

Juridical Analysis of the Dualism of the Functions of the President and Ministers in the Indonesian Presidential System

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ABSTRACT: Indonesia's presidential system places the President as the highest holder of executive power, assisted by state ministers as stipulated in Article 17 of the 1945 Constitution of the Republic of Indonesia. However, in practice, a functional dualism between the President and ministers often emerges, resulting in overlapping authorities and policy disharmony. This study is significant in examining, from a juridical perspective, the causes of this dualism and its implications for the effectiveness of Indonesia's presidential system. The research employs a normative juridical approach with an analytical-descriptive specification, using secondary data from legal literature, statutory regulations, and constitutional practices. The findings reveal that dualism arises due to the ambiguity of authority boundaries in the legal framework and the weak coordination among executive institutions. Therefore, strengthening the regulatory framework and restructuring institutional relations are essential to establish a more hierarchical and coherent relationship between the President and ministers, consistent with the unity of command principle in the presidential system.

KEYWORDS: Functional Dualism; President; Minister; Presidential System; Juridical Analysis

I. INTRODUCTION

The presidential system of government adopted by Indonesia as affirmed in the 1945 Constitution of the Republic of Indonesia (1945 Constitution) places the President as the head of state as well as the head of government. In this position, the President holds full executive power to run the country's government, assisted by the ministers appointed and dismissed by him.¹ Normatively, the relationship between the President and ministers is hierarchical, where the minister is only an aide to the President who carries out some of the duties and functions of the government in accordance with their respective fields.² However, in the practice of the constitution, there is often an overlap of authority between the President and the ministers which leads to the emergence of the dualism of executive functions.

The phenomenon of dualism of the functions of the President and Ministers in the Indonesian presidential government system is a condition in which there is an overlap or indecisiveness in the division of authority between the President as the holder of the highest government power and the Ministers who function as assistants to the President. This phenomenon can be seen from the existence of policies or decisions taken by ministers without direct coordination with the President, as well as the President's intervention in the technical affairs of the ministry which should be operational.³ This situation causes inconsistencies in the administration of government, weakens the effectiveness of the presidential system, and has the potential to violate the constitutional principle of distribution of power and the principle of government accountability as stipulated in the 1945 Constitution of the Republic of Indonesia.

This condition raises juridical problems regarding the strict limits of authority between the President and ministers in the Indonesian presidential system. On the one hand, the President has a position as the holder of the highest government power, but on the other hand, ministers also hold administrative responsibility for the implementation of certain government affairs.⁴ This indecisiveness of the boundary can have implications for the ineffectiveness of the implementation of the presidential system and has the potential to cause vague legal accountability when there is an abuse of authority (Astawa and Na'a, 2015). Therefore, it is important to conduct a juridical study of the relationship and implementation of functions between the President and ministers in the presidential government system, in order to find conceptual and normative clarity about the limits of their respective functions

¹ Asshiddiqie, J. (2012). *Hukum Tata Negara dan Pilar-Pilar Demokrasi*. Jakarta: Sinar Grafika

² Huda, N. (2017). *Hukum tata negara Indonesia*. Jakarta: RajaGrafindo Persada.

³ Marzuki, P. M. (2017). *Penelitian Hukum*. Jakarta: Kencana Prenada Media Group.

⁴ Hadjon, P. M. (2015). *Pengantar Hukum Administrasi Indonesia*. Yogyakarta: Gadjah Mada University Press

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(Eddyono, 2018). Based on the description of the background, the problems that will be studied in this study are: what is the position and function of the President and ministers in the presidential system according to the 1945 Constitution and how is the juridical analysis of the emergence of functional dualism between the President and ministers in the practice of Indonesian constitution.

In the framework of constitutional law theory, the discussion of the relationship between the President and ministers cannot be separated from the theory of separation of powers and the presidential system of government. Montesquieu stated that state power must be separated into three branches, namely the executive, legislative, and judiciary to avoid tyranny and ensure the existence of a supervision mechanism between branches of power.⁵ In the presidential context, the President is the holder of executive power that is independent of parliament, and ministers act as assistants to the President, not as part of the legislative body.⁶ Thus, the function of ministers is delegative, namely exercising part of the power that comes from the President as the head of government.⁷

However, the development of constitutional practice in Indonesia shows a shift from a purely presidential model to a quasi-presidential form. This happens because there is a tendency for ministers to have broad policy autonomy, especially in certain technical fields, so that it sometimes seems as if they have a function that stands alone outside the direct coordination of the President.⁸ From the perspective of official responsibility theory, the position of ministers remains subordinate to the President, meaning that all ministerial actions are essentially the President's political and legal responsibilities.⁹ Therefore, this study uses the theoretical framework of executive power relations in the presidential system and the theory of office accountability to normatively analyze the causes and implications of functional dualism between the President and ministers in Indonesian constitutional practice.

Research on the relationship between the President and ministers in a presidential system of government has been conducted extensively by constitutional law experts. Luthfi Widagdo Eddyono (2018)¹⁰ highlights that in Indonesia's post-reform constitutional practice, the relationship between the President and ministers shows inconsistencies in the application of presidential principles, with ministers often performing functions that tend to be independent of the President. Research by Ni'matul Huda (2017)¹¹ confirms that this relationship should be hierarchical and coordinative because all governmental power originates from the President, not divided or separated. Meanwhile, a study by Bagir Manan (2013)¹² highlights that the problem of the dualism of ministerial functions is also related to weak regulations and unclear administrative boundaries between the President and ministers. From the various previous studies, there have not been many studies that specifically examine the juridical aspects of the dualism of the functions of the President and ministers in the practice of the presidential system in Indonesia comprehensively. Therefore, this study aims to fill this gap by analyzing the legal basis, power relations, and juridical accountability arising from the dualism of executive functions in Indonesia

The main problem raised in this study is the lack of clarity on the boundaries of authority between the President and ministers in the Indonesian presidential system of government, both from the constitutional aspect and the practice of government administration. Previous studies have tended to highlight the political and administrative relationship between the President and ministers, but have not in depth examined the normative juridical aspects of the legal consequences of the dualism of these functions. The uniqueness of this research lies in its analytical approach to the legal basis, accountability mechanisms, and constitutional implications of the overlapping functions between the President and ministers, emphasizing the importance of strict restrictions on authority as a prerequisite for the establishment of an effective presidential system. The urgency of this research also lies in its relevance to modern government practices in Indonesia which are increasingly complex and demand legal certainty in executive governance. Therefore, the purpose of this study is to juridically analyze the positions and functions of the President and ministers in the Indonesian presidential system, as well as identify the root of the problem and normative solutions to the occurrence of dualism of functions in the practice of constitutional law.

II. RESEARCH METHODS

This research uses a normative juridical method, which is legal research that relies on the study of positive legal norms and legal principles that govern the relationship between the President and ministers in the Indonesian presidential system. The approach methods used are the statute approach, conceptual approach, and historical approach.¹³ The legislative approach is

⁵ Op.Cit. Asshiddiqie, J. (2012)

⁶ Op.Cit. Huda, N. (2017)

⁷ Op.Cit. Hadjon, P. M. (2015).

⁸ Eddyono, L. W. (2018). Konfigurasi hubungan presiden dan menteri dalam sistem presidensial. *Jurnal Konstitusi*, 15(3), 623–640.

⁹ Astawa, I. G. P., & Na'a, S. (2015). *Dinamika hukum tata negara Indonesia*. Bandung: Alumni.

¹⁰ Op.Cit. Eddyono, L. W. (2018).

¹¹ Op.Cit. Huda, N. (2017).

¹² Manan, B. (2013). Energi dan Pasal 33 UUD 1945. *Padjadjaran Law Review*, 1.

¹³ Op.Cit. Marzuki (2017)

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carried out by examining the provisions of the 1945 Constitution of the Republic of Indonesia, Law Number 39 of 2008 concerning State Ministries, as well as implementing regulations related to ministerial functions and authorities. Meanwhile, the conceptual approach is used to examine theories about the relationship between executive power and the principle of presidentialism, while the historical approach is used to trace the development of Indonesia's government system after the constitutional amendment. The specification of this research is descriptive-analytical, meaning that this research not only describes existing legal phenomena, but also analyzes them critically in order to find clarity of norms and conceptual solutions to the dualism of executive functions.¹⁴

The type of data used in this study is secondary data, which consists of primary legal material, secondary legal material, and tertiary legal material. Primary legal materials include the 1945 Constitution, laws, and relevant Constitutional Court rulings; secondary legal materials in the form of literature, books, and scientific journals; While tertiary legal materials include legal dictionaries and encyclopedias. The data collection technique is carried out through library research by examining relevant legal sources and official documents.¹⁵ The data obtained is then analyzed using a qualitative analysis method, namely by describing and interpreting the data based on applicable theories and legal principles, to then draw deductive conclusions from general norms to application in concrete cases.¹⁶

III. RESULT AND DISCUSSION

A. POSITION AND FUNCTIONS OF THE PRESIDENT AND MINISTERS IN THE PRESIDENTIAL SYSTEM ACCORDING TO THE CONSTITUTION

In the Indonesian constitutional system, the President occupies the position of head of state as well as head of government. This is affirmed in Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that *"The President of the Republic of Indonesia holds the power of government according to the Constitution."* This formulation shows that executive power is fully in the hands of the President as the holder of supreme governmental power under the constitution. In the presidential system, this model emphasizes the principle of *single executive*, where executive functions are centered on the President.¹⁷ The position of the President in the presidential system is fundamentally different from the parliamentary system. In the parliamentary system, the head of government (prime minister) is accountable to parliament, while the head of state is only symbolic. On the other hand, in the presidential system, the President is directly elected by the people and is not accountable to parliament, but only to the constitution. Thus, the President's legitimacy comes from the people's mandate directly through general elections.

After the amendment of the 1945 Constitution, the President's position was further strengthened through the provisions in Article 7A and Article 7B, which regulate the mechanism for dismissing the President. This provision emphasizes that the President can only be dismissed through a political and legal process by the House of Representatives and the Constitutional Court, not because he loses the majority political support in the House of Representatives as in the parliamentary system.¹⁸ This emphasizes Indonesia's presidential character which places the President as a stable executive institution and cannot be overthrown by parliament alone. As the head of state, the President functions to represent the country at home and abroad, carry out diplomatic functions, and maintain the integrity and dignity of the country. This function can be seen from the President's authority in the field of foreign policy as stipulated in Article 11 of the 1945 Constitution, namely *"The President with the approval of the House of Representatives declares war, makes peace and treaties with other countries."* In addition, the President also has a symbolic function as a representation of the unity of the nation.¹⁹

Meanwhile, as the head of government, the President has administrative and managerial functions to carry out daily government affairs. In this case, the President is assisted by ministers who are appointed and dismissed based on the President's personal consideration, as stipulated in Article 17 paragraph (2) of the 1945 Constitution. This relationship shows the existence of a subordinate system, where ministers are assistants to the President and not part of an independent institution. However, in constitutional practice, ministers also have administrative and political responsibility for the implementation of policies in their respective ministries.²⁰

In the context of Montesquieu's *theory of separation of powers*, the President's function is in the executive realm, but in modern government practice, the relationship between the branches of power is *checks and balances*. The President has the right to submit a draft law to the House of Representatives (Article 5 paragraph (1) of the 1945 Constitution) and to establish

¹⁴ Soekanto, S., & Mamudji, S. (2015). *Penelitian hukum normatif: Suatu tinjauan singkat*. Jakarta: RajaGrafindo Persada.

¹⁵ Ibrahim, J. (2012). *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing.

¹⁶ Sunggono, B. (2016). *Metodologi penelitian hukum*. Jakarta: RajaGrafindo Persada.

¹⁷ Marbun, S. F. (2020). *Kekuasaan Presiden dalam Sistem Ketatanegaraan Indonesia*. Yogyakarta: FH UII Press.

¹⁸ Mahfud MD, M. (2013). *Politik Hukum di Indonesia*. Jakarta: RajaGrafindo Persada.

¹⁹ Kusnardi, M., & Ibrahim, B. R. (2008). *Pengantar hukum tata negara Indonesia*. Jakarta: Pusat Studi Hukum Tata Negara Universitas Indonesia.

²⁰ Latif, Y. (2020). *Negara Paripurna: Historisitas, Rasionalitas, dan Aktualitas Pancasila*. Jakarta: Gramedia Pustaka Utama.

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government regulations to implement the law (Article 5 paragraph (2) of the 1945 Constitution). This authority shows that the President's function is not only administrative, but also normative, because it has the power to regulate the implementation of laws.

The Minister is an executive organ under the President. Article 17 of the 1945 Constitution affirms that "the *President is assisted by the ministers of state*." Based on this provision, the position of ministers is not autonomous, but subordinate to the President. The Minister is not responsible to the DPR, but to the President directly. However, in the context of politics and public accountability, ministers also have a moral responsibility to the community.²¹ The authority and functions of ministers are further described in Law Number 39 of 2008 concerning State Ministries. In Article 4 paragraph (1) it is stated that ministers have the duty to organize certain affairs in the government to assist the President. Thus, the minister's functions are technocratic and operational. The Minister manages certain policy areas in accordance with government affairs set by the President, such as the fields of law, economy, education, defense, and others.²² However, in Indonesian government practice, there is often a debate about the extent to which ministers have discretion in making policy decisions. Although constitutionally ministers are assistants to the President, in the performance of their duties, ministers often carry out semi-autonomous functions, especially in terms of sectoral policies. This phenomenon causes the symptoms of dualism of functions between the President and ministers, namely between the central executive authority and the administrative authority of the ministry.

In the presidential system, the principle of accountability has a different character than the parliamentary system. The President's accountability is vertical to the constitution and the people, while ministerial accountability is horizontal to the President. However, in the context of modern democratic government, public responsibility is also inherent in every state official, including ministers.²³ Therefore, the minister's responsibilities are not only administrative to the President, but also ethical to the public.

The principle of collective responsibility of the cabinet as it is known in the parliamentary system does not apply in the presidential system. In the presidential system, the cabinet cannot be brought down collectively by the parliament. The President has the prerogative to appoint and dismiss ministers based on performance assessments or certain political considerations. This strengthens the President's position as the holder of full control over the executive.²⁴ However, to maintain the balance of power, ministers remain subject to legal and political supervision mechanisms. The House of Representatives has the right of interpellation, the right of inquiry, and the right to express opinions on government policies, including against ministries. This mechanism is a form of political control over the implementation of public policies without changing the presidential character itself.

From the perspective of constitutional law, dualism of functions between the President and ministers should not occur if each carries out their duties according to their constitutional limits. However, in practice, this dualism arises due to two factors: first, there is a difference in interpretation of the space of authority between the President and ministers in the formulation and implementation of policies; Second, the political factor of the cabinet which tends to be pragmatic due to the multiparty system that gave birth to a government coalition.²⁵ Normatively, the 1945 Constitution does not recognize the division of power between the President and ministers, but only recognizes the assistance of ministerial functions to the President. This means that all government policies are juridically the responsibility of the President, while ministers only carry out delegation of authority. Therefore, if there is a difference in policy direction between the President and the minister, the constitutional responsibility remains with the President.

From this analysis, it can be concluded that the Indonesian presidential system, as stipulated in the 1945 Constitution, places the President as the center of executive power with ministerial functions that are auxiliary. The dualism of functions between the President and ministers that occurs in government practice is more due to political dynamics and weaknesses in the institutional design of ministries, not to constitutional provisions. Therefore, strengthening the Indonesian presidential system needs to be carried out through the reformulation of the President's working relationship with ministers so that it is more in sync with the principles of constitutionalism and public accountability.

B. JURIDICAL ANALYSIS OF THE EMERGENCE OF DUALISM OF FUNCTIONS BETWEEN THE PRESIDENT AND MINISTERS IN INDONESIAN CONSTITUTIONAL PRACTICE

Constitutionally, the 1945 Constitution of the Republic of Indonesia has established the form of Indonesian government as a presidential system. This can be seen in Article 4 paragraph (1) which states that "*The President of the Republic of Indonesia holds the power of government according to the Constitution*." This provision emphasizes that executive power is fully in the

²¹ Asshiddiqie, J. (2007). *Pokok-pokok hukum tata negara Indonesia pasca reformasi*. Jakarta: Bhuana Ilmu Populer.

²² Surbakti, R. (2018). *Memahami ilmu politik*. Jakarta: Gramedia Pustaka Utama.

²³ Op.Cit. Sunggono (2016).

²⁴ Op.Cit. Mahfud MD (2013).

²⁵ Op.Cit. Latif (2020)

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hands of the President as the head of government as well as the head of state. In the presidential system, the government structure is built based on the principle of *separation of powers*, which is a firm separation between the executive, legislative, and judicial branches of power that are balanced (*checks and balances*).²⁶ However, in the practice of the constitution, the implementation of the presidential system in Indonesia does not fully run in accordance with the ideal principles that have been designed in the constitution. Since the post-reform period, there has been a phenomenon called dualism of functions between the President and ministers, namely when the implementation of executive authority is not completely centralized in the hands of the President, but is divided into various ministries that carry out sectoral policies relatively independently. This phenomenon raises juridical questions about the extent to which the relationship between the President and ministers in the context of the presidential system is still in accordance with the mandate of the 1945 Constitution and the principle of constitutional accountability.

The President's position as the holder of government power is affirmed in Article 4 paragraph (1), while Article 17 paragraph (1) states that "*The President is assisted by the ministers of state.*" This formulation contains the meaning that ministers are not independent officials, but part of the executive organ under the command of the President. Therefore, the legal relationship between the President and the minister is subordinate, not coordinated. The Minister carries out administrative and technocratic functions in certain areas determined by the President, and is legally responsible to the President, not to the House of Representatives.²⁷ However, the constitution also does not provide very detailed restrictions on the limits of ministerial authority. The 1945 Constitution only mentions the function of assistance without explicitly explaining the scope and limits of ministerial discretion. This void of norms often causes problems in government practice, especially when ministers issue sectoral policies without sufficient coordination with the presidential institution. As a result, the fragmentation of executive policy was born, in which the ministry seemed to be an autonomous entity from the President.

In the context of constitutional law, this phenomenon shows that the relationship between the President and ministers in the Indonesian presidential system has not fully reflected the principle of *unity of command*, namely the unity of command of government. In fact, in the theory of pure presidentialism, the President is the sole holder of authority over all government actions. When ministers begin to carry out autonomous functions, what is called the dualism of executive functions arises, namely the separation of policy direction between the President as the holder of government power and the minister as an assistant who exercises sectoral authority.

From a juridical perspective, the emergence of functional dualism between the President and ministers is influenced by several main factors. First, the unclear limits of authority given to ministers through implementing regulations under the law. In many cases, the law gives direct authority to certain ministries without explicitly mentioning the President's role. For example, in the economic and environmental sectors, some laws give direct authority to ministers to set technical policies that have a wide impact, even though constitutionally macro policies should be under the control of the President.²⁸ The second factor is the multiparty political system that influences the formation of the cabinet. The president often has to form a coalition government to gain support in parliament. In such situations, ministerial positions are often filled based on political considerations, not purely professional considerations. As a result, some ministers tend to bring party interests into their ministry's sectoral policies, which are sometimes not in line with the President's vision and program.²⁹ Constitutionally, this condition obscures the principle of the presidential system that places the President as the sole holder of the executive mandate from the people. The third factor is the weakness in the coordination mechanism between ministries. In practice, the position of the coordinating minister who is supposed to function to integrate cross-sectoral policies does not have a strong legal basis. The existence of the coordinating minister is more administrative than juridical. This causes policies between ministries to often run separately, even contradictory. The absence of regulations that affirm the hierarchical relationship between coordinating ministers and technical ministers reinforces the phenomenon of dualism of functions in the executive body (Ibrahim, 2012).

Facts on the ground show that the dualism of functions between the President and ministers is not only a theory, but a reality in Indonesian constitutional practice. One example is the statement of the Coordinating Minister for Maritime Affairs and Investment, Luhut Binsar Pandjaitan, who acknowledged the overlap of authority between ministries and institutions in the licensing process for the energy and natural resources sector, which hinders the increase in national oil and gas production (Kompas.com, July 23, 2024).³⁰ This situation illustrates the weakness of the executive coordination system, where functions that should be a single command under the President become fragmented. Another case arose when the President issued Presidential Regulation Number 82 of 2024 concerning the Presidential Communication Office (PCO). This regulation was sued to the Supreme Court because it was considered to cause overlapping duties with the Presidential Staff Office (KSP) which had

²⁶ Asshiddiqie, J. (2010). *Konstitusi dan Konstitusionalisme Indonesia*. Jakarta: Sinar Grafika.

²⁷ Op.Cit. Mahfud MD, (2013)

²⁸ Op.Cit. Marzuki, P. M. (2017).

²⁹ Surbakti, R. (2018). *Memahami ilmu politik*. Jakarta: Gramedia Pustaka Utama.

³⁰ Kompas. (2024, July 23). Luhut: Tumpang tindih kewenangan jadi hambatan lifting migas RI. *Kompas.com*. Retrieved from <https://money.kompas.com/read/2024/07/23/192452226/luhut-tumpang-tindih-kewenangan-jadi-hambatan-lifting-migas-ri>

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previously handled the President's public communication function (Kompas.id, September 9, 2024). This case shows how even under the structure of the presidency itself, there is a potential for duplication of functions due to the lack of clarity in the boundaries and hierarchy of authority.³¹

Other facts can be seen in the national spatial and land planning policy. Based on data from the Cabinet Secretariat of the Republic of Indonesia (2024)³², around 77 million hectares of land in Indonesia experience overlapping permits between the Ministry of Environment and Forestry (KLHK), the Ministry of ATR/BPN, and local governments. This indicates the disharmony of regulations and weak coordination across ministries in the implementation of the government's strategic policies (Setkab.go.id, May 15, 2024). Juridically, this condition shows that the principle of *executive unity* has not yet been implemented, where all government policies should be in one line of command of the President.³³

Juridically, the dualism of functions between the President and ministers raises several important implications for the constitutional system. First, this dualism weakens the principle of constitutional accountability. In the presidential system, the President is fully responsible for the implementation of government under the constitution. However, when sectoral policies are issued without effective coordination with the President, accountability becomes blurred whether the responsibility lies with the President or the relevant ministers.³⁴

Second, dualism of functions has the potential to disrupt the effectiveness of government because policies between ministries do not run uniformly. Differences in interpretation of the direction of national policies cause inconsistencies between the President's decision and its implementation at the ministerial level. This condition is contrary to the principle of efficiency and legal certainty as stipulated in Article 3 of Law Number 30 of 2014 concerning Government Administration, which emphasizes the importance of effective, transparent, and coordinated administration.³⁵ Third, the phenomenon of functional dualism can cause conflicts of authority between executive agencies, which in turn has implications for the emergence of lawsuits against government policies. For example, a number of ministerial regulations have been canceled by the Supreme Court because they are considered to be contrary to the laws and regulations on them, including presidential regulations. This reflects the insynchronization of the policy hierarchy between the President and ministers, which ultimately lowers the credibility of the presidential system of government.³⁶

To overcome these problems, reforms are needed in the institutional design and administrative laws of government. First, it must be emphasized through derivative regulations that every ministry policy is an implementation of the President's policy, not an independent policy. This can be done by strengthening the function of presidential regulations as the main controlling instrument of executive policy.³⁷ Second, it is necessary to strengthen the legal basis for the coordinating minister's coordinating function so that it has strong juridical legitimacy in integrating cross-ministerial policies. So far, the role of the coordinating minister has only been regulated through presidential regulations and does not have a solid legal position. In fact, in the modern presidential system, the coordination mechanism is a key element to maintain the effectiveness of the government.³⁸ Third, the President needs to establish a legal and administrative evaluation mechanism for ministerial regulations to ensure compliance with national policies. The evaluation can be an instrument to prevent overlapping authority and ensure consistency between the implementing regulations at the ministerial level and the vision of the government set by the President.

Theoretically, the improvement of the structure and function of the President's relationship with the minister is in line with the idea of modern constitutionalism, namely the administration of state power based on the principles of the rule of law, limitation of power, and clear accountability.³⁹ Thus, the dualism of executive functions that has been happening so far can not only be minimized, but also directed so that Indonesia's presidential system becomes more stable and effective in accordance with the mandate of the constitution

IV. CONCLUSIONS

Based on the results of the analysis of the constitutional foundation, constitutional practices, and empirical facts that occur in the administration of the Indonesian government, it can be concluded that the presidential system adopted by the 1945

³¹ Kompas.id. (2024, September 9). Peran juru bicara presiden disoal ke Mahkamah Agung. *Kompas.id*. Retrieved from <https://www.kompas.id/artikel/peran-juru-bicara-presiden-disoal-ke-mahkamah-agung>

³² Sekretariat Kabinet Republik Indonesia. (2024, May 15). Utamakan penyelesaian tumpang tindih lahan, presiden: Penghormatan hak-hak masyarakat. *Setkab.go.id*. Retrieved from <https://setkab.go.id/utamakan-penyelesaian-tumpang-tindih-lahan-presiden-penghormatan-hak-hak-masyarakat>

³³ Op.Cit. Latif, (2020)

³⁴ Op.Cit. Mahfud M.D. (2013)

³⁵ Op.Cit. Marzuki, (2017)

³⁶ Op.Cit. Asshiddiqie, (2010)

³⁷ Op.Cit. Sunggono (2016)

³⁸ Op.Cit. Latif (2020)

³⁹ Op.Cit. Asshiddiqie, (2010)

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Constitution of the Republic of Indonesia basically places the President as the holder of the highest governmental power. The President has a position as the head of state as well as the head of government assisted by state ministers. However, in practice, this system has not worked ideally as a purely presidential principle. There is a symptom of dualism of functions between the President and ministers, where the implementation of executive policies is not completely under the command of the President, but is fragmented in various ministries that carry out sectoral policies with relatively broad autonomy. The phenomenon of functional dualism arises due to several juridical and political factors. From the juridical side, the provisions in the 1945 Constitution and its implementing regulations do not expressly regulate the limits of ministerial authority and hierarchical relations with the President. Meanwhile, from the political side, the practice of forming a coalition cabinet and weak coordination between ministries exacerbated the condition of executive disharmony. As a result, there is an overlap in policies between ministries, differences in policy directions with the President's vision, and a decrease in the effectiveness of government implementation. In constitutional law, this has implications for the blurring of constitutional accountability and the decline in the credibility of Indonesia's presidential system.

Normatively, this condition shows the need to strengthen the legal relationship between the President and ministers through the reformulation of regulations and executive coordination mechanisms. Every ministry policy should be positioned as a concrete implementation of the President's policy, not as an independent policy. For this reason, it is necessary to strengthen the function of presidential regulations as the main instrument for controlling government policies, as well as the establishment of a stronger legal basis for the role of the coordinating minister in integrating cross-sectoral policies. A more firm and systematic arrangement is expected to close the gap in the emergence of dualism of functions in the executive body and strengthen the principle of *unity of command* in the presidential system. Thus, it can be suggested that the government and lawmakers conduct a thorough evaluation of laws and regulations that give direct authority to ministries without a control mechanism from the President. In addition, it is necessary to establish regulations that affirm the hierarchy of authority in the executive environment and clarify the administrative responsibility of ministers to the President. Institutionally, the improvement of the coordination function between ministries must also be balanced with a law-based, transparent, and measurable public policy supervision system. Through these measures, Indonesia's presidential system can run more effectively, stable, and accountable in accordance with the principles of modern constitutionalism that places the President as the sole holder of government power in both substantive and formal senses.

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