



The President's Prerogative Rights in Appointing Ministers in the Presidential Government System After the Amendment to the 1945 Constitution

Willy Wahyu Astuti

Faculty of Law, Master of Law, University of Lampung, Indonesia

<http://dx.doi.org/10.18415/ijmmu.v11i6.5813>

Abstract

Indonesia implements a presidential system of government which gives the president a lot of power to create a stable government. Prerogative rights are privileges that are owned by the head of government or head of state without any intervention from any party. The institutionalization of the president's prerogative to appoint and dismiss ministers in the cabinet is a consequence of the president's political position as the head of the highest government which is independent and independent from the intervention of parliament, political parties or other political institutions. The balance of the appointment of Ministers of Ministers by the president prioritizes professionalism and competence compared to considerations of political accommodation.

Keywords: *Presidential System; Prerogative; President*

Introduction

Indonesia adheres to a presidential system of government. The presidential system is a system that separates executive power and legislative power, so this system is also known as the separation of powers system. Indonesia is a country with a presidential system of government. This is based on the agreement of the nation's founding *fathers* at the BPUPKI National Independence Preparatory Effort Investigation Body session on 29 May - 1 June and 10-12 July 1945,¹ then in article 4 paragraph (1) of the 1945 Constitution before the amendment said that the presidential system of government is adopted, but the system implemented still contains the characteristics of a parliamentary system, namely the existence of the MPR as the highest state institution, a place where the president must submit and be responsible.² In other words, the presidential system of government is not so pure, because the president is not directly elected by the people, but after the amendment, to be precise, the third amendment, the presidential system is purer.

The process of amending the 1945 Constitution was carried out for the first time in 1999 and only ended in 2002. The first amendment process discussed the term of office of the president according to 7

¹ Saldi Isra, *Shifting the Function of Legislation, Strengthening the Parliamentary legislative model in the Indonesian Presidential Government System*, (Jakarta Rajawali Pers 2010), p. 48.

² Jimly Asshidiqie, *Introduction to Constitutional Law*, (Jakarta Constitution Press 2006) p. 6

of the 1945 Constitution before the amendment. This article is subject to multiple interpretations because it does not explain the term of office of a president. This article provides a limit of 2 terms of office for the president after which he cannot be re-elected.

Trias politica power-sharing function initiated by John Locke and Montesquieu after the French Revolution and the implementation of *checks and balances* between state institutions.³ So the changes to the 1945 Constitution are not only to limit the power of a president as executive, but also to regulate the roles and functions of other branches of power (legislative and judicial).

However, unfortunately, the structuring of the roles and functions of the division of powers has resulted in the legislative role being dominated by *the legislative heavy*.⁴ This increase in the role and function of the DPR is more due to past trauma where the DPR was unable to function as it should as a legislative institution. The increasing role of the DPR was followed by the increasing role of the new judicial institution. The prerogatives possessed by the president are special *privileges* and are closely attached to a president. In other words, no other institution can interfere with it. This prerogative is absolute and cannot be contested.

According to the Indonesian survey institute LSI, there were 78.3% of respondents who wanted Ministers to be drawn from professional circles. Only 4.1% of respondents wanted Ministers to come from political parties. Those who have the Minister's preference from professional circles are generally residents who live in urban areas and those from middle to upper education levels.⁵ The appointment of Ministers should be the president's full prerogative, in reality the president's recruitment of Ministers cannot be 100%, using his prerogative due to coalition ethics which he makes the main consideration in carrying out *a reshuffle* of the ministerial cabinet. Consequently, the president does not have the guts to dare to appoint ministers entirely from professional circles. , as a result the president's cabinet reshuffle still does not provide room for the creation of a cabinet of professional staff.

The above problems give rise to the view that the exercise of presidential prerogative rights is not purely carried out to fulfill the President's constitutional obligations, but is often used as a political reward, meaning that it is given as a gift to those who have politically contributed to the president, an example of political reward for example is the appointment of someone as Minister in cabinet for providing strong support to the president

The president is the highest administrator of state government and in administering state government, power and responsibility are in the hands of the president. The appointment of Ministers that has occurred is an example of constitutional practice which sometimes causes problems related to prerogative rights. In its implementation, it gives rise to the assessment that, so far, prerogative rights are not purely exercised to fulfill the President's constitutional obligations, but are often used as political compensation, meaning that they are given as gifts to those who have made political contributions to the President, because they have provided strong support during the presidential candidacy.⁶

The symbiotic relationship of mutualism between Parties that is developed in the election process is a phenomenon that must be ensured to be on a path that is in accordance with the objectives of the government system used, so that from the problems above, this article will discuss the implementation of the President's prerogative rights in appointing Ministers in the presidential system of government. after the changes to the 1945 Constitution. At the end of this article the author explains the findings from the study of this article.

³ Mariam Budiardjo, *Basics of Political Science Ediso Revidi* (Jakarta Gramedia Pustaka Utama 2008), p. p 124.

⁴ Lutfi Widagdo Eddyono. "Disputes over the authority of citizens by the constitutional court" *Journal of the constitution of the constitutional court* volume 7 Edition Number June 2010 p 11

⁵ Indonesia LS "Minister's ideal criteria and evaluation of SBY's performance ahead of the formation of the new cabinet 18-28 July 2009 <https://www.viva.co.id/berita/politik/86026-Isi-sby-diharapkan-bwntuk-zaken-kabunet> accessed 10/20/022.

⁶H. Kaharudi, HM Asmara, G, Minollah, & Jayadi, H. "The Prerogative Rights of the President in the Appointment and Dismissal of the Chief of Police of the Republic of Indonesia Based on the 1945 Constitution" *Legal Media* 23 (2) 2016 p 138

Research Methods

This study is part of the normative-empirical study of juridical law, which focuses on library research on how to develop, test, and review legal theories and laws and regulations (Statute Approach) by using secondary data and primary data as the basis for preparing research content.⁷

Discussion

A. Presidential Prerogative Rights After Amendments to the 1945 Constitution

Power has an important role in running a government, it even determines the fate of the people of a country. Until now, power does not have a standard definition, so some experts have their own definitions regarding the meaning of power.⁸ Power is identified as the ability of a person or other group in such a way that the behavior is in accordance with the wishes or desires of the person who has the power. Historically, prerogatives are extraordinary rights and are usually given to the King or Queen. This right was first implemented in the constitutional system in England, which gave political power to decide matters using personal considerations. Prerogative comes from the Latin *praeerogativa* chosen as the first person to vote, *praegativus* asked to be the first to vote, and *praeerogare* means asked before others. In loose terms, prerogative is translated as a special privilege possessed by certain institutions which is independent and absolute in the sense that it cannot be challenged by other institutions. One example of the exercise of this prerogative is the President of France dismissing the head of government and dissolving the national assembly after consulting with the Prime Minister and the chairs of the national assembly.

Before there were changes to the 1945 Constitution, the government system practiced in Indonesia had the characteristics of⁹ 1) the President as the holder of government power assisted by a Vice President and ministers; 2) Ministers who sit in the cabinet are appointed and dismissed by the President; 3) The President and Vice President are elected by the MPR; 4) The President is subject to and responsible to the MPR; 5) The People's Consultative Assembly has the authority to demand accountability from the President and has the right to assess the President's accountability; 6) The People's Consultative Assembly has the authority to dismiss a President during his term of office. Based on the characteristics that have been mentioned, Sri Soemantri, an expert in Constitutional Law at the Faculty of Law, Padjadjaran University, Bandung, stated that before the 1945 Constitution was amended, Indonesia actually did not fully adhere to a presidential system of government, but rather adhered to a semi-presidential system or a quasi-presidential system.¹⁰

After the third amendment to the 1945 Constitution, it was stated that the President and Vice President would be elected directly by the people for a term of five years as stated in Article 6A paragraph 1 of the 1945 Constitution. This means that the President is not responsible to the MPR (which consists of members of the DPR and DPD). Thus, during his five-year term of office, the position of a President in Indonesia cannot be contested. The construction contained in the 1945 Constitution like this is an effort to stop the constitutional conflict that has characterized the government system in Indonesia.¹¹

⁷ Soerjono Soekanto, *Penelitian hukum normative*, Depok: Rajawali Pers. 2018 hal 12,

⁸ Mariam Budiardjo, *Basics of Political Science*, p. 35.

⁹ Bagir Manam Presidential Institution. Yogyakarta: FH UII Press. p. 46

¹⁰ One piece of evidence that states that the Indonesian government system before the 1945 Constitution was amended was quasi-presidential, namely that the MPR, which is the highest state institution, could summon the President in a Special Session of the MPR to be held accountable. This special session can remove a President from office. This was experienced by former Presidents Soekarno and Abdurrahman Wahid.

¹¹ In the midst of the process of discussing amendments to the 1945 Constitution, the Ad Hoc Committee I of the MPR Working Body, which met between 1999 and 2002, drafted a basic agreement relating to amendments to the 1945 Constitution. One of the basic agreements was to strengthen Indonesia's presidential system of government. This basic agreement consists of five

The President's powers based on the 1945 Constitution as a result of the amendments, can be grouped into three types of power, namely the President's power in the executive sector, the President's power in the legislative sector, and the President's power as head of state

B. Appointment and Dismissal of Ministers Based on Law Number 39 of 2008 concerning State Ministries

Setting the requirements for the appointment of ministers is not intended to limit the president's right to choose a minister, instead emphasizing that an appointed minister has good integrity and personality. However, the president is expected to also pay attention to competence in the field of ministerial duties, have leadership experience, and be able to work together as an assistant to the president.¹²

Law Number 39 of 2008 concerning State Ministries, regulates the appointment and dismissal of article 22 paragraph:

- (1) Ministers are appointed by the President
- (2) To be appointed as Minister, a person must meet the following requirements:
 - a. Indonesian citizens;
 - b. Fear the Almighty God;
 - c. Loyal to Pancasila as the state foundation of the 1945 Constitution of the Republic of Indonesia, and the ideals of the proclamation of independence;
 - d. Physically and mentally healthy;
 - e. Have integrity and good personality; And
 - f. Never been sentenced to prison based on a court decision that has permanent legal force for committing a criminal offense that is punishable by imprisonment for 5 (five) years or more.

This law was drafted in order to build an effective and efficient presidential government system, which focuses on improving excellent public services. Therefore, the Minister is prohibited from holding concurrent positions as other state officials, commissioners and directors in companies, and heads of organizations funded from the State Revenue and Expenditure Budget and/or Regional Revenue and Expenditure Budget. It is even expected that a Minister can relinquish other duties and positions, including positions in political parties.

Law Number 39 of 2008 concerning State Ministries, article 23, ministers are prohibited from holding concurrent positions as:

- a. Other state officials in accordance with statutory regulations
- b. Commissioners or directors in private companies; or
- c. Leaders of organizations funded from the State Revenue and Expenditure Budget and/or Regional Revenue and Expenditure Budget.

points, namely: (1) does not change the Preamble to the 1945 Constitution; (2) continue to maintain the Unitary State of the Republic of Indonesia; (3) strengthening the presidential government system; (4) the explanation of the 1945 Constitution was abolished and the normative matters in the Explanation were included in the articles; (5) changes are made by means of an "addendum". Huda, Ni'matul. (2005). Indonesian Constitutional Law. Jakarta: PT Raja Grafindo Persada. h. 144. What is meant by a presidential system of government is a system of government that concentrates government responsibilities in the hands of the president, the president acts as head of state and head of government. As head of state and head of government, the president's power does not only touch the executive area, but also more or less extends to the legislative process and authority in the judicial sector. Indrayana Denny, *Land of the Mafia: Law is a Nest of Corruptors* Jakarta: Gramedia Pustaka Utama. 2008 p. 195

¹² Explanation of Law Number 39 of 2008 concerning State Ministries

A person who has and carries out a certain profession is a person who has and exercises freedom in his profession, both professions in general and noble professions, because he has freedom in carrying out his profession, he must be responsible in carrying out that profession.

The main function of ethics is to guide humans in seeking critical orientation in dealing with various kinds of morality. This orientation arises especially when there is a conflict of morality and humans must make decisions based on the morality they choose.¹³

Law Number 39 of 2008 concerning State Ministries, regulates the dismissal of Article 24 paragraph:

- (1) The Minister resigned from his position because;
 - a. Die; or
 - b. End of term of office.
- (2) The Minister was dismissed from his position by the President because;
 - a. Resign at your own request in writing
 - b. Unable to carry out duties for three consecutive months
 - c. Declared guilty based on a court decision that has obtained permanent legal force for committing a criminal offense that is punishable by imprisonment for 5 (five) years or more;
 - d. Violating the provisions prohibiting holding multiple positions as intended in article 23; or
 - e. Other reasons determined by the President.
- (3) The President temporarily dismissed a Minister who was accused of committing a criminal offense which is punishable by imprisonment for more than 5 (five) years

C. Portrait of the Presidential Government System in Indonesia After the Amendment to the 1945 Constitution

1. Political Configuration of Susilo Bambang Yudoyono's Government System (2004-2009 and 2009-2014)

General elections were held directly for the first time in 2004, reflecting the implementation of a more pure presidential system of government. Susilo Bambang Yudoyono won the presidential election but his party only had 55 seats in the DPR, while the three parties that supported him, namely PKS, PBB and PKPI each only had 45 seats. 11 chairs, and 1 chair. In total, the total support base is only 113 out of 550 seats or 20.5%.¹⁴ With these conditions, SBY opened up coalition opportunities for other parties to join the cabinet. This is realized in order to secure its policies. SBY's openness and compromise attitude resulted in the merger of Golkar (128 seats), PPP (58), and PKB (52) with a total number of government supporters (*the rolling coalition parties*) reaching 403 seats or 73.4% so that SBY was initially President with Minority power in the legislature changes completely to the President with majority power. This happened thanks to SBY's compromise attitude in inviting political parties to join the government coalition. In this way, *the feedback* that SBY received was high legislative support for his policies.¹⁵ Despite the instability of SBY's government.

This is the same as President Susilo Bambang Yudoyono in the 2009 election where the Democratic Party (*the ruling party*) only got 150 seats or 26.4%. However, again, SBY is trying to build the strength of the presidential coalition by inviting many parties to join the government in order to obtain institutional policy support. legislative. From initially having minority power in parliament, SBY gained additional power by embracing many parties such as Golkar (107 seats), PPP (37), PAN (43), PKS (57)

¹³ Suparman Usman, *Ethics and Responsibility of the Legal Profession in Indonesia* pp. 149 -150

¹⁴Harris, *Parliamentary Practice* p, 150

¹⁵Harris, *Parliamentary Practice*, p 150

and PKB (27) so that his strength reached 421 seats or 75.1% legislative support (*the ruling coalition parties*). However, in looking at the case of minority presidents in this research, the author does not refer to a president's preference for his own party (*the ruling party*), but based on the lens of a presidential coalition or a combination of the president's party and its supporting parties (*the coalition parties*). In contrast to the reality that occurred previously, Jokowi Widodo's government actually produced the ruling coalition parties *under a single majority or divided government*.

On this basis, the author will then explain the political configuration of the formation of the Joko Widodo-Jusuf Kalla government as a result of the 2014 legislative elections which consisted of two stages, namely, *the first* was the legislative election which was held on April 9 2014 and *the second* was the presidential election on July 9 2014, as stated by Robert Elgie said that the opportunity for *divided government to occur* is greater in a presidential system.¹⁶

2. Joko Widodo Yusuf Kalla's Political Configuration of the Government. The Occurrence of Divided Government (2014-2019)

After the 2004 and 2009 elections, the combined presidential-multiparty system was tested again in the 2014 elections. Similar to the previous election process, the legislative election process took place separately from the Presidential election, this was based on Law No. 22 of 2007 concerning General Election Organizers.¹⁷ However, before the 2014 legislative elections were held, Yusril Ihza Mahendra submitted a *Judicial Review* to the Constitutional Court regarding Law No. 42 of 2008 concerning the General Election of President and Vice President regarding efforts to annul the *Presidential Threshold rule* which had previously been proposed by Effendy Ghazali and the request was granted by the Constitutional Judge. However, this request is valid from the 2019 election. So indirectly the 2019 election will take place simultaneously between the legislative election and the presidential election, but the 2014 election will still be guided by the regulations provided by Law No. 22 of 2007 concerning General Elections.

In line with the separate elections between the President and the Legislature as decided by the Constitutional Court in the 2014 election, the Legislative Election took place simultaneously between the election of members of the People's Representative Council (DPR) and the regional representative council (DPD), because as is known, Indonesia adheres to a system of institutionalization of a two-chamber or bicameral legislature.¹⁸

The existence of the two-chamber system in the Indonesian context is a product of amendments to the 1945 Constitution which resulted in a new institution called the Regional Leadership Council (DPD). Basically, the DPD was formed to strengthen the role of regions in the state administration process and in the election process its members were selected from each province through elections and each province had the same number provided that the total number of DPD members was not more than one third of the number of DPR members.¹⁹

The legislative election contest began when the General Election Commission on January 8 2013 stated that the number of political parties participating in the 2014 election was only 10, but this decision was not final. The selection process began on September 7 2012 when the General Election Commission announced that 46 political parties had registered for the election. Of the 46 political parties, 12 political parties were declared not to have met the requirements. Thus, there are 34 political parties that are

¹⁶Robert Elgie, ed., *Divided Government in Comparative Perspective* (New York: Oxford University Press Inc, 2001), p. 12.

¹⁷See article 1 paragraphs 2 and 3 in Law of the Republic of Indonesia No. 22 of 2007 concerning General Election Organizers.

¹⁸Pataniari Siahaan, *Legal Politics of the Formation of Laws Post-Amendment of the 1945 Constitution* (Jakarta: Publisher Konpress, 2012), p. 147.

¹⁹Silahan, *Legal Politics* pp , 321.

declared registered and can complete the required documents.²⁰ Furthermore, on October 28 2012, the KPU announced that 16 parties had passed administrative verification and underwent factual verification.²¹ In its development, in accordance with the decision of the Honorary Council of General Election Organizers, factual verification was also carried out on 18 parties that did not pass administrative verification. The results of this factual verification were determined on January 8 2013, the KPU determined 10 parties as participants in the 2014 election.²² In subsequent developments, the KPU's decision was challenged at the State Administrative Court (PTUN). However, there were only two parties whose lawsuits were granted by the PTUN, namely the Crescent Star Party and the Indonesian Justice and Unity Party. The KPU granted the PTUN's decision and determined the two parties to be participants in the 2014 Legislative election. So the 2014 Legislative Election was carried out by 12 political parties, namely PDI Perjuangan, Golkar, Gerindra, Demokrat, PKB, PAN, PKS, Nasdem, PPP, Hanura, PKPI and PBB. .

The legislative elections held on April 9 2014 showed that PDI Perjuangan succeeded in gaining the largest number of votes with 18.95% of the vote, followed by the Golkar party with 14% of the vote in second place, then Gerindra with 11% in third position, then the Democratic party was in fourth position with 10% . , in fifth position there is PKB with 9%, in sixth position there is PAN with 7.6% then there are PKS, Nasdem and Hanura with 6.8%, 6.7%, 6.5% and 5.3%. By setting aside PBB and PKPI as parties that do not meet the parliamentary threshold of 3.5% (*Parliamentary Threshold*), so they cannot put their representatives in parliament. After going through a calculation process, it was finally determined that PDI-IP had succeeded in obtaining the most council seats. Followed by Golkar, Gerindra and the Democratic Party in positions two, three and four.²³ The table below is the composition of the number of seats for members of the council for each political party that passed through *the Thersold parliament*.

Table III. C. 2. 2 Number of Political Party Seats 2014 Legislative Election Results

Political parties	Chairs amount
PDI-Struggle	109 Seats
Golkar	91 Seats
Gerindra	73 Seats
Democrat	61 Seats
CLA	47 Seats
PAN	49 Seats
MCC	40 Seats
Nasdem	35 Seats
PPP	39 Seats
Hanura	16 Seats
Amount	560 Seats

Source: processed from kpu.go.id

²⁰The KPU's Courage to Enforce Regulations in Determining Election Participants. " *KPU's voice*," September 2012 Edition,p. 4.

²¹Results of Administrative Verification of Complete Requirements for Political Parties as Candidates for Participating in the 2014 DPR, Provincial DPRD, Regency/City DPRD Elections," *General Election Commission of the Republic of Indonesia*, www.kpu.go.id/dmdocuments/Parpol_Lolos.pdf , Downloaded on 6/10/ 2020

²²Decision of the General Election Commission of the Republic of Indonesia, Number: 5/kpts/KPU/Year 2013, Concerning the Determination of Political Parties Participating in the 2014 General Election, " *General Election Commission of the Republic of Indonesia*, [www.kpu.go.id/dmdocuments/\(9.1.2013\)%2005%20SK%20Ketua.pdf](http://www.kpu.go.id/dmdocuments/(9.1.2013)%2005%20SK%20Ketua.pdf) . Downloaded on 10/8/2020

²³"General Election Commission Decision Number: 416/Kpts/KPU/ of 2014 concerning Determination of Seat Acquisition for Political Parties and Determination of Elected Candidates for Members of the People's Representative Council (DPR) in the 2014 General Election," *General Election Commission of the Republic of Indonesia*, www.kpu.go.id/.../SK_KPU_416_Penetapan_Kursi_Calon_Terleksi_1452014.pdf downloaded 5 January 2021.

After the election and announcement of legislative elections were decided by the General Election Commission, political parties were busy working together to determine their strength ahead of the presidential election. The polarization that occurred was formed based on two groups, namely Great Indonesia and the Red and White Coalition. The coalition is based on the preference for support from presidential and vice presidential candidates, where the Great Indonesia Coalition carries the Joko Widodo-Jusuf Kalla pair and the Red and White Coalition carries the Prabowo Subianto-Hatta Rajasa pair.

This polarization of the coalition not only occurred during the presidential election but also had an impact on the divisions that occurred in the DPR and led to political unrest in the series of plenary sessions before and after the presidential election. The table below is the composition of the coalition in the DPR after the 2014 election.

Table III.C.3.2 Polarization of the two coalitions in the DPR after the 2014 Legislative Election and before the 2014 Pilpers

Great Indonesian Coalition (Jokowi)	Red and White Coalition (Prabowo)
PDI-P: 109 seats	Golkar: 91 Seats
PKB: 47 Seats	Gerindra: 73 Seats
Nasdem: 35 Seats	PAN: 49 Seats
Hanura: 16 Seats	Democrats: 61 Seats
-	PPP: 39 Kusi
-	MCC: 40 Seats
Total: 207 Seats	Total: 353 seats

Source: Processed from Kpu.go.id

This polarization and coalition not only occurred in elected legislative members for the 2014-2019 period but also occurred in legislative members for the 2009-2014 period in the final period after the 2014 legislative election and before the inauguration of elected DPR members for the 2014-2019 period on 20 October 2014. Red Coalition White, who has more than 50% in the DPR, caused the Great Indonesia Coalition to lose in a series of plenary sessions which at that time were still members of the 2014 legislature. So that is what makes the potential for *divided government* even greater in the Joko Widodo-Jusuf Kalla government. On the other hand, based on the results of the 2014 legislative election, not a single political party won. the national vote is 20%, therefore a coalition mechanism is a necessity to fulfill the administrative requirements of the Presidential nomination process. Regarding the coalition, the author has explained it in chapter II. The coalition that was built during the presidential election gave rise to the polarization of two candidate pairs, namely the Great Indonesian Coalition which supported Joko Widodo-Jusuf Kalla and the Red and White Coalition which supported Prabowo Subianto-Hatta Rajasa. The red and white coalition has majority support in the legislature, so since the beginning of the presidential election Joko Widodo – Jusuf Kalla was a pair of President and Vice President who did not have majority support (*single majority* 50% + 1) in the legislature.

Because Indonesia adheres to a presidential system of government which has the characteristic of direct selection by the people, the amount of legislative support will not affect the presidential election process. With support that did not reach *a single majority* (50%+1), the Joko Widodo – Jusuf Kalla pair managed to win the 2014 Pilpers.

Table III.C.4.2 2014 Presidential and Vice Presidential Election Results

Serial number	Partner	Total Votes	Percentage
1	Prabowo Subianto and Hatta Rajasa	62,576,444	46.85%
2	Joko Widodo – Jusuf Kalla	70,997,833	53.15%

Source: KPU, go. Id

The solidity of each political party in determining the direction of the coalition is often seen as a temporal matter. The composition of the government cabinet is a combination of professionals and political parties, placing 15 ministers filled by political parties to complete coalition *feedback* and 19 ministers from non-party circles. Apart from that, Joko Widodo also abolished the position of deputy minister except for the Ministry of Foreign Affairs and the Ministry of Finance.²⁴ The following is the composition of the Joko Widodo – Jusuf Kalla cabinet

D. Political Configuration of the formation of the Jokowi-Ma'ruf Government in the 2019 Simultaneous Elections

The 2019 election was the first simultaneous election in Indonesia which was held on April 17 2019. In the Constitutional Court decision Number 14/PUU-XI/2013 it was stated that the presidential election was held simultaneously with the election for representative members. The 2019 Pilpers is a replica of the 2014 electoral political battle. This occurred as a result of the simultaneous elections which still implemented a high presidential nomination threshold (*Presidential Threshold*), namely 20% of *parliamentary seats and 25% of valid national votes*.

Political polarization is caused by the election only having two candidates, so that the two camps face each other antagonistically. The political atmosphere and dynamics from the time of determining the candidates until the days of the election are characterized by political tension that is dynamic, cynical, sharp and extremely polarized.

Indonesia actually adheres to a two-round presidential election design (absolute majority 50% + 1). The aim is for the elected president to have a large mandate from the Indonesian people. However, since the 2014 Presidential Election, the presidential election in Indonesia has been sorted because it has become a *plurality* (no longer an absolute majority). As a result, there are only two candidates so it is impossible for the election to be held in two rounds.

The conditions for nominating the president and vice president are 20% of DPR seats and 25% of the previous election's vote results, causing the process of nominating the President and Vice President to ensnare political parties. Until the time period approaching 4-8 August 2018, the coalition plan was trapped by the two presidential candidates Jokowi and Prabowo. Political parties do not dare to nominate alternative candidates because the electability of alternative candidates is not able to approach the electability of Jokowi and Prabowo. Jokowi and Prabowo's electability can "barely" be caught up by other figures. As a result, until the 4 week deadline for presidential/vice presidential nominations approached, a coalition had not yet been formed. The coalition dynamics ahead of the 2019 Simultaneous Elections illustrate that in a presidential system which is "framed" in democracy, the coalition pattern will be determined. In the case of party coalitions in presidential elections in Indonesia, the phenomenon of differences in attitudes has occurred, for example, when the Golkar party nominated Wiranto as a presidential candidate as a result of the party convention in 2004, Jusuf Kalla, a Golkar Party cadre, paired with Susilo Bambang Yudhoyono and became the winner of the presidential election. Wiranto was followed by his Prabowo family from Golkar who later founded the Free Indonesia Movement (Gerindra) party.

²⁴The Deputy Minister of Foreign Affairs is filled by Am Fachir and the Deputy Minister of Finance is filled by Mardiasmo. See, "apart from Ministers, Jokowi also appointed 2 deputy ministers," <https://amp.kompas.com/nasional/read/2014/10/27/12353901/Presiden.Juga.Lantik.Wamenlu.dan.Wamenkeu> . 12/10/2020

Table III D.1.1 Comparison of the Ideology of the Coalition of Jokowi and Prabowo Camps

Jokowi Coalition		Prabowo Coalition	
Party	Ideology	Party	Ideology
PDIP	Nationalist	Gerindra	Nationalist
Golkar	Development	MCC	Religious (Islam)
PPP	Islam	PAN	Religion (Islam)
CLA	Pancasila (Religious-Islamic)	Democrat	Nationalist –Religious
Hanura	Nationalist	Create	Nationalist
Nasdem	Nationalist		
PKPI	Nationalist		
PSI	Nationalist		
Perindo	Nationalist		

The key parties in Prabowo's camp are Gerindra and PKS; Meanwhile, in Jokowi's camp, the key party is PDIP, and there is little influence from Nasdem through its general chairman, Surya Paloh. The influence of the PDIP General Chair in preparing the formation is very large, as is the degree of each general chair of political parties such as Nasdem, Golkar, PPP and PKB. Nasdem and Golkar have more influence than PKB and PPP, apart from the political and media power they have as well as the influence of politicians in the two existing parties.

]The political dynamics after the 2019 election are very interesting because of Jokowi and PDIP's desire to attract Prabowo as a minister into their government. This plan is seen as an effort to strengthen the government in the hope that there will be no opposition. Jokowi-Ma'ruf's political support in parliament actually gained a significant 61% of seats (349 seats out of 575 seats) while Prabowo's coalition political party only got 39.4% (226 seats out of 575). The results of the 2019 election show that Jokowi's coalition is heading towards a majority in parliament.²⁵ The support was quite large, but added another coalition by giving ministerial quotas to the Gerindra Party. In fact, Jokowi's coalition in parliament is sufficient, unless there are concerns that the coalition is fragile and cannot be controlled.

Table III D.2.2 Acquisition of DPR Seats for Jokowi and Prabowo Supporting Parties

Name of Political party	Party Supporting Jokowi	Name of Political party	Party Supporting Prabowo
Initial Coalition Before the 2019 Election		Initial Coalition Before the 2019 Election	
	Chair Percent		Chair Percent
PDIP	128 22.26%	Gerindra	78 13.75%
Golkar	85 14.78%	Democrat	54 9.39%
Nasdem	59 10.26%	MCC	50 8.70%
CLA	58 10.09%	PAN	44 7.65%
PPP	19 3.30%		
Amount	349 61%	Amount	226 39%
Composition of the Advanced Indonesia Coalition After the 2019 Election		Opposition Political Parties Post 2019 Election	
PDIP	128 22.26%	Democrat	54 9.39%
Golkar	85 14.78%	MCC	50 8.70%
Nasdem	59 10.26%	PAN	44 7.65%
CLA	58 10.09%		
PPP	19 3.30%		
Gerindra	78 13.75%		
Amount	427 74.98%	Amount	148% 25.74%

Source Processed from KPU.go.id

²⁵Moch Nurhasim *Distortion and Problems of the 2019 Simultaneous Election* (East Java, Airlangga University, 2020), 151.

If PAN, Democrat and Gerindra join forces, the Jokowi government's political power in the DPR will be very strong. Almost all political power in parliament was swept away by the Jokowi-Ma'ruf government. The control of strategic political positions in parliament and the MPR by government parties (Jokowi's supporters) is a break even in politics through expanding the form of coalition.

Jokowi Government Cabinet Reshuffle

Jokowi's Cabinet reshuffle was carried out in the 2014-2019 and 2019-2024 periods

- The first reshuffle was on August 15 2015, there were seven positions that were reshuffled.
- Second Reshuffle on July 27 2016, Jokowi carried out another cabinet reshuffle.
- Third reshuffle January 17 2018
- The fourth reshuffle is August 15 2018 and August 24 2018
- The Fifth Reshuffle on 22 December 2020 announced the change of ministers and would be inaugurated on 23 December 2020

Conclusion

The President's prerogative rights in the presidential government system after the amendments to the 1945 Constitution have undergone quite a shift. The existence of the President's Prerogative Rights in the 1945 Constitution of the Republic of Indonesia relates to the appointment of ministers. Ministers are the constitutional authority possessed by the president based on article 17 paragraph (2) of the 1945 Constitution. Implementation of the appointment of Ministers further regulated in the form of conditions for appointment and dismissal minister in Law no. 39 of 2008 concerning the Ministry Country. The presence of these conditions can be useful as a means of judicial control for the president so that he does not abuse his authority in appointing and dismissed the minister. The presence of conditions in Law Number 39 of 2008 concerning State Ministries emphasizes that the president's authority to appoint ministers may be exercised freely in relation to appointment of ministers in the presidential cabinet. However, in practice the president does not always confirm whether the personnel appointed to appointed as minister fulfills the requirements for ministerial appointment has been regulated in the Law. So the author can give suggestions provide that the president in exercising his authority must be neutral without any interference or entrustment of the bench by other parties. So that good governance can be realized as it should be.

Reference

- H. Kaharudi, HM Asmara, G, Minollah, & Jayadi, H. *"The Prerogative Rights of the President in the Appointment and Dismissal of the Chief of Police of the Republic of Indonesia Based on the 1945 Constitution"* Legal Media 23 (2) 2016.
- Hasil Verifikasi Administrasi Kelengkapan Syarat Partai Politik Sebagai Calon peserta Pemilu DPR, DPRD Provinsi, DPRD Kabupaten/ Kota Tahun 2014, *"komisi Pemilihan Umum Republik Indonesia*, www.kpu.go.id/dmdocuments/Parpol_Lolos.pdf,.
- Indonesia LS "Minister's ideal criteria and evaluation of SBY's performance ahead of the formation of the new cabinet 18-28 July 2009 <https://www.viva.co.id/berita/politik/86026-Isi-sby-diharapkan-bwntuk-zaken-kabunet> accessed 10/20/022.
- Indrayana Denny, *Land of the Mafiasa: Law is a Nest of Corruptors* Jakarta: Gramedia Pustaka Utama. 2008.
- Jimly Asshidiqie, *Introduction to Constitutional Law*, (Jakarta Constitution Press 2006).

Keputusan Komisi Pemilihan Umum Nomor: 416/Kpts/KPU/tahun 2014 Tentang Penetapan Perolehan Kursi Partai Politik dan Penetapan Calon Terpilih Anggota Dewan Perwakilan Rakyat (DPR) dalam Pemilihan Umum 2014," *Komisi Pemilihan Umum Republik Indonesia*.

Keputusan Komisi Pemilihan Umum Republik Indonesia, Nomor: 5/kpts/KPU/Tahun 2013, Tentang Penetapan Partai Politik Peserta Pemilihan Umum Tahun 2014, "*komisi Pemilihan Umum Republik Indonesia*, [www.kpu.go.id/dmdocuments/\(9.1.2013\)%2005%20SK%20Ketua.pdf](http://www.kpu.go.id/dmdocuments/(9.1.2013)%2005%20SK%20Ketua.pdf).

Lutfi Widagdo Eddyono. "*Disputes over the authority of citizens by the constitutional court*" Journal of the constitution of the constitutional court volume 7 Edition Number June 2010.

Mariam Budiardjo, *Basics of Political Science Ediso Revidi* (Jakarta Gramedia Pustaka Utama 2008)

Pataniari Siahaan, *Legal Politics of the Formation of Laws Post-Amendment of the 1945 Constitution* (Jakarta: Publisher Konpress, 2012).

Robert Elgie, ed., *Divided Government in Comparative Perspective* (New York: Oxford University Press Inc, 2001).

Saldi Isra, *Shifting the Function of Legislation, Strengthening the Parliamentary legislative model in the Indonesian Presidential Government System*, (Jakarta Rajawali Pers 2010).

Suparman Usman, *Ethics and Responsibility of the Legal Profession in Indonesia*.

The Deputy Minister of Foreign Affairs is filled by Am Fachir and the Deputy Minister of Finance is filled by Mardiasmo. See, "apart from Ministers, Jokowi also appointed 2 deputy ministers,"

Undang-Undang Dasar Negara Republik Indonesia 1945.

Undang Undang No 39 Tahun 2008 Kementerian Negara.

Untuk Wakil Menteri Luar Negeri diisi oleh Am Fachir dan Wakil Menteri Keuangan diisi oleh Mardiasmo. Lihat, "selain Menteri, Jokowi juga juga Lantik2wakilmenteri,"<https://amp.kompas.com/nasional/read/2014/10/27/12353901/Presiden.Juga.Lantik.Wamenlu.dan.Wamenkeu..>

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).