



The Form of The Presidential System in Indonesia: A Comparative Study of Several Countries

Putu Gede Arya Sumerta Yasa¹

¹Faculty of Law, Udayana University, E-mail: arya_sumerthayasa@unud.ac.id

Info Artikel

Received: 18th June 2021

Accepted: 21st July 2021

Published: 31st July 2021

Keywords:

Presidential System; Form;
Comparative study

Corresponding Author:

Putu Gede Arya Sumerta Yasa,

E-mail:

arya_sumerthayasa@unud.ac.id

DOI:

10.24843/JMHU.2021.v10.i02.p07

Abstract

The purpose of this research is to determine how the form of the presidential system adopted by Indonesia and to compare the presidential system in Indonesia with several countries such as the United States, South Korea and the Philippines. The research method used in this study is a normative legal research which used statute approach, conceptual approach, and comparative approach to examine the vacuum of norm regarding the presidential system in Indonesia. The results show that Indonesia adheres to non pure presidential system, namely a quasi-presidential system which is indicated by the horizontal relationship between state institutions. In the implementation of the presidential government system, every country has different characteristics so that it undergoes modifications depending on the situation and conditions of the country that adheres to it. When Indonesian presidential system compared with the United States, South Korea and the Philippines, it will show the special characteristics and weaknesses of each country. The indicators used in comparing presidential systems in several countries are the form of the presidential system, special characteristics, and weaknesses which in general are excess power in the executive.

1. Introduction

Government system comes from the combination of the words "system" and "government" which is essentially a study of how state institutions work by taking into account the level of authority and responsibility between state institutions.¹ According to Mahfud MD, the state government system is the relationship and work procedure between state institutions or the three axes of power, namely the executive, legislative and judicial.² Therefore, the government system focuses on how the distribution of power and the relationship between state institutions that carry out state powers are carried out in the context of carrying out the public interest. Government organizations viewed from the power describe the existence of vertical and horizontal relationships. The vertical relationship shows the existence of central and regional powers in a decentralized and deconcentrated system, while the horizontal relationship gives rise to various types of power from various state institutions that are formed.

¹ Muliadi Anangkota, "Klasifikasi Sistem Pemerintahan (Perspektif Pemerintahan Modern Kekinian)," *CosmoGov: Jurnal Ilmu Pemerintahan* 3, no. 2 (2017): 148-52, <https://doi.org/https://doi.org/10.24198/cosmogov.v3i2.14725>.

² Moh Mahfud, *Dasar Dan Struktur Ketatanegaraan Indonesia* (Rineka Cipta, 2001).

The type of democratic state that begins with the idea of political freedom in the social order, according to Rousseau; puts an understanding on the recognition of freedom in independence, specifically in the social order the actions of individuals (society) are made by the individual himself with the aim of harmony between the group and the will of the individual. Independence itself, starts from freedom which has a negative meaning. In democratic freedom, there is no government will that combines public will and private will in the event of a conflict.³ The idea of freedom means the absence of any ties, including restrictions by power, but the understanding in the state becomes otherwise, namely the existence of a social order that binds it.

In a democracy, there are two types of government system such as parliamentary and presidential systems of government. In its development, the two systems of government often have some modifications depending on the situation and condition of the country concerned, so it is also known as a quasi-parliamentary or quasi-presidential system. This was also stated by Sri Soemantri who said that in addition to the general system of government which was divided into a presidential government system and a parliamentary government system, there was a third system, namely a quasi government system. This quasi government system is defined as a government system that contains elements contained in the presidential system of government as well as those contained in the parliamentary government system.⁴ Prior to the 1945 Constitution of the Republic of Indonesia being amended, Bagir Manan believes that Indonesia's presidential system was similar to that of the United States, with several special characteristics.⁵ In the field of state administration, there are several different expert views on what system of government is adopted by Indonesia.⁶ Furthermore, the question arises whether the Republic of Indonesia reflects a pure presidential system or a quasi based on The Constitution of The Republic Indonesia of 1945 (hereinafter UUDNRI 1945).

Based on the explanation in the introduction, there are two problems that can be raised in this paper such as: 1) What is the implementation form of presidential system in Indonesia? 2) How is the Indonesian presidential system when compared to United States, South Korea and Philippines?

The purpose on this paper is to analyze the form of the presidential system that adopted by Indonesia, and also compared the Indonesian's presidential system with United States, South Korea, and Philippines

In this scientific journal, the author guarantees that there is no plagiarism, as evidence in the distinction, there are similar scientific papers included, namely; a scientific paper entitled *The Remaining Issues in The Presidential System Post Amandement to The*

³ Tomy Michael, "Memaknai Pemikiran Jean-Jacques Rousseau Tentang Kehendak Umum Menciptakan Keadilan," 2016.

⁴ Sri Soemantri, "Kedudukan, Kewenangan, Dan Fungsi Komisi Yudisial Dalam Sistem Ketatanegaraan RI Dalam Komisi Yudisial, Bunga Rampai Satu Tahun Komisi Yudisial RI" (Jakarta, Komisi Yudisial RI, 2006).

⁵ Dinoroy Margonda Aritionang, "Coalitions Model in Indonesian Presidential System," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 28, no. 2 (2016): 365, <https://doi.org/10.22146/jmh.16721>.

⁶ Nabitatus Sa'adah, "Persoalan Yang Tersisa Dalam Sistem Presidensiil Pasca Amandemen Uud 1945," *Masalah-Masalah Hukum* 48, no. 3 (2019): 275, <https://doi.org/10.14710/mmh.48.3.2019.275-282>.

Constitution of 1945, by Nabitatus Sa'adah that came with formulation problem regarding 1.) What problems are still left in the framework of presidential system purification in Indonesia? 2.) What are the implications of the problems left behind in our constitutional system?⁷ Then a scientific paper entitled Presidential Threshold Anomaly in Indonesian Government System: Parliamentary Reduction in Indonesian Presidential System. By Dwi Rianisa Mausili with the issues raised namely 1.) the relevance of the presidential threshold in Indonesia; 2.) how to realize the ideal government system from the presidential threshold system to reduce parliamentary in the Indonesian presidential system. In accordance with this, this shows that this paper has different title and problem that has never been submitted before.⁸

2. Research Method

The normative legal research method was applied in this work. Normative legal research is a type of research that examines legal issues of norm by examining primary legal source and secondary legal source.⁹ The problem of norms contained in this study is a vague of norm, which is not explained about the form of the presidential system of Indonesia in the legislation. The analytical technique used is a descriptive and comparative technique which describes in general about the presidential system in Indonesia by comparing it with several countries. The statute approach, conceptual approach, and comparison approach are all used in this normative legal research. The secondary data was collected by using study document techniques. The result of the research is then classified systematically and analysed qualitatively and then compiled in a scientific work that is descriptive analysis, which shows the form of the government presidential system adopted by Indonesia and showing a comparison of the Indonesian's presidential system between United States, South Korea and Philippines.

3. Result and Discussion

3.1 The Form of Implementation of Presidential System in Indonesia

Before discussing the presidential system in Indonesia, it should be noted that broadly speaking, the government system is divided into two types, namely the presidential system of government and the parliamentary system of government. The presidential government system concentrates the government on the power of the president as the head of government as well as the head of state so that in this system of government the executive body does not depend on the legislature.¹⁰ The administration of government with a presidential system places the position between the executive and the independent legislature, that is, there is no direct relationship in carrying out its functions and is elected by the people separately. The presidential system is a

⁷ Ibid.

⁸ Dwi Rianisa Mausili, "Presidential Threshold Anomaly in Indonesian Government System: Parlementer Reduction in Indonesian Presidential System," *Bappenas Working Papers* 2, no. 1 (2019): 31-42, <https://doi.org/https://doi.org/10.47266/bwp.v2i1.28>.

⁹ Bambang Sunggono, *Metodologi Penelitian Hukum*, Edisi I (Jakarta: PT. Raja Grafindo, 2009).

¹⁰ Cora Elly Noviati, "Demokrasi Dan Sistem Pemerintahan," *Jurnal Konstitusi* 10, no. 2 (2016): 333-54, <https://doi.org/https://doi.org/10.31078/jk%25x>.

development of the constitutional monarchy, where the power of the president is equal to that of a constitutional monarchy or more. In a presidential system, it appears that the president's power is reduced in making laws, because he only has the power of veto while the king in a constitutional monarchy has the right of approval in every ratification of a bill by the parliament. One characteristic of the presidential system is that the president and members of the cabinet appointed by the president are not responsible to parliament but are only responsible to the president. In the characteristics of presidential politics, the basis of presidential legitimacy comes from the people. Therefore, the presidential system of government is characterized by the implementation of a direct presidential and vice-presidential election system by the people with a fixed term of office.¹¹ Some adherents of this presidential system are the United States, Pakistan, Argentina, the Philippines and Korea. The main principles contained in the presidential system of government are:¹²

1. The administration of the state is in the hands of the president as well as the chief of state and chief of government
2. The Cabinet is formed and appointed by the president and the cabinet is responsible to the president
3. The President has no responsible to the parliament
4. President cannot be removed from office by parliament

In addition, several main principles in a presidential system of government also include:¹³

- a. There is a clear separation of the executive from the legislature
- b. The chief of government also serves as head of states
- c. The President assign the Ministers that have responsibility to him
- d. The president cannot dissolve parliament
- e. Government is responsible to the people

According to Kevin YL Tan, stated that the system of presidential has several advantages including:¹⁴

- 1) The existance of election and legitimacy
- 2) The existence of the separation of powers
- 3) Political stability
- 4) Expediency and decisiveness
- 5) The tendency to authoritarianism

In a parliamentary system of government, parliament has an important role in government.

¹¹ Mausili, "Presidential Threshold Anomaly in Indonesian Government System: Parleментар Reduction in Indonesian Presidential System."

¹² Arya Sumerta Yasa, "Sistem Presidensiil Di Indonesia" (Focus Group Discussion UNUD-MPR RI, 2016).

¹³ Noviati, "Demokrasi Dan Sistem Pemerintahan."

¹⁴ Tan Kevin YL, "Presidential Systems," in *Max Plandk Encyclopedia of Comparative Constitutional Law* (Oxford Constitutional Law, 2017), <https://doi.org/10.1093/law-mpeccol/e430.013.430>.

In this arrangement, parliament has the power to nominate the prime minister and to overthrow the government with a vote of no confidence. The intimate relationship of authority between the executive and legislative branches is exemplified by parliamentary government. The supreme government is elected by parliament and members of the cabinet are responsible to parliament. Some countries that have embraced it, such as England, the Netherlands, and Belgium. The hallmark of a parliamentary system is that there is a government with a collegial organ, a kind of executive council elected by the parliament where there is a separation between the head of government and the head of state, usually the head of government is run by the prime minister while the head of state is carried out by the president/king. The specific characteristics of a parliamentary system of government are:¹⁵

- 1) Parliament (legislative) whose members are directly elected through election by the people
- 2) Members of parliament consist of the political parties that won the election
- 3) The government/cabinet consists of the ministers and the prime minister as “the chief of the cabinet”. The prime minister elected by parliament as the head of government
- 4) The Cabinet is responsible to parliament
- 5) The Chief of state and chief of government; each run by the president/king and prime minister
- 6) As a balance, parliament can overthrow the cabinet: the king/president can dissolve parliament on the advice of the prime minister

From the view of specific characteristic of parliamentary government system, the executive has a lower level than the parliament. In the context of the weak executive position, in order to balance the power, the cabinet, in this case the executive, can ask the head of state to dissolve parliament on the grounds that parliament is deemed unrepresentative.

In the history of Indonesia, the system of government in the Indonesian state administration, has practiced two systems of government, namely presidential and parliamentary. Since 1945-1959 the constitution in Indonesia has been changed three times, such as: The Constitution of Republic Indonesia of 1945 (UUD NRI 1945) from 1945 to 1949 that implement the presidential system; Provisional Constitution of the Republic of the United States of Indonesia from 1949 to 1950 which implement parlementer system; and the Provisional Constitution of the Republic of Indonesia 1950 from 1950 to 1959 which also implement parlementer system. Then through a Presidential Decree issued on 5 July 1959, Indonesia returned to The Constitution of Republic Indonesia of 1945 (UUD NRI 1945) and return to implement the presidential system. In its application, Indonesia does not purely divide into three powers in accordance with the trias politica.¹⁶ Indonesia implements power sharing in its government, so that it allows one institution such as the executive to also have

¹⁵ Yasa, “Sistem Presidensiil Di Indonesia.”

¹⁶ Ribkha Annisa Octovina, “Sistem Presidensial Di Indonesia,” *CosmoGov: Jurnal Pemerintahan* 4, no. 2 (2018): 247–51, <https://doi.org/10.24198/cosmogov.v2i2.xxxxx>.

legislative power and vice versa.¹⁷ There are eight government institutions in Indonesia after the amendment to the 1945 Constitution, such as the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, the President, the Audit Board, the Supreme Court, the Constitutional Court and the Judicial Commission. Regarding to the provisions stipulated in The Constitution of Republic Indonesia of 1945 (UUD NRI 1945), there are several characteristics of the system of government adopted:¹⁸

1. The People's Consultative Assembly is not the highest institution; but on an equal footing with other state institutions so as to create functional horizontal control. (Article 3 Paragraphs (1,2,3) UUD NRI 1945)
2. President and The House of Representatives (Dewan Perwakilan Rakyat; hereinafter DPR) have the same position: Cannot bring down each other (Article 3 paragraph (3) and Article 8 paragraph (2) UUD NRI 1945)
3. The authority of the president of Indonesia as a chief of government and chief of state (Articles (4), (10), (11), (12), (13), (14) UUD NRI 1945)
4. Legislative power in making laws is more dominant (Article 5 UUD NRI 1945) and the president has the right to draft Laws (RUUs) so that they take a portion in the making process, of course this is less effective in terms of time and cost. In a presidential system, it is clear that the task of making laws is in the hands of the legislature (parliament) so that the president has the opportunity to veto the results of the draft laws that are not in line with the executive.

Moving on from the provisions written in the 1945 Constitution of the Unitary State of the Republic of Indonesia, the government system of the State of Indonesia adopted is in the form of a combination (*quasi*) presidential and parliamentary system. Based on the functional relationship between the presidential and legislative institutions in terms of making laws, after hearing the views of the The House of Representatives of Indonesia (DPR), both in carrying out their authority as head of government and head of state, on the other hand, regarding the accountability of the president and his position, it still reflects the presidential system. Some of the weaknesses that appear in the current presidential system in Indonesia are; there is still a tendency of excess power in the president, the use of prerogative rights is still not professionally oriented but is divided into positions with political parties, the government's response to injustice in society is still weak.¹⁹

3.2 Comparison of the presidential system in Indonesia between United States, South Korea and Philippines

Indonesia, based on Article 4 Paragraph (1) UUD NRI 1945 stipulates that the president holds governmental power. The President of Indonesia in carrying out his duties is assisted by a vice president. The president and vice president must have been born in Indonesia and have never obtained another citizenship of their own volition, have

¹⁷ A Surkati, "Intervensi Eksekutif Terhadap Legislatif Dan Pengaruhnya Terhadap Karakter Produk Hukum," *Al Qalam* 19, no. 95 (2002): 137-58, <https://doi.org/http://dx.doi.org/10.32678/alqalam.v19i95.466>.

¹⁸ Yasa, "Sistem Presidensiil Di Indonesia."

¹⁹ Ibid.

never betrayed the state, and are physically and spiritually competent of carrying out their duties and obligations as president and vice president. In Indonesia, the president is elected for a five-year term through public elections and can be re-elected for one more term within the same term. The President can be removed from office by the People's Consultative Assembly on the House of Representative's recommendation if it is demonstrated that he has broken the Constitution. In order to understand the characteristics of the Indonesian presidential system, comparisons are made with several countries like United States, South Korea, and the Philippines that can be seen in the following Table 1:

Table 1
Comparasion of Presidential Government System in Indonesia with United States, South Korea, and Philippines

| State | Government system | Characteristics | Disadvantages |
|---------------------------------|--------------------|---|---|
| Indonesia | Quasi-presidential | <p>The president holds executive power. There is a relationship among the president and the legislative in making laws.</p> <p>The president's role and responsibilities continue to represent the presidential system.</p> | There is still a tendency of excess power in the president, the use of prerogative rights is still not professionally oriented but is divided into positions with political parties, the government's response to injustice is still weak in society. |
| United States of America | Presidential | <p>President holds executive power, but in the legislative stage the president can reject draft laws through a veto or approve by signing</p> <p>There is a relationship of checks and balances system between government institutions in the executive, legislative, and judicial</p> <p>Impeachment can be submitted by The House of Representatives as the public prosecutor, if the plenary meeting is approved by 2/3 of the members present, It will go to a senate trial, where the chief justice of the supreme court will serve as judge and the senate will serve as jury.</p> <p>The term of office of the president is four years and can</p> | Some presidential powers require congressional approval, but there is still a tendency for more power to the president as in the provisions of the executive order and executive agreement ²⁰ |

²⁰ Seonhwa Kim, "Reforming South Korea's Imperial Presidency," *Policy Brief*, no. 205 (2017): 1-3.

| | | | |
|--------------------|--|--|---|
| | | be re-elected once | |
| South Korea | Presidential (Imperial Presidential) | <p>Adhering to a presidential system, led by the president. The president is the head of state, the head of government, and the commander-in-chief of the armed forces of South Korea. He can declare war and submit bills and veto to the legislature (National Assembly).</p> <p>The president can designate the prime minister to help him in his duties, but the National Assembly must first accept the nomination. The prime minister has the authority to propose cabinet ministers for appointment or dismissal.</p> <p>The president's tenure is limited to five years, it is not possible to be re-elected after the term of office expires. Impeachment of is possible on the grounds of a violation of the constitution or other laws when carrying out official duties as a president</p> | South Korea's constitution gives the president far too much power, which could lead to the office being abused. ²¹ |
| Philippines | Presidential | <p>system of government led by the President of the Philippines, acting as head of state and head of government, as well as commander-in-chief of the Philippines Armed Forces.</p> <p>The Constitution of the Philippines divides power into three branches, namely the executive branch, legislative branch and judicial branch in a horizontally parallel</p> <p>position. The term of office of the president is limited to six years, and it is not possible to be re-elected after the end of his term of office.</p> | The president has a tendency to dominate the legislative and the judiciary, which are both co-equal branches. |

²¹ Aquilino Q. Pimentel, "The Presidential Form Of Government In The Philippines: A Critique" (Mexico, 2016).

United States is one of many countries that follow a presidential system. Throughout history in the election process in United States, only two competing parties were seen, namely the democratic party and the republican party, even though United States did not adhere to a two-party system in its country's political system because the United States constitution did not mention the provisions of political parties. The executive position of the president in United States is regulated in The Constitution of the United States in Article II Section 1 - Section 4. In accordance with Article II Section 1 paragraph 1, it is stated that in essence, executive power is held by the President of the United States for a four-year term which is elected jointly with the President of the United States. vice President. Based on the amendment passed by the congress in 1947 and ratified by the states on February 27, 1951, says a person can only be elected to be president two times for a total of eight years.²² The constitutional provisions in Article II Section (1) Paragraph 5, then a president of the United States must be a citizen of the United States (has been a resident for fourteen years). Then presidential candidates are required to be thirty-five years old when running for President of the United States. If you look at the provisions of Article II Section 1, it is clear that the authority of the president is the holder of executive power, but it is further explained in Article II Section 2 as it is stated that the president is also the Supreme Commander of the United States Army and Navy and militias from several countries. The President may seek written opinions from the chief officers of each executive department. The president also has the power with the consideration and approval of the senate to make agreements provided that two-thirds of the senator's present agree. Other Ministers and Public Consuls, Supreme Court Judges, and all other unspecified US officials may be nominated and appointed by the President of the United States, depending to Senate consideration and approval. The president can fill power on all vacancies that may occur during the senate recess. In carrying out his duties, the US President has an authority relationship as regulated in the constitution in carrying out his state duties, this is to carry out the function of checks and balances or sharing power between institutions in the executive, legislative and judicial domains. Nonetheless, since 1995, the checks and balances system has become the US Constitution's most serious flaw.²³ The president of the United States has a wide range of authorities, including those officially granted by Article II of the United States Constitution, powers granted by Acts of Congress, implied powers, and a significant deal of soft power linked to the presidency ("Annotated Constitution Article II"). In practice, when it comes to power separation in the United States, what is divided is personnel who constitute different institutions: Congress, the executive, and the judiciary. The Separation of Powers devised by the founders was designed to do one main thing "to prevent the majority from ruling with an iron fist".²⁴ The separation of power actually is divided as follows, congress debates changing and passing legislation but the president can sign or veto it. Then the president can propose a budget, but congress can also block it. Congress can pass laws or the president can introduce an Executive Order and find the Supreme Court to decide something

²² Thomas H Neale, "Presidential Terms and Tenure : Perspectives and Proposals for Change," 2009.

²³ Aritonang, "Coalitions Model in Indonesian Presidential System."

²⁴ Abdelkrim Dekhakhena, "Trump'S Impeachment: The Greed for Presidential Power and the Limits of the Constitution," *Jurnal Studi Pemerintahan* 11, no. 2 (2020): 340-69, <https://doi.org/10.18196/jgp.112119>.

unconstitutional.²⁵ In the case of the dismissal of the president in the USA, it can be carried out through an impeachment process during his term of office in accordance with Article 2 Section (4), the provisions of which stipulate that "The President, Vice President and all civil Officers of the United States, shall be removed from the Office on Impeachment for , and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors". Impeachment in United States begins with a proposal for impeachment by a member of the House of Representatives which is discussed in a plenary session, after that, if 2/3 of the votes of the members present are granted, it will be continued in the Senate session, which previously drafted an article of impeachment containing the reasons for impeachment. At the trial stage, the Senate is led by the Chief Justice of the Supreme Court and all members of the Senate act as jurors, while the House of Representatives Committee acts as the Public Prosecutor.²⁶ Based on Article II Section 1 of US Constitution's The President and The Vice President of USA shall hold his office during the term of four years and practically it can be re-elected once.

South Korea in its Constitution of 1978, has declared that South Korea is a democratic republic with a presidential system. The Constitution of the Republic of Korea 대한민국 헌법 actually provides provisions regarding the president and prime minister, although South Korea does not implement a semi-presidential system of government.²⁷ The Prime Minister in South Korea is not elected and is not responsible to the legislature (National Assembly). The President has the right to appoint the Prime Minister and only to the President is the Prime Minister accountable for his position. The appointment of the Prime Minister must obtain approval from the National Assembly which can also provide recommendations regarding the revocation of the prime minister's position, but these recommendations are not binding on the president. The Prime Minister can also suggest cabinet ministers for appointment or dismissal, with the President making the final decision. The prime minister according to the constitution is an official who will assist the president and direct the ministry under the president's authority, and replace the president's duties if there are several reasons the president cannot carry out his work. Thus, in short, the Korean government system is not a form of "dual executive" because the prime minister is not responsible to the representative branch or the legislative branch. The President of Korea who is appointed by direct election, serves and serves the country for 5 years and cannot be re-elected (Article 70 Constitution). The Korean president as the leader of the government but is not a king, but if a president behaves like a king then democracy can be protected from enemies of the constitution by shackled "political feet" to restore the rules of government roles.²⁸ Impeachment is one of the instruments that can be used as

²⁵ Jeremy Taylor, "Comparing the US and UK Constitutions," *Politics Review* 27, no. 1 (2017): 1-4.

²⁶ Lintje Anna Marpaung, "Analisis Yuridis Normatif Perbandingan Prosedur Pemberhentian Presiden Dalam Masa Jabatannya Antara Indonesia Dengan Amerika Serikat Dan Korea Selatan," *Pranata Hukum* 10, no. 2 (2015), <https://doi.org/https://doi.org/10.36448/pranatahukum.v10i2.200>.

²⁷ Chaihark hahm, "The Allure of Semi-Presidentialism in Korea," in *The Second Melbourne Forum on Constitution Building in Asia and the Pacific Manila, the Philippines* (Philippines, 2017), 1-5.

²⁸ Hannes B. Mosler, "The Institution of Presidential Impeachment in South Korea, 1992-2017," *Verfassung in Recht Und Übersee* 50, no. 2 (2017): 111-34, <https://doi.org/10.5771/0506-7286-2017-2-111>.

a legislative tool in supervision. Impeachment in South Korea is divided into two subsequent stages namely; providing the legislature with the accusatory function (legislative oversight) and the judiciary with an adjudicative function (judicial oversight). In terms of impeachment, the Constitutional Court of the Republic of Korea has the authority to decide on the impeachment of the National Assembly against the president or prime minister who is proven to have violated the constitution. The reason for the impeachment is regulated in Article 65 Section 1 of the Constitution where impeachment can be violated after a violation of the constitution or other laws in carrying out official duties.

The Philippines' constitution (Philippine Constitution of 1987) establishes a mandate for the tripartite system of government, which distributes power among three main branches: The Executive Department, which is led by the President, the Legislative Department (the House of Representatives and the Senate), and the Judiciary (Supreme Court). The three branches are required to have an equal position and support checking each other so as to prevent violations of the authorities and protect the rights of the people's freedom.²⁹ In Article VII Section 1 of the Philippine's Constitution, it is stipulated that the executive power shall be vested in the President of the Philippines. Persons eligible to become President and Vice President in the Philippines must be citizens of the Philippines born, able to read and write, be at least forty years old at the time of election, and be a resident of at least ten years. The president and vice president who are elected by direct election, will serve for six years and are not allowed to be reelected. In the Philippines, the president has more control over the budget process and policy implementation than the congress has for conventional policy legislation.³⁰ According to the constitution, the President of the Philippines has the authority to appoint heads of executive departments, ambassadors, ministers of public service, consuls, or officers of the armed forces with the rank of colonel or naval captain, and other officers whose appointments are outlined in the constitution, with the approval of the commission, he also appoints officers other governments not provided for by law (Article VII Section 16 of the Philippine's Constitution). External professionals like as professors, business leaders, and legal advisors are regularly chosen as Philippine ministers.³¹ Just like other countries, the Philippine's Constitution also stipulates an impeachment clause to prevent arbitrariness of government officials. It is regulated in Article XI Section 2, "The President, the Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman may be removed from office, on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. All other public officers and employees may be removed from office as provided by law, but not by impeachment". As a result, the president can be removed from office if it is demonstrated that he has committed treason, bribery, corruption, major crimes, or breach of public trust. When it comes to impeachment, the Senate has

²⁹ Aquilino Q. Pimentel, "The Presidential Form Of Government In The Philippines: A Critique."

³⁰ Takeshi Kawanaka, "Interaction of Powers in the Philippine Presidential System," *Institute of Developing Economies, Japan External Trade Organization(JETRO), IDE Discussion Papers*, no. January 2010 (2010).

³¹ Don S. Lee, "Executive Control of Bureaucracy and Presidential Cabinet Appointments in East Asian Democracies," *Regulation & Governance* 14, no. 1 (January 2020): 82-101, <https://doi.org/10.1111/rego.12190>.

sole authority to hear and judge all cases. The Chief Justice of the Supreme Court will preside over the trial of the Philippine's President, but will not vote. No one can be convicted without the support of two-thirds of the Senate's members.

From this comparison, it can be seen that every country, whether Indonesia, United States, South Korea and the Philippines, has its own characteristics in carrying out its government system. In terms of executive leadership, Indonesia, United States and the Philippines are led by a president and vice president, different from the three countries, South Korea is led by a president and assisted by a prime minister. The weakness of the presidential system in general in every country is the tendency of excessive power in the executive branch, so there needs to be checks and balances from every government institution in supporting the prevention of abuse of power. Based on the conception that the presidential system in Indonesia is not purely presidential but rather a quasi-presidential, it also happens in countries such as the United States, South Korea and the Philippines which adhere to a presidential system that is modified to suit the legal culture of each different country. In the history of Indonesia, it has been proven that Indonesia has been change the constitution three times and it cause the presidential system changed to parliamentary, but until now the most appropriate model of government system is the quasi-presidential system according to The Constitution of Indonesia (UUD NRI 1945) by implementing Pancasila democracy. Pancasila democracy is a democracy of popular sovereignty that is inspired and combined with the precepts contained in Pancasila, and upholds the principles of the rule of law so that it can be felt by all citizens.³²

4. Conclusion

The presidential system of government adopted by Indonesia is not purely presidential, but is a form of quasi-presidential government system that has special characteristics seen from the functional relationship between the president and the legislature in making laws as mandated by the constitution of the 1945 Constitution of the Republic of Indonesia. Every country adheres to a presidential system has its own special characteristics in implamenting the role of government. Similar to Indonesia, America has a presidential system similar to Indonesia's, except that it can be distinguished by institutional relations where the President in terms of policy making (other than executive orders and executive agreements) always requires congressional approval. The Philippines adheres to a presidential system which divides power into three branches, namely the executive, legislative, and judicial where the head of government is held by the president whose term of office is only six years and cannot be re-elected. In contrast to Indonesia, the United States and the Philippines, South Korea adheres to a presidential system which is held by the president as head of state and the government is assisted by a prime minister and not a vice president. The president in South Korea can submit a bill to the National Assembly (legislative), and can appoint a Prime Minister subject to the approval of the National Assembly. The term of office of the president of South Korea is limited to five years of office, and it is not possible to be re-elected after the term of office expires. A general weakness that

³² Bobi Aswandi and Kholis Roisah, "Negara Hukum Dan Demokrasi Pancasila Dalam Kaitannya Dengan Hak Asasi Manusia (HAM)," *Jurnal Pembangunan Hukum Indonesia* 1, no. 1 (2019): 128-45, <https://doi.org/https://doi.org/10.14710/jphi.v1i1.128-145>.

occurs in every country that adheres to a presidential system of government is the tendency of excessive power in the executive branch which can potentially lead to abuse of power. As for the comparative presentation and its history in Indonesia, that the right form of government for Indonesia is a quasi-presidential government system by paying attention to Pancasila democracy. In implementing a quasi-presidential system, it is necessary to have good checks and balances between branches of government in order to realize a government system that reflects Pancasila democracy.

References

- Anangkota, Muliadi. "Klasifikasi Sistem Pemerintahan (Perspektif Pemerintahan Modern Kekinian)." *CosmoGov: Jurnal Ilmu Pemerintahan* 3, no. 2 (2017): 148-52. <https://doi.org/https://doi.org/10.24198/cosmogov.v3i2.14725>.
- Aquilino Q. Pimentel. "The Presidential Form Of Government In The Philippines: A Critique." Mexico, 2016.
- Aritonang, Dinoroy Margonda. "Coalitions Model in Indonesian Presidential System." *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 28, no. 2 (2016): 365. <https://doi.org/10.22146/jmh.16721>.
- Aswandi, Bobi, and Kholis Roisah. "Negara Hukum Dan Demokrasi Pancasila Dalam Kaitannya Dengan Hak Asasi Manusia (HAM)." *Jurnal Pembangunan Hukum Indonesia* 1, no. 1 (2019): 128-45. <https://doi.org/https://doi.org/10.14710/jphi.v1i1.128-145>.
- Chaihark hahm. "The Allure of Semi-Presidentialism in Korea." In *The Second Melbourne Forum on Constitution Building in Asia and the Pacific Manila, the Philippines*, 1-5. Philippines, 2017.
- Dekhakhena, Abdelkrim. "Trump'S Impeachment: The Greed for Presidential Power and the Limits of the Constitution." *Jurnal Studi Pemerintahan* 11, no. 2 (2020): 340-69. <https://doi.org/10.18196/jgp.112119>.
- Jeremy Taylor. "Comparing the US and UK Constitutions." *Politics Review* 27, no. 1 (2017): 1-4.
- Kawanaka, Takeshi. "Interaction of Powers in the Philippine Presidential System." *Institute of Developing Economies, Japan External Trade Organization(JETRO), IDE Discussion Papers*, no. January 2010 (2010).
- Kevin YL, Tan. "Presidential Systems." In *Max Planck Encyclopedia of Comparative Constitutional Law*. Oxford Constitutional Law, 2017. <https://doi.org/10.1093/law-mpeccol/e430.013.430>.
- Kim, Seonhwa. "Reforming South Korea's Imperial Presidency." *Policy Brief*, no. 205 (2017): 1-3.
- Lee, Don S. "Executive Control of Bureaucracy and Presidential Cabinet Appointments in East Asian Democracies." *Regulation & Governance* 14, no. 1 (January 2020): 82-101. <https://doi.org/10.1111/rego.12190>.
- Mahfud, Moh. *Dasar Dan Struktur Ketatanegaraan Indonesia*. Rineka Cipta, 2001.
- Marpaung, Lintje Anna. "Analisis Yuridis Normatif Perbandingan Prosedur Pemberhentian Presiden Dalam Masa Jabatannya Antara Indonesia Dengan Amerika Serikat Dan Korea Selatan." *Pranata Hukum* 10, no. 2 (2015). <https://doi.org/https://doi.org/10.36448/pranatahukum.v10i2.200>.
- Mausili, Dwi Rianisa. "Presidential Threshold Anomaly in Indonesian Government System: Parleментар Reduction in Indonesian Presidential System." *Bappenas Working Papers* 2, no. 1 (2019): 31-42.

- <https://doi.org/https://doi.org/10.47266/bwp.v2i1.28>.
- Michael, Tomy. "Memaknai Pemikiran Jean-Jacques Rousseau Tentang Kehendak Umum Menciptakan Keadilan," 2016.
- Mosler, Hannes B. "The Institution of Presidential Impeachment in South Korea, 1992-2017." *Verfassung in Recht Und Übersee* 50, no. 2 (2017): 111-34. <https://doi.org/10.5771/0506-7286-2017-2-111>.
- Neale, Thomas H. "Presidential Terms and Tenure : Perspectives and Proposals for Change," 2009.
- Noviati, Cora Elly. "Demokrasi Dan Sistem Pemerintahan." *Jurnal Konstitusi* 10, no. 2 (2016): 333-54. <https://doi.org/https://doi.org/10.31078/jk%25x>.
- Octovina, Ribkha Annisa. "Sistem Presidensial Di Indonesia." *CosmoGov: Jurnal Pemerintahan* 4, no. 2 (2018): 247-51. <https://doi.org/10.24198/cosmogov.v2i2.xxxxx>.
- Sa'adah, Nabitatus. "Persoalan Yang Tersisa Dalam Sistem Presidensiil Pasca Amandemen Uud 1945." *Masalah-Masalah Hukum* 48, no. 3 (2019): 275. <https://doi.org/10.14710/mmh.48.3.2019.275-282>.
- Soemantri, Sri. "Kedudukan, Kewenangan, Dan Fungsi Komisi Yudisial Dalam Sistem Ketatanegaraan RI Dalam Komisi Yudisial, Bunga Rampai Satu Tahun Komisi Yudisial RI." Jakarta, Komisi Yudisial RI, 2006.
- Sunggono, Bambang. *Metodologi Penelitian Hukum*. Edisi I. Jakarta: PT. Raja Grafindo, 2009.
- Surkati, A. "Intervensi Eksekutif Terhadap Legislatif Dan Pengaruhnya Terhadap Karakter Produk Hukum." *Al Qalam* 19, no. 95 (2002): 137-58. <https://doi.org/http://dx.doi.org/10.32678/alqalam.v19i95.466>.
- Yasa, Arya Sumerta. "Sistem Presidensiil Di Indonesia." 2016.

Laws and Regulation

The Consitution of The Republic Indonesia of 1945
The Constitution of The United States of America
The Constitution of The Republic of Korea
The Constitution of The Republic of the Philippines