

**PRESIDENTIAL GOVERNMENT SYSTEM STRENGTHENING THROUGH A PARTY SYSTEM SIMPLIFICATION (A COMPARISON BETWEEN THE INDONESIAN PARTY SYSTEM AND THE UNITED STATES PARTY SYSTEM)**

**Ni Made Anggia Paramesthi Fajar**

Universitas Ngurah Rai Denpasar

[Anggiaparamesti@gmail.com](mailto:Anggiaparamesti@gmail.com)

---

**ABSTRACT;** *Presidential system refers to a system of government in which the executive is not accountable to the legislature. The consequence of such as system is that the executive and legislature do not influence each other and are not influenced by each other. The basis of power of the executive is back to the people as the ultimate power holder. Hence, in accordance with the amendments to the 1945 Constitution of the Republic of Indonesia, the president is the head of state as well as the head of government assisted by a representative who is directly elected by the people. The people determine the election of a president and vice president and determine the (re-)election of a president and vice president for a second term. In practice, however, the implementation of this system of government is not in accordance with what has been mandated by the constitution.*

**Keywords:** Government System; Presidential System; Political Party.

## **INTRODUCTION**

As a state of law, all powers of the Indonesian government are based on the state constitution, namely the Constitution. Article 4 paragraph 1 of the 1945 Constitution of the Republic of Indonesia stipulates that the President of the Republic of Indonesia holds the power of government according to the Constitution, which means that the Indonesian government system adheres to the presidential system of government. After the reformation in 1999, the constitutional practice underwent many changes, one of which was the implementation of the presidential system of government in the state. Presidential system constitutes a system of government in which the executive is not accountable to the legislature. The consequence of this situation is that the executive and legislative bodies do not influence and are not influenced by each other. The power base of the executive goes back to the people as the ultimate power holder. According to the Presidential System of Government, the executive and legislative bodies are independent. The two bodies are not directly related as in the Parliamentary System of Government. They are elected by the people separately. In accordance with the amendments to the 1945 Constitution of the Republic of Indonesia, the president is the head of state as well as the head of government, assisted by a vice president who is directly elected by the people. The people determine the election of the president and the vice president and determine the (re-)election of the president and the vice president for a second term.

Indonesia has a very high level of plurality, ranging from ethnicity, religion, race, to diverse groups from Sabang to Merauke. The plurality in the political context results in the establishment of a plural party system. The party system is proportion that cannot be avoided, although the constitution itself has regulated explicitly and clearly that the Indonesian government system is a presidential system. Therefore, Indonesia's presidential system is implemented in a multiparty system. The development of the multi-party system in Indonesia began with the end of President Soeharto's regime. There was a desire for people to have the opportunity to establish a party. The enactment of Indonesian Law Number 2 of 1999 on Political Parties (*Undang-Undang Indonesia Nomor 2 Tahun 1999 tentang Partai Politik*, abbreviated as *UUPP*) became the juridical basis for the establishment of parties by the community. The enactment of the law became a milestone in the diversity of the number of parties in Indonesia. After the enactment of the law, in the 1999

general election era, 171 new parties were formed. Of the 171 parties formed, only 141 parties were registered with the General Election Commission (*KPU*), but only 48 parties were declared qualified to participate in the elections. Finally, in the 1999 elections, *PDIP* was the party that received the most votes, namely 35,689,073 million votes and 154 seats. The second and third positions were taken by the *Golkar* and the *PPP*.<sup>1</sup>

The 2004 general election was the first direct election for the president and vice president of the Republic of Indonesia. In that election, there were 24 parties that finally qualified. The number of parties in the election shrank to half of that in the 1999 election. The large number of political parties in the 1999 election was the antithesis of the New Order elections. The next election was held in 2014. The number of political parties that qualified to participate in the election was 15 political parties. In that election, *PDIP* topped the vote count with 23,681,471 or 18.95 % (per cent) of the total votes.<sup>2</sup>

Problems arose when Indonesia's presidential system is implemented collectively with a multiparty system. Implementing the presidential system collectively with the multi-party system, in turn, led to the instability that occurs today. Even the shrinkage of the number of parties from 1999 to 2014 to 15 parties did not have a major impact, as this number proves that the multi-party system is still applied in Indonesia.

Most Latin American countries employ the same presidential system as Indonesia. Most Latin American countries also apply the same multi-party system as Indonesia. Indonesia and most Latin American countries use the same system and it still works today. In fact, the multiparty presidential system has inherent problems.

The reality of the condition of the political party system elaborated above is interesting to study, especially regarding the party system that should be used in Indonesia and its consequences for the formation of the House of Regional Representatives (*DPR*) faction if the party system in Indonesia applies a two-party system. This study is important and urgent in strengthening the presidential system in Indonesia. This study will compare the party system in the United States, which has been implementing a presidential system like Indonesia but with a two-party system.

## **PROBLEM**

1. How is the presidential system in Indonesia organised?
2. How is the presidential system strengthened through the simplification of the party system in Indonesia?

## **RESEARCH METHODS**

The method used in this journal review is the normative juridical method. The normative method<sup>3</sup> is a legal study using: (1) primary legal materials in the form of laws and regulations, (2) secondary legal materials in the form of literature – journal articles and papers related to human rights law; and (3) tertiary legal materials in the form of relevant dictionaries. There are three approaches used in the study, namely (1) statute-approach, (2) fact approach; and (3) analytical conceptual approach.

## **DISCUSSION**

### **Presidential System Arrangements in Indonesia**

Kranenburg in Joeniarto states that modern democracies can be divided into three classes, depending on the relationship between the organs of government that represent the three functions—

---

<sup>1</sup>Evan, "Pemilu 1999", accessed on 27 November 2016, accessed through <https://m.tempo.co/read/news/2014/01/15/272545209/pemilu-1999>

<sup>2</sup> Deytri Robekka Aritonang, "PDI-P Pemegang Pemilu Legislatif 2014", accessed on 30 November 2016, accessed through <http://nasional.kompas.com/read/2014/05/10/0014480/PDI-P>

<sup>3</sup> Diantha, I. M. P, 2019, *Metodologi Hukum Normatif Dalam Justifikasi Teori Hukum*, Ed. III. Jakarta: Prenada Media Group, p. 123

(1) government of the people through representation under a parliamentary system, (2) government of the people through representation under a separation of powers system, and (3) government of the people through representation with direct popular control.<sup>4</sup> Then, Miriam Budiardjo distinguishes these two systems into two groups, namely the parliamentary executive and the presidential or non-parliamentary executive system.<sup>5</sup> In Indonesia, the agreement to implement a presidential system is strengthened through the existence of the 1945 Constitution, which also refines it to fulfil the general characteristics of a presidential system. The Indonesian constitution (UUD 1945) does not clearly mandate what party system should be implemented. However, the constitution suggests that Indonesia should implement a multi-party system. The article that regulate this is Article 6A (2) of the 1945 Constitution, which specifies that the President and Vice President candidates are nominated by a political party or a coalition of political parties. The article implies that Indonesia adheres to a multi-party system because those entitled to nominate presidential and vice-presidential candidates are political parties or a coalition of political parties. The phrase “a coalition of political parties” implies that there are at least two political parties that combine to nominate a president to compete with other candidates nominated by other political parties. Thus based on the article, in the presidential and vice presidential elections, there are at least three political parties. In reality, Indonesia has been running a multi-party system since it achieved independence. In the presidential system of government, there are several political party systems that are adopted. The following is an elaboration of the three systems in question.

### **1. Single-party System**

Prof. Sri Soemantri argues that a one-party system is a party system in that in a state there is only one political party that plays a decisive role, either explicitly recognised in its constitution as the only political party that can exist, or because of certain factors there is only one political party.<sup>6</sup> Prof Miriam Budiardjo further explained that the term single-party system is used for a party that is the only party in a country as well as for a party that has a dominant position among several other parties.<sup>7</sup>

In a country with a one-party system, all activities undertaken and intended to be undertaken by the government are generally the implementation of a political ideology and political party programme. Therefore, there is no room for formal opposition. In addition, this system applies and is adopted because of the need for a dictator.<sup>8</sup>

### **2. Two-party System**

The two-party system requires that two parties, among several parties, win the top two places in the general election in turn and thus have a dominant position.<sup>9</sup> Prof Sri Soemantri added that among the two political parties, there is one political party that controls the absolute majority of votes in parliament.<sup>10</sup> In general, the two-party system arises because of the implementation of the district election system.

The two-party system in reality can work well if three conditions are met, namely the composition of a homogeneous society, the existence of a strong consensus in society regarding social and political principles and goals, and historical continuity.<sup>11</sup>

### **3. Multi-party System**

A multi-party system is a party system in which there are various political parties represented in a country's parliament and no single political party holds a majority of votes.<sup>12</sup> In general, the

---

<sup>4</sup> Joeniarto, 1982, *Demokrasi dan Sistem Pemerintahan Negara*, Bina Aksara, Yogyakarta, p. 69

<sup>5</sup> Miriam Budiardjo, 2009, *Dasar-Dasar Ilmu Politik*, Gramedia Pustaka Utama, Jakarta, p. 301-303

<sup>6</sup> Maurice Duverger, *Political Parties*, dalam Sri Soemantri, 1969, *Partai Politik, Sistem Kepartaian dan Sistem Pemilihan Umum di Indonesia*, Jajasan Pendidikan Bunda, Bandung, p. 37.

<sup>7</sup> Miriam Budiardjo, 2008, *Dasar-Dasar Ilmu Politik*, PT. Gramedia Pustaka Utama, Jakarta, p. 415.

<sup>8</sup> Sri Soemantri, *op.cit.*, p. 51.

<sup>9</sup> Miriam Budiardjo, *op.cit.*, p. 416.

<sup>10</sup> Sri Soemantri, *op.cit.*, p. 37.

<sup>11</sup> Peter G.J. Pulzer, 1967, *Political Representation and Elections in Britain*, dalam Miriam Budiardjo, 2008, *Dasar-dasar Ilmu Politik*, PT Gramedia Pustaka Utama, Jakarta, p. 417.

<sup>12</sup> Sri Soemantri, *loc.cit.*

diversity of a society's political culture drives the choice towards a multi-party system.<sup>13</sup> Differences that include differences in race, religion or ethnicity encourage groups of people to tend to channel them in a particular forum. Thus, a multi-party system is considered more appropriate to the cultural and political plurality of a country.

### **Simple Multi-Party System as a Strengthening of the Presidential System in Indonesia**

The presidential system of government has two main characteristics. The first characteristic is that the head of government (president) is elected separately from the election of members of parliament. Thus the results of legislative elections do not directly determine the powers of the government (executive). The latter is the head of government is elected to rule for a fixed period of time (e.g. 5 years). In addition to the two main characteristics proposed by Mainwaring, Heywood suggests several other characteristics of a presidential system. These characteristics include the head of state and head of government being held by a president, executive power being vested in the president while the cabinet consisting of ministers are assistants who are responsible to the president, and in a presidential system there is a separation of personnel in parliament and in government. In addition to the main characteristics mentioned by the two political scientists, there is another important characteristic, which is the relationship between the presidential institution and the parliamentary institution. In a presidential system of government, the president does not have the authority to dissolve parliament, and vice versa, parliament does not have the authority to dissolve or dismiss the president. In some countries with a presidential system, parliament has the right of impeachment. However, this parliamentary right of impeachment is accompanied by very heavy requirements. Indonesia is one of the countries that adhere to the presidential system of government. Unlike the party system, which is not expressly regulated by the Constitution, the 1945 Constitution expressly and in detail regulates the system of government that refers to the presidential system. These arrangements are contained in Chapter III on State Government Powers and Chapter IV on State Ministries.

The multi-party system and proportional representation electoral system applied concurrently in Indonesia have the consequence that majority votes are difficult to obtain in parliament and majority government. The difficulty of obtaining a majority vote has in turn led to coalitions in Indonesia. To avoid the formation of coalitions that would destabilise the relationship between the executive and the legislature, it is necessary to restructure Indonesia's party system and electoral system.

The United States collectively implements a presidential system of government, but it is more consistently through a two-party system. This means that there are two different parties that dominate the executive branch on the one hand, and the legislative branch on the other. In addition, the country's system of single member majoritarian congressional districts further closes off the possibility for other parties to contest the presidential nomination. Presidential and congressional elections are held separately so that the winning party in the congressional election does not necessarily become the winner in the presidential election. Thus, the president and other executive officials may come from one party, while the winning party in congressional elections may become the opposition party.<sup>14</sup> The combination of a two-party system and single member majoritarian congressional districts has been shown to avoid extensive fragmentation and allows for a majority government that does not need to form coalitions.

In the context of Indonesia, which is a plural country, the diversity of political cultures pushes towards multipartyism,<sup>15</sup> making it difficult to implement a two-party system like in the United States. This multi-party system leads to a wider fragmentation of political party power. To avoid this extensive fragmentation, it is necessary to simplify the number of parties participating in the election. Simplification can be done by increasing the electoral threshold to limit the number of

---

<sup>13</sup> Miriam Budiardjo, *op.cit*, p. 416

<sup>14</sup> Almon Leroy Way, Jr., "The American System of Government: Politics & Government in the U.S.A" diakses pada 1 Desember 2016, diakses melalui <http://www.proconservative.net/CUNAPolSci201PartThreeB2.shtml>

<sup>15</sup> Miriam Budiardjo, *op.cit*, p. 415.

parties participating in the election and the parliamentary threshold to limit the number of parties that gain seats in the legislature. It should be emphasised that such simplification is not intended to limit the freedom of association and assembly that has been guaranteed in the constitution, but is intended to simplify the number of parties. Therefore, this threshold increase must be regulated in law. This is because the application of the threshold principle is seen as limiting individual participation in government. In principle, only the people can impose such restrictions.

Departing from the reality of presidentialism applied in Indonesia, extreme multipartyism (the number of parties is very large) needs to be encouraged to become simple multipartyism, especially the number of parties in parliament.<sup>16</sup> This simple multiparty then needs to be institutionally engineered into a simple multiparty system. Reduction in the number of parties will automatically simplify the fractions in parliament. Simplifying the number of factions will increase the effectiveness and efficiency of parliamentarians, so that they can accommodate the interests and needs of a very dynamic society.

## CONCLUSION

The announcement of the auction is a must as an embodiment of the principle of transparency and if it is not carried out, then the auction can be sued and can be canceled because it is considered legally flawed. Bankruptcy assets are part of an execution auction which must include a minimum price of goods (limit value). The limit value for auction execution is determined by the curator as the seller and is responsible for setting the limit value. Based on the Regulation of the Minister of Finance of the Republic of Indonesia No. 27 / PMK.06/2016 concerning Auction Implementation Guidelines, in determining the limit value the seller must pay attention to the assessment of the appraiser.

In addition to the auction mechanism, the curator can also sell bankruptcy assets underhanded. One example is the bankruptcy decision of PT Jaya Nur Sukses where the supervisory judge gives permission to the bankruptcy curator to sell by auction or privately. When the sale of bankrupt boedel by the curator is carried out privately, the curator requires the PPAT to draw up a deed of waiver. The mechanism for selling immovable assets will comply with the provisions of laws and regulations regarding the transfer of rights to land and buildings. The deed of sale and purchase issued must also come from an authorized official or in this case a Notary. It should be noted again, that the provisions of Article 185 of the Bankruptcy Law, the provision for the curator to sell bankruptcy assets privately must be preceded by an auction process first.

In 2010, when there were bankruptcy cases that affected several large hotels in Bali, there were several modes used by the bankruptcy mafia, one of which was manipulating transactions or agreements, as happened in the PT DRI bankruptcy case. In the case of PT DRI, the curator made peace unilaterally with the debtor even though peace should have occurred between the creditor and the debtor. The auction process can also take the form of a method used by the bankruptcy mafia, namely by arranging so that the auction price of bankruptcy assets is very low or goods can be made to appear to be very high so that in the end they do not sell and turn to underhand mechanisms.

## REFERENCES

### Books and Journal Articles

- Budiardjo, Miriam, 2008, *Dasar-dasar Ilmu Politik*, PT Gramedia Pustaka Utama, Jakarta
- Diantha, I. M. P, 2019, *Metodologi Hukum Normatif Dalam Justifikasi Teori Hukum*, Cet. III. Jakarta: Prenada Media Group, h. 123
- Joeniarso, 1982, *Demokrasi dan Sistem Pemerintahan Negara*, Bina Aksara, Yogyakarta, hlm.69

---

<sup>16</sup> Retno Saraswati, “ Desain Sistem pemerintahan Presidensial yang Efektif “, Fakultas Hukum Universitas Diponegoro, Semarang, p. 141

Saraswati, Retno “Desain Sistem pemerintahan Presidensial yang Efektif”, Fakultas Hukum Universitas Diponegoro, Semarang.

Soemantri, Sri, 1969, *Partai Politik, Sistem Kepartaian dan Sistem Pemilihan Umum di Indonesia*, Jajasan Pendidikan Bunda, Bandung.

#### **Website Articles**

Aritonang, Deytri Robekka, “PDI-P Pemenang Pemilu Legislatif 2014”, accessed on 30 November 2016 through <http://nasional.kompas.com/read/2014/05/10/0014480/PDI-P>

Evan, “Pemilu 1999”, accessed on 27 November 2016 through <https://m.tempo.co/read/news/2014/01/15/272545209/pemilu-1999>

Way, Jr., Almon Leroy, “*The American System of Government: Politics & Government in the U.S.A*” accessed on 1 December 2016 through <http://www.proconservative.net/CUNAPolSci201PartThreeB2.shtml>