Assembly (Kansil, 2003: 185). The president is the mandate of the assembly, obliged to carry out the decisions of the assembly (Kansil, 2003: 189). With the government based on the constitutional system, the power of the government is not unlimited meaning it is not absolute. In effect, the constitution in the New Order was one that remained to be



based on the Presidential Decree of July 5, 1959 which re-enacted a constitution that was ratified on August 18, 1945 called the 1945 constitution (Maksudi, 2012: 239).

During President Soeharto's administration which served for more than 32 (thirty-two) years, the presidential institution was not only regulated in the constitutional articles, but also regulated in the constitutional explanation, namely through the provisions of the people's consultative assembly (Maksudi, 2012: 240). With this legal foundation, presidential institutions, especially the President, become high institutions that have "Super Power" status compared to other high institutions.

The constitutional crisis that began with the fall of Sukarno in 1998 provided an opportunity to make fundamental changes to the 1945 constitution. Many believe that one of the causes of the crisis was the inability of the 1945 constitution to anticipate abuses in the practice of state administration. For a long period, the 1945 Constitution has become a powerful political instrument that develops authoritarianism and fosters the practice of collusion, corruption and nepotism around the President's power (Asshiddiqie, 2001). Therefore, in the reform period following the end of Sukarno's rule, the agenda for changing the 1945 Constitution became necessary. It is understandable that it is not possible to carry out political and economic reforms without reforming the law. Legal reform is not possible without making changes to the constitution (constitutional reform) (Isra, 2002).

After the 1945 Amendments

Observing all the results of changes made by the MPR, there are some important observations that can be made. First, all articles have been changed except Article 4, 10 and Article 12. Second, there was (1) the addition of 4 new chapters (from 16 chapters to 20 chapters), (2) the addition of 25 new chapters (from 37 articles to 72 articles), and (3) the addition of 120 new verses (from 49 verses to 169 verses). Third, the abolition of explanation as part of the 1945 Constitution took place. Such profound changes have implications for the state structure, namely the occurrence of fundamental institutional changes. The implications of change not only occur in the structure of state institutions but also changes in the overall constitutional system.

Indonesia's constitutional system in the reform era [text missing] precisely after the amendment to the 1945 constitution until now. First, the People's Consultative Assembly no longer has the position of the highest state institution and the holder of the highest people's sovereignty. The abolition of the system of the highest state institutions is a logical step to get out of the trap of ambiguous state administration design in creating a check and balance mechanism among state institutions. During this time, the MPR model as "the holder of the full sovereignty of the people" has trapped Indonesia in the ideas of a state that developed



after the Middle Ages to justify absolute power. The supremacy model of the People's Consultative Assembly is more closely attached to Jean Bodin's theory that sovereignty is the highest power over citizens without any restrictions that are single, original, eternal, and cannot be divided (Soehino, 1996: 32). This change can be seen from the courage to "restore" the people's sovereignty by amending Article 1 paragraph (2) of the 1945 Constitution stating that sovereignty is in the hands of the people and fully carried out by the People's Consultative Assembly and implemented according to Law 1945. This amendment was followed by another major step, namely the amendment of Article 2 paragraph (1) of the 1945 constitution of the People's Consultative Assembly consisting of members of the People's Legislative Assembly plus representatives from regions and groups. -

The MPR group consists of members of the DPR and members of the Regional Representative Council elected through general elections. Amendments to the provisions contained in Article 1 paragraph (2) and Article 2 paragraph (1) of the 1945 Constitution have implications for repositioning the role of the People's Consultative Assembly from the supreme body of the state (supreme body) to the extent of a joint session between the Council's regional representatives and regional representative councils.

Second, the elimination of the unicameral system with the supremacy of the MPR and the emergence of a bicameral system. In a bicameral system, each room reflects a different type of representation, namely the DPR is a representative of the population while the House of Representatives is a representation of the region). This change has become a necessity because so far the Regional Envoy in the People's Consultative Assembly has not participated in making national political decisions in law ranking. According to Ramlan Surbakti, regional representation in the People's Consultative Assembly is very ineffective in realizing regional aspirations and interests (Surbakti, 2002: 24). In addition, the presence of the Regional Representative Council provides an alternative solution to the pattern of structuring the centralistic political system over the past five decades. The new round of the constitutional system will be far more meaningful when devolution and deconcentration become inherent traits in giving birth to public policy because it is positively correlated with the expansion of participation through the presence of the local House of Representatives (Widjojanto et al, 2002: 75). Many people hope that the bicameral system can create a balance between state institutions so that the mechanism of checks and balances runs without an institution that has more power than others.

Third, change in the process of selecting the President and Vice President from the representative system to the direct election system. This change is inseparable from the "bitter" experience that occurred in the process of filling the positions of President and Vice President during the New Order and the 1999 presidential election. There is a fundamental reason (*raison d'être*) for this change. The President and Vice President who are elected



through direct elections will have more real mandate and support of the people as a form of social contract between the voters and the chosen figures. The will of those who vote (*volonte generale*) will be a guideline for the President and Vice President in exercising their power. Direct elections will automatically avoid political intrigues in the electoral process with a representative system. Political intrigue will easily occur in a multi-party system, particularly if the general election does not produce a majority winning party, political bargaining becomes something that is inevitable. For example, Megawati's failure to become President at the General Session of the People's Consultative Assembly in 1999 provided a "new awareness" that the system of representation in providing the President with enormous opportunities for political forces in the People's Consultative Assembly to betray the wishes of the majority of the Indonesian people. The victory of the Indonesian Democrat Party and the struggle in the 1999 general election could mean that most of the *volonte generale* had "sovereign" Megawati to lead Indonesia. But because of current political considerations, the results of the 1999 presidential election became a political irony in the process of growing democracy in Indonesia, direct elections will provide broad opportunities for people to make choices directly without representing others (Haramain, 2001: 10). This tendency in the representative system is a deviation between the aspirations of the people and their representatives. This is further exacerbated by the dominant influence of political parties that have changed the function of people's representatives to become political party representation. Direct elections can create a balance between various forces in the administration of the state, especially in creating a mechanism of checks and balances between the President and the representative institutions because they are both elected by the people. During this time, , the Assembly of the people's *permusyawaratan* became a source of power in the country because the provision stating that this Institution is the holder of people's sovereignty. This power is distributed vertically to high institutions in other countries including the President. As a result, the continuity of the President's position depends very much on the People's Consultative Assembly (Isra, 2001: 24).

Changes to the terms of the election for the President and Vice President are stated in Article 6A of the 1945 Constitution as follows: (1) The President (and Vice President) are elected in a pair directly by the people. (2) Pairs of candidates for the President (and Vice President) are proposed by political parties or a combination of political parties participating in the general election prior to the holding of general elections. (3) Pairs of candidates for President (and Vice President) who get more than 50% (fifty percent) of the total votes in the general election with at least 20% (twenty percent) of the votes in each province spread over more than $\frac{1}{2}$ (half)) the number of provinces in Indonesia, were appointed as President (and Vice President). (4) In the event that there are no elected pairs of candidates for President and Vice President, the two pairs of candidates who obtain the most votes in first and second place in the general election are elected by the people directly and the pairs who get the most popular



votes are appointed as President and Vice President. (5) The procedures for carrying out the election of President and Vice President are further regulated by law.

The fourth consideration is the increasingly clear impeachment mechanism. Before the changes were made, the articles of the 1945 Constitution did not explicitly contain the provisions regarding impeachment. The instrument to exercise this control can be seen in the General Explanation of the 1945 Constitution which states, "... Therefore, the House of Representatives can always oversee the actions of the president and if the Council considers that the president is in violation of the state guidelines set by the Law The Constitution or by the MPR, the Assembly can be invited to special trials so that it can hold the president accountable ". Based on the aforementioned description, the implementation of the Special Session will depend on two things. First, there is a violation of the state's direction committed by the president in the form of a violation of the Basic Law, the Decree of the Indonesian Consultative Assembly and the applicable laws and regulations. Secondly, there is a request from the People's Representative Council to the People's Consultative Assembly after the First and Second Memorandum. The arrangement in the explanation was practised for the first time in 1967 when President Sukarno was asked by the Provisional People's Consultative Assembly to take responsibility for the causes of the events of the G30S / the Indonesian Communist Party, economic decline and morals during the Old Order era. President Sukarno tried to explain all the MPRS requests in an accountability speech known as "Nawaksara's Speech". This responsibility was not accepted by the Indonesian Consultative Assembly. As a result, he was dismissed as president. Subsequently, the Indonesian House of Representatives appointed Suharto the new president.

Compared to the events experienced by President Sukarno (Mulyosudarmo, 1997: 65) the dismissal of Abdurrahman Wahid in the 2001 MPR SI led to a fundamental debate in the practice of Indonesian state administration. This debate arose because of the problem of the 1945 constitution of the dismissal of the President during his term of office (Indrayana, 2001: 27). This problem came to light because there is no explicit division of membership between institutions that request the implementation of SI and those that decide upon SI applications.

With the amendment of the 1945 Constitution, debates that may arise in the implementation of future impeachments can be significantly reduced by the formulation of the method more clearly outlines in Article 7A and Article 7B of the 1945 Constitution, that is: Article 7A: The President and / or Vice President may be dismissed during their term of office by the people's deliberative assembly at the proposal of the House of Representatives, both if found guilty of violating the law in the form of betrayal of the state, corruption, bribery, other serious crimes, or blameworthy acts or if it is proven that they no longer fulfil the requirements for a President and / or Vice President. Article 7B: (1) Proposals for dismissal of the President and / or Vice-President can be submitted by the House of Representatives to the People's



Consultative Assembly only by first submitting a request to the Constitutional Court to examine, hear and decide upon the opinion of the House of Representatives that the President and / or Deputy The President has violated the law in the form of betrayal of the state, corruption, bribery, other serious crimes, or disgraceful acts or if it is proven that they no longer meet the requirements for a President and / or Vice President. (2) The opinion of the People's Representative Council that the President and / or Vice President have violated the law or no longer meet the requirements as President and / or Vice President is in the context of carrying out the oversight function of the House of Representatives. (3) Submission of a request by the People's Legislative Assembly to the Constitutional Court can only be done with the support of at least 2/3 of the total members of the People's Legislative Assembly who are present at the plenary session, which is attended by at least 2/3 members of the People's Legislative Assembly. (4) The Constitutional Court is obliged to examine, try and decide as fairly as possible with regard to the opinion of the DPR no later than 90 (ninety) days after the request of the House of Representatives is received by the Constitutional Court. (5) If the Constitutional Court decides that the President and / or Vice President have committed a violation of the law in the form of betrayal of the state, corruption, bribery, other serious crimes, or misconduct or if it is proven that they no longer meet the requirements of President and / or Vice President, the House of Representatives holds a plenary session to continue the proposal to dismiss the President and / or the Vice President to the People's Consultative Assembly. (6) The People's Consultative Assembly shall hold a hearing to decide on the proposal of the People's Representative Council no later than 30 (thirty) days after the People's Consultative Assembly accepts the proposal. (7) Decisions of the People's Consultative Assembly on the proposal to dismiss the President and / or Vice-President must be taken at a plenary meeting of the People's Consultative Assembly which is attended by at least $\frac{3}{4}$ of the total number of members and approved by at least 2/3 of the total number of members present, after The President and / or Vice President are given the opportunity to submit an explanation in the plenary session of the People's Consultative Assembly. Fifth, the elimination of DPA is one of the country's high institutions.

Prior to the Amendment, the constitutional position of DPA as a high state institution can be found in Article 16 of the 1945 Constitution which states that DPA is obliged to answer questions from the President and has the right to submit proposals to the government. In the explanation of Article 16 it is stated "This Council is a Council of State which is obliged to give considerations to the government. He is only a mere advisory body. " Examining the formulation in Article 16 along with an explanation, it will be seen that DPA is not an important state institution in the Indonesian constitutional structure. Moreover, the existence of clauses in the explanation that "deliberately" wants to weaken the position of the DPA as a mere advisory body. Therefore, it makes sense to remove DPA as a state institution. Instead, according to the provisions of Article 16 of the 1945 Constitution the President forms a deliberative council whose duty is to give consideration to the President which is



subsequently regulated by law. This amendment provides an opportunity for the President to consider the council, for example in the form of a Presidential Advisor.

Fifth, judicial power is not only exercised by the Supreme Court but also by the Constitutional Court. This amendment is explicitly stated in Article 24 paragraph (2) of the 1945 Constitution that judicial power is exercised by a Supreme Court and by a Constitutional Court. Based on the provisions of Article 24 paragraph (1) the Supreme Court has the authority to adjudicate at the cassation level, examine the statutory provisions under the law against the law and other authorities granted by law. Whereas the Constitutional Court, according to the provisions of Article 24C paragraph (1) of the 1945 Constitution, has the authority to adjudicate at the first and last level, the decision of which is final to examine the law against the Constitution, to decide on disputes over the authority of state institutions whose authority is granted by the Act -Basic grounds, decide upon the dissolution of political parties, and decide upon disputes over the results of general elections. The Constitutional Court has the authority to examine the law against the 1945 Constitution, and the Supreme Court has the authority to examine the statutory regulations in the form of laws down based on a hierarchy of laws and regulations. To assess or test the constitutionality of a law (Faridhi, 2017: 196).

This potential can be observed in articles about the People's Representative Council relating to the DPD and other state institutions. First, radical changes to the provisions of Article 5 paragraph (1) and Article 20 paragraph (1) of the 1945 Constitution by significantly reducing the power of the President in making the law a political process in the House of Representatives as the most dominant force in translating normative formulations contained in the Constitution. Even before the changes were made, the House of Representatives only had a pseudo-legislative function because it was more positioned as a "rubber stamp" in making laws.

There is a "reactive" formulation of Article 7C of the 1945 Constitution which states that the President cannot freeze and / or dissolve the House of Representatives. This article appeared as a reaction to the attitude of former President Abdurrahman Wahid who had tried to dissolve the House of Representatives. In the context of the need for future state administration practices, this formulation does not make sense with the choice to maintain a presidential system.

Some changes put the House of Representatives as a decisive institution in the form of giving "approval" to several state agendas, including the First, the President in making international agreements that have broad and fundamental consequences for people's lives, Second, government regulations in lieu of laws law, Third, the appointment of Supreme Court Justices, Fourth, the appointment and dismissal of members of the Judicial Commission.



In addition, there are still other agendas that require "consideration" of the People's Representative Council, including First, the appointment of Ambassadors and Consuls, Second, accepting the placement of ambassadors from other countries, Third, granting amnesty and abolition. The power in the hands of the House of Representatives is increased by the authority to fill several strategic state positions, for example to determine three of the nine judges of the Constitutional Court, and to elect members of the Supreme Audit Board. In addition, the people's representative council is also the most decisive institution in the process of filling out other non- state institutions (auxiliary bodies) such as the National Human Rights Commission, the Election Commission. This note will be increased by the necessity to ask the DPR's consideration in filling the position of Commander of the TNI, Head of the Indonesian National Police (Kapolri).

The dominance of the position of the People's Legislative Assembly is not only over institutions outside the legislature but also on the Regional Representatives Council. With the limited authority possessed by the Regional Representative Council, it is difficult to argue that the existence of this state institution is more a sub-ordination of the People's Representative Council. As a representation of regional interests, the Regional Representative Council is only given limited authority to submit to the Regional Representative Council relating to regional autonomy, central and regional relations, the formation and expansion and merging of regions, management of natural resources and other economic resources, as well as those related with the balance of central and regional finances. Even in the function of legislation, Article 20 paragraph (1) of the 1945 Constitution provides a clear demarcation line that the power to make laws only becomes a monopoly of the regional House of Representatives.

The limitation gives meaning, the idea of creating two chambers with balanced power to accommodate regional interests in creating justice distribution of power fails because the amendment to the 1945 Constitution which biases the interests of the regional representative council. This failure will have an impact on the weakening of local political articulation in every decision making process at the national level. Thus it is difficult to dispute the indication that the existence of the regional representative council is only as a complement in the representation system. In many countries that use a bicameral system, the Regional House of Representatives (senate or upper house) is given greater authority to balance the position of the House of Representatives. For example in Austarlia, at least, the senate has two main functions namely, first, to re-examine each draft law proposed by the regional House of Representatives, and second, through the three-fold committee system has the power to oversee the running government. In the legislative function, the senate has the same power as the House of Representatives to submit a draft law. In fact, each senate member has the right to submit a draft law (Rifai, 1994: 42).



Observing the enormous power shift above, the amendment to the 1945 Law vaguely pushed the House of Representatives to become the supreme state institution among the existing state institutions. This fact is difficult to refute because almost all state power rests on the House of Representatives. It is probable that in the future state administration practices will emerge concentration of power and responsibility upon the House of Representatives, such as the power of the President under the 1945 Constitution before the amendment. If at first there was an assumption that the amendment to the 1945 Constitution shifted the paradigm from executive heavy to legislative heavy, given the shift, it was not entirely correct. What actually happened was the House of Representatives was heavy because of the presence of the Regional House of Representatives, as one of the chambers in the legislature only as a complement to sufferers in the representative system. In the future, when the normative formulation of the constitution must be stated in the form of a law, the House of Representatives still has the opportunity to strengthen its supremacy. Seeing the dominance of the House of Representatives in the legislative process, it is difficult to stem this institution from moving further.

Conclusion

The Indonesian constitutional system after the amendment to the 1945 Constitution has undergone very fundamental changes. These changes also affected the structure and structural mechanism of the organs of the Republic of Indonesia which could no longer be explained in the old way of thinking. Many new ideas were adopted into the framework of the 1945 Constitution. Four of them are the affirmation of the adoption of democratic ideals and democracy at the same time and complementary, separation of powers and the principle of "checks and balances", refining presidential government systems and strengthening the ideals of unity and diversity within the Unitary Republic of Indonesia.



REFERENCES

- A. Hamid S. Attamimi, 1992, Perbedaan Antara Peraturan Perundang-Undangan Dan Peraturan Kebijakan: Suatu Tantangan Bagi Peran Polri Dewasa Ini dan Menghadapi PJPT II. Depok: Penerbit Fakultas Hukum Universitas Indonesia.
- Adrian Faridhi, Penguji Peraturan Perundang-undangan Tunggal Keniscayaan, *MERCATORIA*, Vol. 10 (2) Desember (2017).
- Bambang Widjojanto, Saldi Isra dan Marwan Mas (Edit.), 2002, Konstitusi Baru Melalui Komisi Konstitusi Independen, Jakarta: Pustaka Sinar Harapan dan Koalisi untuk Konstitusi Baru.
- Azumlia Rifai, 1994, Pengantar Konstitusi Australia, Jakarta: Gramedia Pustaka Utama.
- Beddy Iriawan Maksudi, 2012, Sistem Politik Indonesia, Jakarta: Raja Grafindo Persada.
- Burhan D. Magenda, *Gloria Juris* vol.7.;2007:119
- C.S.T, Kansil, 2003, Pengantar Hukum Indonesia, Jakarta: Balai Pustaka.
- Denny Indrayana, 2001, Problema Konstitusi Pemberhentian Presiden, Jakarta: Kompas.
- Jimly Asshiddiqie, 2006, Pengantar Ilmu Hukum Tata Negara Indonesia, Jakarta: Sekretariat Jenderal dan Kepaniteraan MK RI.
- Kausarian, H., Sri Sumantyo, J. T., Kuze, H., Aminuddin, J., & Waqar, M. M. (2017). Analysis of polarimetric decomposition, backscattering coefficient, and sample properties for identification and layer thickness estimation of silica sand distribution using L-band synthetic aperture radar. *Canadian Journal of Remote Sensing*, 43(2), 95-108.
- Kausarian, H., Sumantyo, J. T. S., Kuze, H., Karya, D., & Panggabean, G. F. (2016). Silica Sand Identification using ALOS PALSAR Full Polarimetry on The Northern Coastline of Rupaat Island, Indonesia. *International Journal on Advanced Science, Engineering and Information Technology*, 6(5), 568-573.
- Kausarian, H., Batara, B., Putra, D. B. E., Suryadi, A., & Lubis, M. Z. (2018). Geological Mapping and Assessment for Measurement the Electric Grid Transmission Lines in West Sumatera Area, Indonesia. *International Journal on Advanced Science, Engineering and Information Technology*, 8(3), 856-862.
- , 2001, Pengantar Perubahan Undang-undang Dasar Negara Kesatuan Republik Indonesia, disampaikan sebagai bahan masukan untuk badan Pekerja (BP) MPR, Jakarta.
- Malik Haramain, 2001, Urgensi Pemilihan Presiden Langsung, Jakarta: Kompas.



- Peter Mahmud Marzuki, 2011, Penelitian Hukum, Jakarta: Kencana Prenida Media.
- Moh. Kusnardi dan Harmaily Ibrahim, 1986, Pengantar Hukum Tata Negara, Jakarta: FH UI.
- Suwoto Mulyasudarmo, 1997, Peralihan Kekuasaan (Kajian Teoritis dan Yuridis terhadap Pidato Nawaksara), Jakarta: PT Gramedia.
- Ramlan Surbakti, Menuju Demokrasi Konstitusional: Reformasi Hubungan dan Distribusi Kekuasaan, dalam Maruto MD dan Anwari WMK (Edit.), Reformasi Politik dan Kekuatan Masyarakat, Jakarta: LP3ES.
- Saldi Isra, Konstitusi Baru Melalui Komisi Konstitusi: Memastikan Arah Reformasi Konstitusi, Jurnal Analisis CSIS, Tahun XXXI/2002, No. 2, Jakarta, 2002.
- , 2001, Pemilihan Presiden Langsung, Jakarta: Kompas. Soehino, 1986, Ilmu Negara, Yogyakarta: Liberty.