

POWERS OF THE PRESIDENT AS CHIEF EXECUTIVE IN DETERMINING THE NUMBER OF STATE MINISTRIES BASED ON THE 1945 CONSTITUTION

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Abstract. Powers of the President as Chief Executive in Determining the Number of State Ministries According to the 1945 Constitution. With the amendments to the 1945 Constitution, the President and his partner, namely the Vice President, are directly elected by the people. And the pair that gets the most votes will be sworn in as President and Vice President. Thus began a new chapter in a government led by the President and Vice President. In addition to the President being assisted by the Vice President, based on article 17 paragraph (1) of the 1945 Constitution "The President is assisted by state ministers.". Whereas paragraph (2) based on the first amendment to the 1945 Constitution contains "Ministers are appointed and dismissed by the President" which is actually the same as the contents of the 1945 Constitution before the amendment. The only difference is the word "dismissed" with the change to "dismissed.". Then in paragraph (3) of the 1945 Constitution before the change, the contents were "Those ministers lead government departments" were changed to "Each minister is in charge of certain affairs in government." That the article meant that only ministers were in charge of certain affairs/certain tasks. In addition, there is the addition of one paragraph to the third amendment to the 1945 Constitution, namely paragraph (4) which contains "The formation, change and dissolution of state ministries is regulated in law." This is intended to form new departments and dissolve departments that need to be regulated by law so that it is not too easy to dissolve them. Based on the addition of paragraph (4) in the third amendment to article 17 LJIJD 1945, the President is limited in terms of how to form, change and dissolve state ministries. If the state ministries are regulated in law, this will limit the prerogative of the President as the head of the executive power in determining the state ministries, where apart from having the right to determine the ministers who lead the departments, the President also has the right to determine the departments.

Keywords: president; executive; ministry; UUDNRI

I. INTRODUCTION

In order to limit power in the state, that there must be rules of the game that are realized through a set of legal methods that in state life are set forth in a constitution [1]. These laws are described as Organic Laws (Organic Laws), That is, the law that organizes institutions, regulates the behavior of public officials through organs that have been established by the constitution [2]. According to C.F. Strong, the constitution as a collection of principles governs three things [1]: (1) Government power (in the broadest sense); (2) Reserved rights; (3) The relationship between the governed and the governed. Government is formed by the community (population) on the basis of a social contract to regulate the social order of the community so that conflicting interests can be arranged in such a way, so that people can live their lives reasonably [3]. To realize this, government institutions have seven areas of duty to ensure security, maintain order, ensure justice, conduct public works, improve welfare, maintain natural resources and the environment [4]. Seven functions of government that give rise to bureaucratic organs. To regulate the implementation of these functions, it is necessary to create a state government (administration) arrangement, so that there is a systemic mechanism that ensures the realization of government functions.

According to Usep Ranawidjaya [5] which states the influence and sovereignty of the people in a democratic system is institutionalized through legal rules, namely:

1. Guarantees regarding human rights and freedoms, conditions can function the sovereignty of the people.
2. Determination and limitation of authority of state officials.
3. A system of division of tasks between institutions that are mutually limiting and balancing (checks and balances).
4. Representative institutions as the incarnation of people's sovereignty with legislative duties and control of the executive body.
5. Free and secret elections.
6. A party system that guarantees the political independence of the people (multi-party or two-party).
7. Protection and guarantees for the continuity of their opposition as a potential alternative to the exercise of popular sovereignty.
8. Theoretical decentralization of state power to expand popular participation in state management.

The formulations mentioned above illustrate that in essence the state is nothing but an organization in the form of government as a tool to achieve the goal of protecting and safeguarding the interests of the people [6]. In addition, the state is essentially an organization of power.[1] By Miriam Budiardjo, power is defined as the ability of a person or group

of people to influence the behavior of another person or group in such a way that the behavior becomes in accordance with the wishes and goals of the person who has that power. [7] No matter how noble a man's mind may be, once he occupies a position of general power, he is exposed to the iron law of power. Therefore, there is no other way, in every modern state arrangement must be made and restriction power by law.[8]

From the concept of the constitution according to C.F. Strong, it can be concluded that the position or position of the constitution is intended to limit the authority of the government or ruler, regulate the course of government and guarantee the rights of the people. Thus, the constitution becomes the rule of the game for the people for political and legal consolidation, to regulate common life in order to realize its goals in the form of a state. Regarding the power of state government in Indonesia, the position of the President as head of government is stated in the provisions of Chapter III of State Government Power Article 4 paragraph (1) of the 1945 Constitution contains "The President of the Republic of Indonesia holds governmental power according to the Constitution." While in paragraph (2) states that "Dalam performs its duties, the President is assisted by one Vice President." Article 4 paragraph (2) of the 1945 Constitution means that the Vice President provides assistance to the President in the field of government (executive) power. [1] When viewed from the theory of power division, what is meant by government power is executive power.[9] The responsibility of government policy is centered on the President.

In the 1945 Constitution, the President of the Republic of Indonesia has the position of head of state and head of government.[10] This is a consequence of the presidential system. In the presidential system of government where the position of the president as the head of government and also as head of state shows that the Constitution of the Republic of Indonesia Year 1945 gives the position as national leader to the President.[1]. In the Constitution of the Republic of Indonesia Year 1945 after the amendment explained the duties of the people's representatives, which covered several areas, including:[11]

1. Diplomatic: establishing diplomatic relations with other countries.
2. Administrative: implementing laws and other regulations and administering state administration.
3. Military: organizing the force armed, organizing war as well as state security and defense.
4. Judiciary: granting clemency, amnesty and so on.
5. Legislature: plan draft laws and guide them in the people's representative institutions until they become laws.

In exercising his authority in the field of government "the President is assisted by state ministers", as stated in Article 17 paragraph (1) of the Constitution of the Republic of Indonesia Year 1945. With the first amendment to the 1945 Constitution, paragraphs (2) and (3) were amended.[12] Meanwhile, in the third amendment of the 1945 Constitution in Article 17 there is an addition of one paragraph to the fourth paragraph which contains "The establishment, alteration, and dissolution of state ministries are stipulated in law."

The addition of paragraph (4) is because in the era of the government of Abdurrahman Mahid as President in determining departments had made policies by removing two departments, namely the Ministry of Information and the Ministry of Social Affairs, which results in the status of personnel, finances, and assets of state wealth. In addition, it can affect the certainty and guarantee of the continuity of the course of development and governance, the life of government management, and cause the absence of continuity of policies and organizational management in the fields of personnel, finance, and state wealth assets. Basically, the Cabinet is a group of Ministers tasked with assisting the President in carrying out daily government duties. The number of ministers in each cabinet is not always the same, depending on the policy of the President or the head of the cabinet concerned according to needs.[13] So that automatically the number of departments follows the number of ministers that has been determined by the President. A President carefully considers the criteria for a minister in the Cabinet.

The responsibility of government rests on the shoulders of the President, and therefore the President has the authority in principle to form a government, assemble a cabinet, appoint and dismiss ministers and public officials whose appointments and dismissals are carried out based on political appointment. At over the President, there is no other higher institution, except the constitution. Therefore, in the system constitutional state, Politically the president is considered accountable to the people, while legally he is responsible to the constitution.[14]

From the provisions of these articles are actually matters related to rights prerogative.[15] In the Indonesian constitutional system, if you read carefully the thoughts of the founding fathers (The Founding Father) when formulating the articles of the 1945 Constitution there was no specific discussion of Prerogatives. This can be seen when they discussed article by article in the PPKI meeting at 11.30 to 13.30 on August 18, 1945. Even the articles that have been "considered" as the Prerogative of the President Article 11, Article 12, Article 13, Article 14 and Article 15 of the 1945 Constitution, are not disputed at all.[16]

Rights Prerogative is a legal institution (especially constitutional law) derived from the British constitutional system. In the constitutions of England and Canada, the executive still has several discretionary power, who is famous as the prerogative of the king. This last term is used to encompass a large set of rights that the King / Queen has and is exercised without a legal power in force. In addition, if parliament wishes, by law it can cancel Prerogative aforementioned. In other words, prerogative exists as long as and to what extent it is recognized and permitted by law.[17]

However, the minister who leads this department must be distinguished from the post of minister without portfolio because the existence of a ministerial post without a portfolio can change dynamically by the President at any time depending on needs. However, the ministry that leads the Department should be permanent, because it involves the structure of government to the regions.

But despite the changes to the 1945 Constitution, namely with the addition of article 17 paragraph (4) of the 1945 Constitution. In this case, the President retains the freedom to appoint ministers. In the administration of the country the responsibility at the final level lies with the President, ministers as Presidential Assistants depend on the president. This is one of the characteristics of the presidency government.

II. RESEARCH METHODS

In this writing, the problem approach used is normative juridical, referring to legal norms contained in laws and regulations and also legal norms that exist in society, namely through analysis of data in the form of HTN concepts and those related to presidential power as the highest state administrator, besides that a historical approach is also used, namely the history of the development of implementation and state ministries influenced by schools and ideas prevailing politics, and a comparative approach that compares the constitution / constitution that has been in force in Indonesia.

The materials used in this study, the author uses the following materials: Primary Legal Materials, such as the constitution / Constitution that has been in force, the provisions of the People's Consultative Assembly, laws and regulations related to this research. Secondary Law Materials, books such as state government system, division / separation of powers, legal politics / political law, state ministries, articles, magazines, newspapers, and others. Tertiary Law material, which consists of legal dictionaries, encyclopedias, political dictionaries and other relevant dictionaries.

III. RESULTS AND DISCUSSION

Theoretical Framework

Historically John Locke (1632-1704) the first to talk about the separation of powers in his book "Two Treaties on Civil Government" Year 1690. It separates the powers in each state from the legislative and executive powers, where the two powers must be separate. In addition to these two powers, there is also the power of war and peace, making alliances and alliances and all actions with all persons and bodies abroad, these powers are called federative.[18] A few years later the concept of division of power in the state was developed by Montesquieu (1689-1755) who popularly called according to Immanuel Kant the teaching "Trias Politica" in his book "L'Esprit des Loix" (The Spirit of The Law-1748). According to the concept Trias Politica Thus, state power must be divided and separated from each other both regarding duties (functions) and regarding equipment (organs) that carry them out. In his description he divided power into three branches, namely (1) legislative power is the power to make laws; (2) the executive power includes the administration of laws (but by Montesquieu takes precedence in the field of foreign policy) and (3) the judicial power is the power to prosecute violations of laws. In such a system, in the teachings of Trias Politica

there is a mechanism "check and balance", Where in the relationship between state institutions there is an attitude of mutual supervision and testing.[19]

Thus, in contrast to John Locke's insertion of judicial power into executive power, Montesquieu viewed the judicial power as a stand-alone power. In contrast by Montesquieu the power of foreign relations, which John Locke referred to as the federative power, was incorporated into executive power. Montesquieu's purpose of introducing Trias Politica is for political freedom (protecting human rights) which can only be achieved with the power of adjudicating (judiciary) that stands alone.[20] The Trias Politika theory was reduced by the drafters of the 1945 Constitution in the session of the Indonesian Independence Preparatory Business Investigation Board (BPUPKI) when talking about the Indonesian State Government System not using a system that distinguishes the three bodies.[21]. According to Hamid Attamimi, if the 1945 Constitution in its explanation uses words derived from Montesquieu's teachings, such as legislative power, executive power, etc., it should not be interpreted that the 1945 Constitution does not adhere to these teachings, but only to provide explanations and comparisons only, about the system actually used in the 1945 Constitution. In contrast to Attamimi's opinion, Moh Hatta in front of KAMI Bogor in 1966 [22] said, it is not true to say that the Trias Politica theory is a liberal theory and does not apply in Indonesia. This theory emerged long before liberalism was born into the world. The purpose, among others, can show the division of functions or powers in carrying out government. In absolute and dictatorial states, all three functions are controlled by the king or dictator. In line with that, Sri Soemantri saw that "although the 1945 Constitution clearly does not adhere to the Trias Politica theory, nevertheless the influence of the theory is found in the 1945 Constitution.[23].

With the amendment of the 1945 Constitution, it is now clear that the separation of powers between legislative power, executive power, and judicative power is adopted by the 1945 Constitution. In the first amendment to Article 20 paragraph (1) of the 1945 Constitution it is stated that "the DPR holds the power to form laws." This is in accordance with Montesquieu's teaching that the Legislature in this case the DPR has the power to form laws. While the Executive Agency or the President is the executor or organizer of the Law, the President in the first amendment to Article 5 paragraph (1) of the 1945 Constitution is only entitled to submit a bill to the DPR. Before the amendment of Article 5 paragraph (1) of the 1945 Constitution, it was the President who held the power to form laws, the DPR only approved the law. So, in this case the DPR does not have the power to form laws. There are two classic theories about the nature of the relationship between representatives and the well-known, namely the Mandate Theory and the Freedom Theory.[24] In Mandate Theory, representatives are seen as recipients of the mandate to realize the power represented in the process of political life. For terwakiii this theory is more advantageous because representatives can be controlled continuously. Differences in views between representatives and representatives can result in a decline in the reputation of the

deputy. In Freedom Theory, representatives can act without being dependent or strictly bound from being represented. According to this theory, representatives are trusted and elected people and have legal awareness of the people they represent, so that representatives can act on behalf of those they represent and on behalf of the people. Contrary to mandate theory, according to logic the theory of deputy freedom is more focused on operationalizing the duties of the deputy itself. The possibility that the represented person feels unrepresented by some or a number of problems because his or her incomprehension with the representative cannot be processed in this theory.

First, the author sees that in the 1945 Constitution after the change of the President, there is no need for a distinction between the President as head of state and the President as head of government. Because the 1945 Constitution no longer mentions the mandate system used by the 1945 Constitution before the amendment which ordered the People's Consultative Assembly to form and establish regulations that must be implemented by the President as the MPR Mandataris. However, based on the 1945 Constitution after the change in the position of the side as an Executive Body which is authorized to carry out government which must be carried out for five years both in the executive, legislative and judicial fields. However, as a logical consequence as stated in the explanation of the 1945 Constitution, it shows that the executive power is actually more prominent, which some experts on Constitutional Law (HTN) say in the 1945 Constitution exists: "Executive Heavy" With the amendment of the 1945 Constitution there is a tendency that democratization in Indonesia has produced a legislative body (read: MPR / DPR) with enormous power compared to the power of other state institutions in terms of It has the power to form laws. Each state institution has its own powers and authorities.

Conceptual Framework

Literally, "freedom" Derived from the root word "free" or "free" in English. Free is: 1) completely loose (unobstructed, distracted, etc. so as to move, speak, do, and so on freely); 2) escape from (obligation of demands, feelings of fear, etc.); 3) not imposed (taxes, penalties and so on); 4) not related or limited by rules and so on; 5) independence (not colonized, governed, or not influenced by another state or foreign power); while the word freedom can be interpreted as a state of freedom; independence.[25]. In Indonesian, the word president is used in two meanings, namely: the environment of office (ARNBT) and officials (Ambtsdrager). In foreign languages, like English, the term is used presidency, As an official, the term is used; president. In the 1945 Constitution, the use of the word "President" denotes an official. Given the position of the President as Head of State and as Head of government, it can be said that the president is the most important official in the Indonesian constitutional system.[26]. In Dutch. Machtiging (Dutch) is the granting of power, the granting of authority. Power is: 1) the ability or ability (to do something); 2) authority over something or to determine (to govern, represent, manage, and so on); 3)

influence (prestige, power, and so on); 4) capable, able; 5) the person who is given authority, while the word power is interpreted: 1) power (to manage, govern, and so on); 2) ability, ability; 3) the area (place and so on) controlled; 4) the ability of another person or group to rule over another person or group based on authority, authority, charisma, or physical strength.[27]

Authority It is a person or group of people to influence the behavior of another person or group in such a way that it becomes in accordance with the wishes and purposes of the person who has that power. In Dutch it is legitimate authority over a person. Authority or authority is having the right and power to do something, authority is 1) the right and power to act, authority; 2) the power to make decisions, govern, and delegate responsibilities to others; 3) the law of functions that may not be performed, the authority is: 1) the authority; 2) the right and power to do something. Recognition of power requires trust in the authority of the holder of the power to issue orders or trials. Power always means both a trust and a right.[28] "Executive" or "Executive" in English, executor can mean 1) with regard to management (management, government) or administration of something; 2) law, the power to execute laws; 3) Human, high-level officials who are accountable to the President Director or the highest leader in the company or organization. Word minister can mean 1) the head of a department (cabinet member), is an assistant to the head of state in carrying out the affairs (work) of the state; 2) high officials (as advisors to the king). Minister of State, Defined as presidential aides who are not subordinate to a department. Junior Minister, means an aide to the president whose job is to assist a minister, especially in the coordination of various areas that are urgent and need to be served sensitively. Coordinating Minister that is, the Minister of State who coordinates the work of several departments. The freedom of the president referred to in this writing is as intended in the state government system based on the 1945 Constitution, including the position of the president as head of state and head of government in this case as the Executive Body

The State Structure of Indonesia According to the 1945 Constitution

The 1945 Constitution after the amendment has provided a very significant shift value for the implementation of the Indonesian Constitutional system which tries to be more democratic. This can be clearly seen in the third amendment to Article 1 Paragraph (2) of the 1945 Constitution, stating that "Sovereignty is in the hands of the people and is implemented according to the Constitution.[12]. This framework is a process step that shifts the position of the People's Consultative Assembly (MPR) which has higher power with other state institutions. The existence of the People's Consultative Assembly (MPR) can no longer be maintained as the highest institution as it has always been. The People's Consultative Assembly (MPR) is no longer positioned as a super body in the administration of the country. The existence of the People's Consultative Assembly (MPR) as a state institution that is parallel to other state institutions. Thus, the constitutional structure of Indonesia in the 1945 Constitution

after the changes that occupy the highest layer in the 1945 Constitution is the 1945 Constitution itself, which was previously the position of the People's Consultative Assembly under the 1945 Constitution over high state institutions. If before the amendment (third amendment), the sovereignty was carried out in full by the MPR, then after the amendment of sovereignty was carried out in accordance with the provisions of the 1945 Constitution there may be other institutions that are given the authority to exercise the sovereignty of the people, such as the Constituent Commission (KK) which has been given the authority and authority to conduct a "comprehensive review" of the 1945 Constitution produced by the MPR. There is also a body that is empowered to resolve conflicts or disputes that may arise between existing institutions.

Changes to the redaction of Article 1 Paragraph (2) of the 1945 Constitution, are basically the same, because the position of the People's Consultative Assembly (MPR) still remains as the highest state institution that exercises people's sovereignty. The only difference lies in the system used in the distribution of power and authority owned by the MPR institution. Article 2 Paragraph (1) of the fourth amendment to the 1945 Constitution states: MPR over DPR member Jan DPD member elected through election common and further regulated by law, unlike the United States Congress which is said to consist of: HOUSE and Senate or Staten Generaal The Netherlands, which consists of Eerste Kamer and Tweede Kamer. The MPR also has its own authorities and leaders, so the MPR can be called a separate institution, so that the structure of the Indonesian parliament according to Jimly Asshiddiqie, can be called a three-chamber parliament (tricameralism).[14]

With this formulation, it means that the element of Group Envoys in the MPR membership is completely eliminated, and only DPR members remain according to the principle of "political representation" and DPD members who are a mirror of the principle of "regional representation" from each provincial region. The current DPR positions are all elected through a democratic mechanism, in contrast to the previous DPR membership where 38 of them were not elected in general elections but were appointed to represent the TNI and Polri institutions. In addition, an open proportional system gives greater sovereignty space to voters. The DPR is not a "rubber stamp" institution like the Orba era. If previously the DPR and DPRD were considered as the "stampers" of the government, later the people's representative institution was not only an independent force, but also became a supervisor of the running of the government. Based on the third amendment of the 1945 Constitution from its articles states that "DPD can propose to the DPR giving consideration to the DPR on the bill, DPD can supervise the implementation of the Law in that sentence shows, DPD's right is only a kind of input giver, which according to Satya Arinanto, DPD's position as "DPR expert staff. There is a desire to enlarge the functions, duties, and authority of DPD. Strengthening and empowering DPD is sought to be carried out through the Law. However, it is not possible if the strengthening process is pursued through the Law, which is hierarchically clearly

subordinate to the 1945 Constitution.

In addition, with the amendment of the 1945 Constitution, the MPR no longer establishes GBHN. Thus, there is no longer a basis for the MPR to supervise the President as before. In other words, if the president does not perform as expected, as long as it does not involve unlawful acts in the form of treason against the state, corruption, bribery, other serious crimes or reprehensible acts, there is no authority of the MPR to hold the president accountable. The opinion of Hamid S. Attamimi, who stated that the institution of the incarnation of the people functioning in the quality of the people acts as a citizen or burger of sovereignty of J.J. Rousseau's term, is called the Consultative institution. While the institution that represents the people and functions in the quality of the people as the governed suyet, is called a representative institution. Attamimi further emphasized that although in a country with two qualifications, the perpetrators are related to the implementation of their duties and roles.

The goal of the state according to modern understanding is to achieve welfare for the people, and it is the people themselves who can be considered to know very well, how the equipment of the state should act towards that goal.[29] While the Indonesian people form a state to be used as a tool to achieve higher ideals, namely the purpose of the state which is essentially the goal of the Indonesian nation. The people's government system is a system of government where the people who administer the government are the people or at least the people are included to discuss government problems. In foreign languages such a government is called "Democracy". Indonesians commonly call it democracy. In its external form, the idea of democracy is formally embodied in institutional mechanisms and state decision-making mechanisms. However, in its content, the idea of democracy concerns the basic values and principles embodied in the cultural behavior of the people supporting the idea of democracy.[30] The components of democratic government, in the twentieth century obtained the title "democratic government" regardless of the actual reality. Hazairin explained about the main characteristics of the differences between western democracy and Indonesian democracy. Western democracy the power of groups or the power of political parties is highlighted, Indonesian democracy emphasizes more on the unity and unity of the Indonesian nation.[31]

The qualification of people's representatives reduced in the DPR-DPD is a legislative institution that exercises power and authority over the interests of the people based on the 1945 Constitution. The formulation of sovereignty is in the hands of the people according to Dahlan Thaib shows that the people in the Indonesian constitutional system based on the 1945 Constitution are very central.[19] Power is defined juridically as sovereignty, the notion of sovereignty is defined as the highest power that is absolute. With the emergence of relations between nations and states, sovereignty began to be limited, so that the meaning of this sovereignty became relative. The principle of people's sovereignty is not only embodied in the laws and regulations that will be produced, but also reflected in the institutional structures and

mechanisms of the state and government that ensure the establishment of the legal system and the end of the democratic system.

Changes to the 1945 Constitution that have been produced by the MPR are transformational directions for the improvement of Indonesia's democratic constitutional system. Although many people view political reform through constitutional changes and legal order, there are still controversies involving constitutional reform. That way the formulation and preparation of a legal text has been oriented to the future in accordance with the legal needs of the community. For this reason, the implementation of the 1945 Constitution must be adjusted to the development of a dynamic society in trips that may be true and incorrect (misuse of power), in other words, the 1945 Constitution must be flexible and not rigid in order to keep up with the times and society. This is as stated by Harun Alrasyid in accordance with the nature of humans who always want to progress, so do not fixate on the rules that are currently in force, but also have to think of rules that are more ideal for the future.

Executive Board in the Indonesian Constitutional System According to Constitution 45

Changes in the Indonesian constitutional system are theoretically a consequence of changes in the 1945 Constitution which have implications for the Indonesian government system used. On the one hand there is a reduction in executive power (read: President) on the other hand there is a strengthening of the position of the President with a system of direct presidential election. This reflects the changes to the 1945 Constitution produced by the People's Consultative Assembly (MPR) in the use of its government system which is still a mixture of the Presidential system of government and the parliamentary system. Thus, according to Suwoto Mulyosudarmo, that in the presidential system persists with the presidential system, according to Verney, there are twelve characteristics so that it can be called a presidential government, as follows:

- 1) The assembly remains as an assembly only;
- 2) The executive is not divided, but there is only a President elected by the people for a certain term at the time the assembly is elected;
- 3) The head of government is the head of state;
- 4) The President appoints the heads of departments that are subordinate to him;
- 5) The President is the sole executive;
- 6) Members of the assembly shall not hold government positions and vice versa;
- 7) The executive is accountable to the constitution;
- 8) The President cannot dissolve or force the assembly;
- 9) The Assembly is higher than the other parts of government and there is no amalgamation of the executive and legislative sections as in a parliamentary;
- 10) The executive is directly accountable to the electors;
- 11) There is no focus of power in the political system;
- 12) If in a parliamentary system political activity rests on parliament, then in a presidential system there is no institution that is the concentration of power, because in

reality power becomes divided and each institution has authority controlled by other institutions. Relations Between State Institutions in Horizontal Division of Power.

But the growing spirit within the legislature is heading towards a parliamentary system. The discourse of federalism and the configuration of the federal state for Indonesia, increasingly rife along with the rolling of reforms, The shift in practice from the presidential system to the palementer is the result of changes in order to create a dynamic balance between the institutions administering state power, especially between the President, the DPR, and the Supreme Court. These balancing measures are seen in the rearrangement of the position of state institutions, this can be seen in the reduction of the power to make laws on the part of the president and shift it as the authority of the DPR. In the fourth paragraph of the Preamble to the 1945 Constitution it is stated that "Then instead of that to form an Indonesian State Government ...", the state government is not only in the executive sense, but in a very broad sense which includes all state institutions, state positions and government institutions with all levels of apparatus, state institutions including MPR, DPR, BPK, President, and MA. Meanwhile, with the 1945 changes, the constitutional structure of the Republic of Indonesia consisted of: BPK, DPR, DPD, President, MA, MK, and KY. The executive body (in political connotations) is the President (in the US) or Prime Minister (in the UK) and members of his cabinet in other systems. It is this body/institution whose task is partly to make regulations as to implement regulations and which is partly responsible for determining foreign policy and exercising general leadership in the government of the country.

The President not only obeys the 1945 Constitution and written laws and regulations but also the President must comply with the unwritten law, namely consensus and understanding and also conventions, such as good obligations of a person in power, having a sense of justice and ethical norms. Although the power of the President is very large and the power is very large (legal), but the President is an ordinary man who must be maintained lest his policies are wrong which will eventually become a source of instability. Therefore, the President must not be separated from supervision and restrictions so that all his policies are not dogmatic because if the president's policies are dogma, sooner or later the President will lose his position in the midst of rapid changes. In fact, the balance of power (control) of the legislative institution (DPR) against the authority and authority possessed by the executive institution (government) is an absolute requirement for the establishment of a democratic system of government. The extent to which the government is able to fulfill the promises, which are delivered to all the people during the campaign, will be influenced by the performance of the DPR, especially in controlling the course of government.[32] In a presidential system, direct presidential elections are conducted separately from legislative elections, therefore it is possible that the elected president is from a small party. Therefore, it is very important that the president establishes a harmonious relationship with the DPR.

In Juan Linz's article entitled *The Perils of Presidentialism* puts forward an argument that links the design of the constitution and the stability of democracy, he explicitly supports the parliamentary system as the path to stable democracy. Based on Latin American countries, the conclusion of democratic consolidation is more difficult to maintain in a presidential than a parliamentary system. Meanwhile, according to Scott Mainwaring, Presidentialism does not automatically hinder the performance and stability of democracy in a country. It becomes a problem when combined with a multiparty party system. In his observations of 31 countries that have stable democracies, namely countries that were able to maintain their democracy continuously from 1967 to 1992, it was found that all presidential countries that successfully maintained democracy turned out to adhere to a multi-party system. According to Mainwaring, multiparty coalitions in parliamentary systems differ from inter-party coalitions in the presidency in several key respects. First, in a parliamentary system, the coalition of parties that elect the head of government of the cabinet members remains responsible for providing continuous support to the government formed. Whereas in a presidential system, the president-elect forms his own cabinet, and is independent of the influence of other political parties and legislative institutions. Although there are a number of other party members sitting in cabinet seats, it is more of an individual bond, without binding a more permanent commitment to the political party of origin.

So the parties can withdraw support for the government at any time; Second, the motivating factor for parties to break coalitions is usually stronger in presidential systems. In a presidential system, the involvement of party activists in the cabinet will worry about the fading of the party's identity in the eyes of the public, because they are only part of the cabinet, only the party that supports the president stands out. Under these conditions, it is natural that there is a chance that parties will withdraw their support for the president.

Power and Authority of the Agency Executive According to the 1945 Constitution

The President in exercising people's sovereignty acts as an administrative executor. In addition to the position as head of state. The President is also the head of government who leads and is responsible for the implementation of executive duties. This is a consequence of the presidential system, and indeed there is another position also mentioned in the 1945 Constitution, namely in article 10 which states that "the President holds supreme power over the Army, Navy, and Air Force". The powers stipulated in Articles 10, 11, 12, 13, 14, and Article 15 of the 1945 Constitution are usually associated with the position of the Prpsiden as Head of State. Of the provisions of these Articles, one is a matter relating to prerogatives. Although at this time, the prerogative power is increasingly limited, either because it is regulated by law or restrictions on the way it is implemented. Therefore, to reduce the undemocratic nature of executive power, the use of prerogative power is limited by being transferred into law. So

that the prerogative power that has been regulated in the Law is not referred to as a prerogative anymore, but the right based on the Law so that the prerogative power contains several characters or characteristics, namely:

- 1) as residual power;
- 2) is a discretionary power;
- 3) nothing in the written law;
- 4) use is restricted;
- 5) will disappear if it has been stipulated in the Law or Constitution.

So that the provisions in the amendments to the 1945 Constitution, especially Articles 11, 12, 13, 14, and 15, the President in exercising his authority specified in the 1945 Constitution cannot be done with the power of the President himself, but the President in exercising this authority together or must first be related to other state institutions. The authority of the DPR over functional relations with the President as Head of State based on the 1945 Constitution is: 1) The President with the approval of the DPR declares war, makes peace and treaties with other countries. In the case of appointing ambassadors of other countries by taking into account the considerations of the DPR and the President accepting the placement of ambassadors of other countries by taking into account the considerations of the DPR, the president gives amnesty and abolition by taking into account the considerations of the DPR. Meanwhile, the authority of the Supreme Court over functional relations with the President as head of state is: rehabilitation with the President granting clemency and paying attention to the consideration of the Supreme Court. In accordance with the results of the amendment to the 1945 Constitution, the exercise of the authority of the President in relation to other institutions mentioned above, is also required to have a law that regulates it. Article 5 Paragraph (1) of the 1945 Constitution before the amendment stated that "the President holds the power to form laws with the approval of the House of Representatives". Then Article 20 Paragraph (1) of the 1945 Constitution states that "Every law requires the approval of the DPR". In the 1945 Constitution system before the change, people's sovereignty in the field of law formation was channeled simultaneously to the President and DPR, which could be classified as a product of Preden together with the DPR. With the amendment of the 1945 Constitution, the authority to form laws was transferred to the legislature, namely based on Article 1 20 Paragraph (1) of the first amendment to the 1945 Constitution which contained "The DPR holds the power to form laws. This is in accordance with the function of the rule of law, in this case the DPR as a state institution has legislative power, namely the one that forms laws.

There are four main functions in the executive field that today are considered important to be guaranteed independence, namely: (a) the function of state defense by military organizations; (b) the functions of the state police; (c) the functions of the attorney general's office, and; (d) the functions of the central bank. Although these four functions are carried out by institutions within the scope of executive power, in order to ensure their independence, the appointment and dismissal of their leaders can only be carried out by the

President after obtaining or with the approval of the people's representative body. Administrative powers are also important. The appointment and dismissal of public officials is often considered the absolute right of the President. The term commonly used for this is the Prerogative of the President. Although in the presidential system of government, the position of the President is considered central, the implementation of his duties in administrative fields must still be regulated and limited. Especially in modern times, there is also a practice that requires the functions of various institutions to be carried out professionally and independently by tendencies arising in momentary political dynamics.

Ministers are appointed and dismissed by the President. This rule is connected with the provisions regarding executive power held by the president which is the basis for the enactment of the Presidential (cabinet) system. The government is the president himself, not the President plus ministers. The expression state government has a broader meaning than just executive power because it includes executive power, legislative power and even as the head of state there is judicial power contained in article 14 of the 1945 Constitution. The definition of government can be distinguished between the government as an organ (tool) of the state that carries out duties (functions) and government as a function of the government. Government can be the first sense in the broad sense (macro) and government in the narrow sense (micro) means specifically executive power while in the broad sense (macro) in addition to executive power, also legislative power and judicial power.

Government in a narrow sense based on the Constitution that has been in force in Indonesia during the independence pancawarsa as follows:[33]

1. In the 1945 Constitution it is stated that the government is the President assisted by the Vice President and Ministers;
2. In the 1950 Constitution 1945 it is stated that the government is the President, Vice President together with the Ministers;
3. In KRIS 1949 it is mentioned that the government is the President and Ministers together.

The President in the position of head of state and head of government, has the position of national leader, whose leadership has a path of realization, both at the central and regional levels which is carried out based on constitutional lines in the 1945 Constitution. In the implementation of such a presidency, the national leadership in question requires firm and definite foundations, and as far as possible unity of understanding and views can be achieved for the certainty of the constitutionality of constitutional life. The basis for the management of national life in general, and especially constitutional life contained in each country and usually listed in the Constitution of each country, namely: ideal factors/foundations, structural factors/foundations, and operational factors/foundations.

From these three factors, the accuracy of the actions of the state government was then tested. This means that the pattern of leadership is determined by the cooperation of the three dominant factors in the Constitution, namely Pancasila (as the ideal foundation), the presidential system of

government (as a structural basis), and national goals (as an operational basis). Formal and informal leadership have a relationship of mutual influence, influence and influence also on the general public who are manipulated in various forms and styles of government as outlined in the general explanation of the 1945 Constitution in the form of horizontal coordination between ministers who must cooperate closely with each other. In essence, it is officials who play a political leadership role that can determine government or state policy. While other officials may only set administrative policies, management policies/operational policies.

IV. CONCLUSION

Based on the description above, the authors in this study can conclude as follows: That with the 1945 Constitution the first, second, third and fourth amendments, the power possessed by the President who was previously famous for executive heavy now tends to become legislative heavy. This can be seen in the amended articles of the 1945 Constitution. The power of the president as head of state is contained in the provisions of Articles 11 to 15 of the 1945 Constitution. With the amendment of the 1945 Constitution, especially the article above, the President in exercising his authority cannot be done with the power of the President himself, but the President in exercising that authority together or must first be in contact with other state institutions. The authority of the House of Representatives over functional relations with the President as Head of State based on the 1945 Constitution are: 1) The President with the approval of the House of Representatives declares war, makes peace and treaties with other countries; 2) In the case of appointing ambassadors of other countries by taking into account the considerations of the DPR and the President accepting the placement of ambassadors of other countries by taking into account the considerations of the DPR. 3) The President grants amnesty and abolition with the inemtitment of the consideration of the DPR. Meanwhile, the authority of the Supreme Court over functional relations with the President as head of state is: The President grants clemency and rehabilitation by taking into account the consideration of the Supreme Court. In accordance with the results of the amendment to the 1945 Constitution, the exercise of the authority of the President in relation to other institutions mentioned above, is also required to have a law that regulates it. The President as the executive body in this case has the authority to make laws. With the second amendment to the 1945 Constitution, the President is no longer said to hold the power to form laws. The power to form laws shifts to the authority of the DPR which is the legislative body, namely the body forming the law. The president is only entitled to submit bills. However, it does not negate the principle of forming laws carried out jointly by the DPR and the President who in this case are represented by ministers who are competent in their fields to discuss bills in the DPR

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