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Comparative Analysis of Governmental Systems: Assessing Democracy in Indonesia's Presidential System and France's Semi-Presidential System

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Abstract

This paper conducts a comprehensive comparative analysis of governmental systems to assess the democratic principles inherent in Indonesia's Presidential System and France's Semi-Presidential System. Employing a normative juridical research method with a statutory, conceptual, and comparative approach, the study unveils the distinct features of each system and their implications for democratic governance. The research reveals similarities and differences in power distribution, emphasizing the commonality of the *trias politica* concept in both countries, albeit with unique characteristics. Notably, the divergence lies in the roles of state leaders: Indonesia designates the president as both head of state and government, whereas in France, the president is the head of state, and the prime minister assumes the role of head of government. Through this analysis, the paper aims to contribute to the field of comparative constitutional law and deepen our understanding of how different governmental structures impact the democratic fabric of nations.

Keywords

Government System, Democracy, Presidential System, Semi-Presidential System

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Introduction

ENSURING THE PROTECTION of human rights is a crucial facet of instituting democracy globally. It is incumbent upon the state to actively shoulder the responsibility of safeguarding, respecting, and fulfilling the human rights of its citizens. Following the principles laid out in international human rights law, individuals are acknowledged as the rightful bearers of human rights, whereas states are entrusted with obligations to secure the protection, respect, and fulfillment of these rights for their citizens. This delineation designates the state as the primary entity responsible for upholding and fulfilling the comprehensive spectrum of human rights. In essence, the state serves as the central guarantor and executor of the human rights framework within the context of a democratic society.¹

In the context of defining the state in the democratic society, it is essential to recognize the diverse perspectives provided by scholars such as Aristotle, Hugo Grotius, and Hans Kelsen.² While their definitions may seemingly differ, the underlying essence remains consistent—the state serves as an organization with paramount authority within a community, aiming to unite its members, establish a territorial presence, and govern with sovereignty. This conceptualization positions the state as a powerful entity instrumental in achieving collective goals within societal groups.

Understanding the nature of the state becomes crucial when considering its role in the pursuit of societal objectives. Essentially, the state serves as a tool for individuals and their groups to collectively work towards shared aspirations. Regardless of apparent disparities in the packaging of national goals, the

¹ Dany Try Hutama Hutabarat, et al. "Understanding and Describing Relationship of State Law and Human Right." *Journal of Humanities, Social Sciences Business* 1, no. 1 (2021): 65-72.

² See Curtis N. Johnson, and Curtis N. Johnson. *Aristotle's Theory of the State*. (London: Palgrave Macmillan UK, 1990); Yamauchi, Susumu. "The Ambivalence of Hugo Grotius: State Sovereignty." *Hitotsubashi Journal of Law and Politics* 22 (1994): 1-17; Knud Haakonssen, "Hugo Grotius and the history of political thought." *Grotius and Law*. (London: Routledge, 2017), pp. 69-95; Hans Kelsen, *General Theory of Law and State*. (London: Routledge, 2017).

fundamental purpose of a country remains rooted in the common pursuit of welfare, happiness, and prosperity for its people. Thus, the definitions of the state provided by Aristotle, Hugo Grotius, and Hans Kelsen lay the groundwork for appreciating the state's significance in facilitating the shared endeavors and desired outcomes of human communities.³

A country necessitates a well-defined government structure to effectively attain its objectives. The establishment of a government aligns with the overarching purpose of serving as a practical instrument for community guidance, accomplished through the formulation and determination of policies and rules. The government plays a crucial role in regulating community activities, providing guidelines through its policies for the execution of these activities. The ultimate aim of a country, centered on fostering the well-being and prosperity of its citizens, is anticipated to be expeditiously realized through the implementation of diverse regulations crafted by the government.

Various forms of government have evolved globally, with Hans Kelsen's classical legal theory categorizing them into republics and monarchies.⁴ In simplified terms, the distinction between these forms, as articulated by Moh. Kusnardi and Harmaily Ibrahim, lies in the method of selecting the head of state. A republic emerges when the head of state is elected through a specified term via elections, while a monarchy is characterized by the head of state's selection based on inheritance rights.⁵ In addition, Kholifah introduced another governmental form known as tyranny, in which the highest authority is held by an individual who exercises power based on personal will.⁶

In the governance of a country, numerous factors come into play, and one pivotal element is the government system. An effective government system facilitates efficient administration, while an ill-suited choice may impede

³ Rendy Adiwilaga, Yani Alfian, and Ujud Rusdia. *Sistem Pemerintahan Indonesia*. (Yogyakarta: Deepublish, 2018).

⁴ Hans Kelsen, *General Theory of Law and State*. (London: Routledge, 2017).

⁵ Moh Kusnardi, and Harmaily Ibrahim. *Pengantar Hukum Tata Negara Indonesia*. (Jakarta: UI Press, 1998).

⁶ Muh Nur El Brahimi, *Bentuk Negara dan Pemerintahan RI*. (Jakarta: PT Balai Pustaka, 2010).

governance functions. It's crucial to distinguish between the form of government and the government system, even though these terms are often interchangeably used. The intricacies lie in ensuring that both the form and the system of government are aptly aligned to promote optimal functionality in the administration of governmental affairs.

Whatever form of state is used, both republics and monarchies must have a system of government because the government system is a constitutional law system, which is related to relations between government and bodies representing the people. Usep Ranawijaya argues that what is meant by the system of government is the system of relations between the executive and the legislature.⁷ Then, Mahfud MD argued that the government system could be interpreted as a system of working relations between state institutions. Not much different from the previous opinion according to Gina Misiroglu, the system of government is when government institutions are seen from the relationship between the legislature and the executive body. Basically, the study of the government system is the study of how state institutions work by taking into account the level of authority and accountability between state institutions. In addition, the system of government focuses more on the position between the legislature (parliament) and the executive.⁸⁹

Every country employs a distinct method to regulate its government, a practice designed to enhance clarity and direction in governance. The absence of a specific system in a country would render effective functioning nearly impossible. This is primarily due to the necessity for a set of interconnected rules to govern the management of a country's government. In essence, the establishment and adherence to these rules form the backbone of a functional

⁷ Usep Ranawijaya, *Hukum Tata Negara Indonesia: Dasar-dasarnya*. (Jakarta: Ghalia Indonesia, 1983).

⁸ Moh. Mahfud MD, *Demokrasi dan Konstitusi di Indonesia: Studi Tentang Interaksi Politik dan Kehidupan Ketatanegaraan*. (Jakarta: Rineka Cipta, 2003).

⁹ Muliadi Anangkota, "Klasifikasi Sistem Pemerintahan (Perspektif Pemerintahan Modern Kekinian)." *CosmoGov: Jurnal Ilmu Pemerintahan* 3, no. 2 (2017): 148-152.

and well-organized governmental structure, ensuring coherence and effectiveness in the administration of a nation's affairs.

A country's government system will usually have a system with a clear main goal, which is to maintain the stability of the country concerned. This system of government must have a solid foundation, a foundation that cannot be shaken by anything. In order to manage the country and its government, each country determines its own government system in accordance with the culture in its country. There are several government systems used by countries in the world, namely presidential, parliamentary, semi-presidential, liberal, liberal democracy, and communist government systems. Each system of government has its own characteristics, advantages, and disadvantages.

Differences in the application of government systems by countries in the world can be caused by various things, such as socio-cultural and political conditions that develop in the country concerned. There are also other factors that are also very influential, namely the party system that has been adopted by a country, the political traditions that develop in a country, the commitment of political elites to the political system to be realized, and the dominant political culture in the society concerned.

The existence of different government systems between one country and another is the basis that it is important to understand how the continuity of the government system is to increase our horizons of knowledge of law, especially the comparative science of constitutional law. Because the law is dynamic following the times, studying the government systems of various countries can be an effort towards a better government system. Based on this, this article will discuss more deeply related to the government system that applies in Indonesia and in France.

In this comparative analysis, we will examine the democratic systems of Indonesia's presidential system and France's semi-presidential system. To conduct this analysis, we will consider several factors such as the electoral process, separation of powers, checks and balances, and government accountability. Through the examination of Indonesia's presidential system and

France's semi-presidential system, this comparative analysis aims to assess the effectiveness of their democratic systems in terms of promoting citizen participation, protecting individual rights, and ensuring political stability. The democratic systems of Indonesia's presidential system and France's semi-presidential system will be assessed based on factors such as the electoral process, separation of powers, checks and balances, and government accountability.¹⁰ The purpose of this comparative analysis is to evaluate and compare the democratic systems of Indonesia's presidential system and France's semi-presidential system. This comparative analysis will provide valuable insights into the strengths and weaknesses of these two governmental systems, and ultimately contribute to our understanding of how different democratic systems can function and evolve in various contexts.¹¹

Government System of Indonesia: Historical Evolution and Developments

THE EVOLUTION of Indonesia's government system predates the amendment to the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as UUD 1945). Prior to the amendment, the division of power in Indonesia—comprising executive, legislative, and judicial branches—included six institutions: the President, People's Consultative Assembly (*Majelis Permusyawaratan Rakyat*, MPR), House of Representatives (*Dewan Perwakilan Rakyat*, DPR), Financial Supervisory Board (*Badan Pemeriksa Keuangan*, BPK), Supreme Advisory Council (*Dewan Pertimbangan Agung*, DPA), and Supreme Court (*Mahkamah Agung*, MA). Following the amendment to the 1945

¹⁰ Christopher J. Dagg, "The 2004 Elections in Indonesia: Political Reform and Democratisation." *Asia Pacific Viewpoint* 48, no. 1 (2007): 47-59.

¹¹ Gisèle De Meur, and D.I.R.K. Berg-Schlosser. "Comparing Political Systems: Establishing Similarities and Dissimilarities." *European Journal of Political Research* 26, no. 2 (1994): 193-219.

Constitution, the power division expanded to involve seven institutions. While maintaining the previous six, a new institution, the Regional Representative Council (*Dewan Perwakilan Daerah*, DPD), was introduced, and the Supreme Advisory Council (DPA) was replaced by the Constitutional Court.¹²

The distribution of power in Indonesia aligns with Montesquieu's Trias Politica concept. According to Montesquieu, this concept serves as a safeguard against the concentration of power, ensuring its dispersion across various institutions rather than being wielded by a single political entity. This idea is elucidated in Montesquieu's work, "*The Spirit of the Laws*" (1748). In essence, executive and legislative powers play distinct roles – the former primarily concerned with matters related to international law, and the latter focused on issues related to civil law.¹³

¹² Ruhenda Ruhenda, et al. "Tinjauan Trias Politika Terhadap Terbentuknya Sistem Politik dan Pemerintahan di Indonesia." *Journal of Governance and Social Policy* 1, no. 2 (2020): 58-69.

¹³ Miriam Budiardjo, *Dasar-Dasar Ilmu Politik* (Jakarta: Gramedia, 2008). See also Anne M. Cohler, Basia Carolyn Miller, and Harold Samuel Stone. *Montesquieu: The Spirit of the Laws*. (Cambridge, MA: Cambridge University Press, 1989). "*The Spirit of the Laws*" is a seminal work by the French political philosopher Charles de Secondat, Baron de Montesquieu. Published in 1748, this influential piece of literature explores the principles of political theory and law. Montesquieu's central thesis revolves around the idea of the separation of powers, later known as the Trias Politica concept. In "*The Spirit of the Laws*," Montesquieu argues for a system where political power is divided into three branches: the executive, legislative, and judicial. This separation is intended to prevent the abuse of authority by any single branch, creating a system of checks and balances. Montesquieu also delves into the concept of political climate, asserting that the form of government and its laws should be tailored to suit the specific circumstances, culture, and needs of a given society. He examines various forms of government, from monarchies to republics, analyzing their strengths and weaknesses. The work significantly influenced the framers of modern constitutions, including the architects of the United States Constitution. The Trias Politica concept became a fundamental principle in shaping democratic governance, emphasizing the importance of preventing the concentration of power and ensuring a more just and balanced political system. For Indonesian context, see also Efi Yulistiyowati, Endah Pujiastuti, and Tri Mulyani. "Penerapan Konsep Trias Politika dalam Sistem Pemerintahan Republik Indonesia: Studi Komparatif atas Undang Undang Dasar Tahun 1945 Sebelum dan Sesudah Amandemen." *Jurnal Dinamika Sosial Budaya* 18, no. 2 (2017): 328-338; Christiani Junita Umboh, "Penerapan Konsep Trias Politika dalam Sistem Pemerintahan Republik Indonesia." *Lex Administratum* 8, no. 1 (2020): 131-142; Odang Suparman, "Konsep Lembaga Negara Indonesia dalam Perspektif Teori Trias Politika Berdasarkan Prinsip Checks and Balances System." *AHKAM* 2, no. 1 (2023): 59-75; Belly Isnaeni, "Trias Politika dan Implikasinya dalam

The three powers must be separate from one another, both separately in the exercise of functions and in the equipment that exercises these powers. In short, the executive power is responsible for enforcing laws, the legislative power is responsible for making laws, while the judicial power is responsible for prosecuting any act that violates or contradicts the law. Please note, foreign policy actions are also included in legislative power. The judicial power was also strongly emphasized by Montesquieu that the judicial power is a free and independent power. This is in accordance with the background of Montesquieu who is a former judge. Judicial power is the power that is the guarantor and that risks the freedom that the individual has and the human rights.

While the division of power in Indonesia generally aligns with Montesquieu's theory, it exhibits distinctive characteristics. In Montesquieu's model, power is entirely decentralized, with independent institutions overseeing the transition of power between them. Each institution concentrates on its specific responsibilities, preventing mutual influence or accountability. However, in Indonesia's government system, despite a separation of powers, inter-institutional relationships persist. Institutions engage in supervision and mutual balance, as the Indonesian system operates on the principle of checks and balances.¹⁴ This is in accordance with the Indonesian constitution, which states that Indonesian statehood is carried out in accordance with the personality of Indonesia and does not adhere to the government system of any country.¹⁵

A. Executive Power

In Indonesia, the executive power is vested in the president, vice president, and the cabinet. The President and Vice President are elected through a general

Struktur Kelembagaan Negara dalam UUD 1945 Pasca Amandemen." *Jurnal Magister Ilmu Hukum* 6, no. 2 (2021): 78-91.

¹⁴ Moh. Kusnardi, and Bintan R. Saragih. *Susunan Pembagian Kekuasaan Menurut Sistem Undang-Undang Dasar 1945*. (Jakarta: PT Gramedia Pustaka Utama, 1994).

¹⁵ Wery Gusmansyah, "Trias Politica dalam Perspektif Fikih Siyasah." *Al Ijarah: Jurnal Pemerintahan dan Politik Islam* 2, no. 2 (2019): 123-134.

election, serving a term of five years, with the possibility of being re-elected for a single additional term. This electoral process ensures a democratic representation of the executive branch and allows for periodic evaluations of leadership.¹⁶

The cabinet, as part of the executive branch, plays a vital role in the governance structure. Comprising ministers appointed by the president, the cabinet holds responsibilities in various policy areas. The president has the authority to appoint and dismiss cabinet members, emphasizing a direct link between executive decisions and the president's leadership. This centralized authority allows for efficient decision-making and policy implementation under the guidance of the president.¹⁷ The five-year term limit for the president and vice president contributes to the democratic principles embedded in Indonesia's political system. This ensures regular opportunities for the electorate to reassess leadership, fostering accountability and responsiveness to the needs of the people.

Indonesia is a unitary state in the form of a republic with a government system used, namely a presidential system so that the president acts as head of state as well as head of government as explained in the Indonesian Constitution of 1945. The presidential system of government is a system of government whose executive power does not have to be accountable to the legislature. Executive power cannot be overridden through the legislature even if the discretion exercised is not approved or opposed by the legislative power and the

¹⁶ Abdul Rahman Kanang, "Diskursus Pembatasan Kekuasaan Presiden dalam Sistem Presidensial Menurut UUD 1945." *Al Daulah: Jurnal Hukum Pidana dan Ketatanegaraan* 7, no. 1 (2018): 163-177; Orien Effendi, "Pembatasan Kekuasaan Berdasarkan Paham Konstitusionalisme di Negara Demokrasi." *Politica: Jurnal Hukum Tata Negara dan Politik Islam* 7, no. 2 (2020): 111-133.

¹⁷ Suko Wiyono, et al. "The Effectiveness of Presidential Cabinet in a Multi-Party System in Indonesia." *European Journal of Political Science Studies* 4, no. 1 (2020): 14-25; Ibnu Sina Chandranegara, and Syaiful Bakhri. "Designing presidentialism cabinet under a multiparty system in Indonesia." *International Journal of Innovation, Creativity and Change* 15, no. 2 (2021): 908-922. See also Dirk Tomsa, "Regime resilience and presidential politics in Indonesia." *Contemporary Politics* 24, no. 3 (2018): 266-285.

executive and legislative powers reside separately. So, the president is directly responsible to the people because he was elected by the people.¹⁸

The amendment of the Indonesian Constitution in 1945 has strengthened and strengthened the presidential system and provided a very meaningful and large shift in the implementation of the Indonesian constitutional system that tries to be more democratic. This is clearly seen in Article 1 paragraph (2) of the third amendment of the 1945 Constitution, it is stated that "sovereignty is in the hands of the people and is exercised according to the Constitution". The above framework has strengthened the Presidential system of government in Indonesia, by changing the pattern of relations between high state institutions.¹⁹

The President of Indonesia holds a spectrum of significant powers as the head of state. Firstly, the President wields the highest authority over the Indonesian National Army (TNI), encompassing the Army, Navy, and Air Force. This control underscores the president's role in ensuring national security and defense. Additionally, the President, in collaboration with the House of Representatives (DPR), possesses the authority to declare war, negotiate peace, and enter into treaties with other nations. This diplomatic power emphasizes the president's role in shaping Indonesia's foreign relations and global engagements.²⁰

In times of perceived danger, the president has the prerogative to declare a state of danger, allowing for specific measures to be taken to address imminent threats or crises. This executive power contributes to the president's capacity to respond promptly to exceptional circumstances. The President's authority

¹⁸ Dody Nur Andriyan, *Hukum Tata Negara dan Sistem Politik: Kombinasi Presidensial dengan Multipartai di Indonesia*. (Yogyakarta: Deepublish, 2016).

¹⁹ Handika Pelu, et al. "Perbandingan Sistem Pemerintahan Yang Dianut oleh Negara Kesatuan Republik Indonesia dengan Negara Lain (Studi Perbandingan Negara Jepang)." *Jurnal Cahaya Keadilan* 10, no. 1 (2022): 22-35.

²⁰ Greg Fealy, and Hugh White. "Indonesia's 'Great Power' Aspirations: A Critical View." *Asia & The Pacific Policy Studies* 3, no. 1 (2016): 92-100; Rizal Sukma, "Soft power and public diplomacy: The case of Indonesia." In *Public diplomacy and soft power in East Asia*. (New York: Palgrave Macmillan US, 2011), pp. 91-115.

extends to the appointment of ambassadors and consuls, a crucial aspect of diplomatic representation and engagement with the international community. This power enables the president to shape Indonesia's diplomatic corps and foster international cooperation.

Furthermore, the President possesses the power to grant clemency, rehabilitation, amnesty, and abolition. When considering clemency and rehabilitation, the President takes into account the considerations of the Supreme Court (MA). On the other hand, for amnesty and abolition, the considerations are based on the input from the People's Advisory Council (DPR). This power highlights the president's role in the administration of justice and mercy.²¹ Lastly, the President has the authority to confer titles, regalia, and other honors. This symbolic power allows the president to recognize and reward individuals for their exceptional contributions or achievements, contributing to the nation's cultural and societal fabric.

The role of the President as the head of the government encompasses a range of crucial duties. Firstly, the President is responsible for establishing the rules of government, outlining the framework within which the government functions and policies are formulated. A significant aspect of the President's duties lies in the appointment and dismissal of ministers, shaping the composition of the cabinet. This authority allows the President to assemble a team aligned with the administration's goals and policies.

The President plays a pivotal role in the legislative process by passing mutually agreed bills into law. This involves collaboration with relevant bodies, contributing to the development and evolution of the legal framework in the country. Another key responsibility involves the drafting of the State Budget Law (APBN), a comprehensive fiscal document. The President submits this draft to the House of Representatives for discussion, taking into account

²¹ Fathudin Fathudin, and Ahmad Tholabi Kharlie, "Existence of Clemency as President Prerogative Right (Comparison Study of Indonesia with Countries of The World)." *Jurnal Cita Hukum* 5, no. 1 (2017): 1-24.

considerations from the Regional Representative Council (DPD). This process underscores the President's role in financial governance and accountability.

The President is actively involved in the inauguration of members of the People's Consultative Assembly (MPR), who are elected by the House of Representatives (DPR). The President considers the input of the Regional Representative Council (DPD) in this significant appointment process.

Moreover, the President exercises the authority to approve and appoint Supreme Court justices, considering nominations from the Judicial Commission (KY) and the House of Representatives. This role reinforces the President's influence in shaping the judiciary. Additionally, the President is involved in the appointment and dismissal of members of the judiciary, requiring the approval of the House of Representatives. This demonstrates the President's role in ensuring the integrity and effectiveness of the judicial system. Lastly, the President appoints members of the Constitutional Court (MK), considering nominations from the Supreme Court, House of Representatives, and the President. This role further underscores the President's involvement in shaping the composition of critical constitutional institutions in Indonesia.²²

Reflecting on its historical trajectory, Indonesia's government system has witnessed inconsistencies. Initially, upon gaining independence, Indonesia embraced a presidential system. However, this adherence proved inconsistent over time, particularly with the transition to a parliamentary system at the end of 1945, notably under the RIS constitution. Subsequently, with the issuance of the Presidential Decree on July 5, 1959, Indonesia began reverting to the presidential system.

²² See Herlambang P. Wiratraman, "Constitutional struggles and the court in Indonesia's turn to authoritarian politics." *Federal Law Review* 50, no. 3 (2022): 314-330; Daniel S. Lev, "Judicial authority and the struggle for an Indonesian Rechtsstaat." *Law and Society Review* (1978): 37-71; Tim Lindsey, "Indonesian constitutional reform: muddling towards democracy." *Public Law in East Asia*. (London: Routledge, 2017), pp. 337-363; Ayon Diniyanto, "Indonesian's Pillars Democracy: How This Country Survives." *Journal of Indonesian Legal Studies* 1, no. 1 (2016): 105-114.

Noteworthy alterations to the Indonesian Constitution of 1945, specifically related to the choice of the government system, transpired during various amendments, including the first, second, third, and fourth changes. These amendments signify pivotal moments in Indonesia's constitutional history, reflecting the nation's evolving approach to governance structures. The shifting dynamics demonstrate the nation's responsiveness to changing circumstances and the pursuit of a governmental system that aligns with the needs and aspirations of its citizens.

The amendments to the Indonesian constitution brought about significant changes, particularly in the provisions governing the roles of the president, vice president, and the legislative bodies, such as the DPR, DPD, and MPR. The amendments, therefore, had a profound impact on the dynamic interplay between the President and the legislature, particularly the DPR and MPR.²³ During the amendment process of the 1945 Indonesian Constitution, the factions within the People's Consultative Assembly for the period 1999-2004 reached consensus on several crucial matters. One of the key aspects preserved was the choice of a presidential system of government for Indonesia. This decision underscored the assembly's commitment to maintaining a governance structure that had proven effective for the nation.²⁴

²³ Martha Pigome, "Implementasi Prinsip Demokrasi dan Nomokrasi dalam Struktur Ketatanegaraan RI Pasca Amandemen UUD 1945." *Jurnal Dinamika Hukum* 11, no. 2 (2011): 335-348; Dinoroy Marganda Aritonang, "Penerapan Sistem Presidensial di Indonesia Pasca Amandemen UUD 1945." *Mimbar Hukum* 22, no. 2 (2010): 391-407; Sri Nur Hari Susanto, "Pergeseran Kekuasaan Lembaga Negara Pasca Amandemen UUD 1945." *Masalah-Masalah Hukum* 43, no. 2 (2014): 279-288.

²⁴ Adika Akbarrudin, "Pelaksanaan Fungsi Legislasi DPR RI Dan DPD RI Pasca Amandemen UUD 1945." *Pandecta Research Law Journal* 8, no. 1 (2013): 52-66; Sri Warjiati, "Sistem Ketatanegaraan Indonesia Pasca Amandemen UUD 1945." *Al-Daulah: Jurnal Hukum dan Perundangan Islam* 2, no. 2 (2012): 185-207; HM Sahat Radot Siburian, "Constitution Formulation and Amendment in Indonesian and American Legal System: A Comparative Study." *Journal of Law and Legal Reform* 3, no. 1 (2022): 39-66; Agus Riwanto, "Strengthening the Authority of the People's Consultative Assembly the Republic of Indonesia to Create Checks and Balances System based on Post-Amendment Constitution 1945." *Researchers World* 9, no. 1 (2018): 50-56.

Beyond the system of government, the agreement encompassed the preservation of fundamental elements such as the form of the Republic of Indonesia, the structure of the government, and the preamble to the Indonesian Constitution of 1945. Furthermore, the parties involved also agreed to retain the use of the amendment approach in modifying the 1945 Indonesian Constitution. Additionally, there was a collective acknowledgment of the importance of incorporating state norms outlined in the explanation of the 1945 Indonesian Constitution into the constitutional articles, emphasizing a holistic approach to constitutional governance. This consensus highlights the careful consideration and balance struck during the amendment process to maintain the core principles of Indonesia's constitutional framework.

B. Legislative Power

Indonesia employs a bicameral legislative system, comprised of the People's Consultative Assembly (MPR), which amalgamates the Regional Representative Council (DPD) and the People's Consultative Assembly (DPR). The executive leader, elected through a general election, serves a term of five years. The MPR is constituted by a total of 692 members, with 560 representing the DPR and 132 representing the DPD. Members of the DPR are elected based on political party affiliations, while DPD members are independent representatives from each province in Indonesia.

The MPR holds significant powers, including the authority to amend and enact the Constitution, as well as the pivotal responsibility of appointing the President and/or Vice President. As stipulated by the Constitution, the MPR possesses the prerogative to dismiss the President and/or Vice President during their term of office if their actions warrant such a measure. This constitutional framework underscores the MPR's role in shaping the legislative landscape and ensuring accountability within the executive branch.

C. Judicial Power

In Indonesia, the exercise of judicial power is vested in two key entities: the Supreme Court and the Constitutional Court. Within the legal framework of the Continental Europe tradition followed by Indonesia, judicial power holds significant prominence. It is imperative that the judicial power in Indonesia operates autonomously, free from external interference. Central to its role is the unwavering commitment to upholding the principles of law and justice. In executing its rights and obligations, the judiciary in Indonesia remains steadfast in its dedication solely to the pursuit of legal fairness and justice, ensuring an impartial and objective application of the law.²⁵

The Supreme Court stands as the paramount institution entrusted with the overarching responsibility of exercising judicial power, working in tandem with subordinate judicial bodies. The array of judicial bodies under the purview of the Supreme Court encompasses general courts, religious courts, military courts, and state administrative courts.²⁶

In tandem with the Supreme Court, Indonesia also hosts the Constitutional Court, a distinct entity vested with the authority to scrutinize laws that run counter to the provisions of the 1945 Indonesian Constitution. Beyond this critical role, the Constitutional Court holds jurisdiction over resolving disputes related to the authority of state institutions defined by the 1945 Indonesian Constitution, determining the dissolution of political parties, and adjudicating disputes arising from election results. This multifaceted role

²⁵ See Yustina Trihoni Nalesti Dewi, W. Riawan Tjandra, and Grant R. Niemann. "Independence of Judicial Power as a Foundation of Human Rights Judicial Function in Indonesia." *International Journal of Social Science and Humanity* 6, no. 3 (2016): 239-242; Krisnadi Nasution, "Indonesian Judicial Power Post Amendment." *Mimbar Keadilan* 13, no. 1 (2020): 85-95.

²⁶ Muhammad Siddiq Armia, et al. "Post Amendment of Judicial Review in Indonesia: Has Judicial Power Distributed Fairly?." *Journal of Indonesian Legal Studies* 7, no. 2 (2022): 525-556; Andrew Mario Ernesto Ataupah, "How the Justice Power Post Constitution Amendment? A Review Book" *Politik Hukum Kekuasaan Kehakiman Pasca Amandemen Undang-Undang Dasar 1945*", Ma'shum Ahmad, Total Media Yogyakarta, 2017, 193 pages, ISBN: 979-1519-25-0." *Journal of Indonesian Legal Studies* 6, no. 1 (2021): 237-244.

underscores the Constitutional Court's pivotal position in safeguarding constitutional principles and maintaining the integrity of Indonesia's legal and political framework.²⁷

French Government System: How Democracy Reflected?

FRANCE, A SOVEREIGN STATE, exercises authority over both domestic and foreign territories. Metropolitan France stretches from the Mediterranean Sea to the English Channel/North Sea and spans from the Rhine to the Atlantic. In addition to its mainland, French foreign territories encompass regions such as French Guiana and numerous islands in the Atlantic, Pacific, and Indian oceans. The administrative division of France comprises 18 integral regions, including five overseas, collectively covering an expansive area of 248,573 square miles and accommodating a population of 67.25 million. Paris, serving as the capital, holds the dual distinction of being the largest city in the country.

The modern system of government that upholds the sovereignty of the people by giving equal rights to every citizen began with the political revolution that occurred in the French state. The absolute power of King Luis to XIV was destroyed with the "*people power*". The revolution has become a milestone and inspiration for the realization of today's modern state and government. The concept of "*Liberte, Egalite, and Fraternite*" has become a doctrine in a democratic country. The name of the French constitution is "*Constitution de la République Française*" or "Constitution of the French Republic".²⁸ This

²⁷ Linda Yanti Sulistiawati, "Indonesian Judiciary During the Pandemic: Staying Afloat on Troubled Water", *NUS Asia-Pacific Centre for Environment Law Working Paper* 21, no. 5 (2021): 1-28.

²⁸ Melanie Langer, et al. "System justification in France: liberté, égalité, fraternité." *Current Opinion in Behavioral Sciences* 34 (2020): 185-191; Dorskaia, Aleksandra, and Andrei Dorskii.

constitution became the basis of the French system of government which is currently a presidential system. The constitution was first adopted in 1958 and last amended in 2008.²⁹

In the field of political science French political scholars have contributed greatly to the development of the concept of democracy in the system of government as Montesquieu's *trias politica* theory which divides power into three, namely executive power, legislative power, and judicial power. Executive power is reflected in the power of the President and Prime Minister, legislative power is reflected in the Senate and National Assembly, and judicial power is reflected in the existence of an independent judiciary.³⁰

A. Executive Power

Just like Indonesia, France is a country whose form of government is republican. The government system used by Paris is a semi-presidential system. What is meant by a semi-presidential system is a government system that combines parliamentary and presidential government systems. Usually, countries that use a presidential system have characteristics or are characterized by the president as the head of state and the prime minister as the head of government. That show it is applied in France. In carrying out its governmental order, the executive branch of the French Government has two leaders: the President of the Republic as head of state and the Prime Minister who leads the Government. The executive power of the government is the administrative body that has the authority to manage the day-to-day activities of the state. In

"Genesis and Historical Sense of the Motto "Liberté, Égalité, Fraternité"." *Wisdom* 1S, no. 1 (2021): 61-73.

²⁹ Herve Michel, "Government or governance? The case of the French local political system." *West European Politics* 21, no. 3 (1998): 146-169.

³⁰ Alistair Cole, *French Politics and Society*. (Abingdon, UK: Taylor & Francis, 2017); Schain, Martin A. "The impact of the French National Front on the French political system." In *Shadows over Europe: The development and impact of the extreme right in Western Europe*. (New York: Palgrave Macmillan US, 2002), pp. 223-243.

the French Republic, the executive consists of the President, Prime Minister, and Cabinet.³¹

In the intricate tapestry of France's political landscape, the roles of the President and Prime Minister coexist, with the former wielding a more potent influence. Elected directly through universal suffrage for a five-year term, the President holds the authority to appoint the Prime Minister. The responsibilities of the President are multifaceted. At the core of legislative processes, the President plays a pivotal role in confirming laws, shaping the legal framework that governs the nation. Serving as the head of the cabinet advisory council, the President influences key decisions, including the appointment of cabinet advisers, contributing to the formulation of crucial policies.

In matters of national defense, the President assumes the mantle of Supreme Commander of the French Armed Forces, overseeing strategic decisions and ensuring the security of the nation. Beyond national borders, the President is a diplomatic linchpin, representing France in international forums and conducting meetings with other heads of state to foster diplomatic relations. The President's influence extends to the realm of constitutional governance, with the authority to propose changes for parliamentary consideration. This role underscores the President's involvement in shaping the foundational principles of the nation.³²

Furthermore, the President engages in decisions related to the funding of political parties and organizations, weaving a connection between political dynamics and financial support. Internationally, the President takes on a

³¹ John TS. Keeler, "Executive power and policy-making patterns in France: Gauging the impact of fifth republic institutions." *West European Politics* 16, no. 4 (1993): 518-544; Malcolm C. Anderson, *Government in France: An Introduction to the Executive Power*. (Amsterdam: Elsevier, 2013); Harvey B. Feigenbaum, "Recent evolution of the French executive." *Governance* 3, no. 3 (1990): 264-278.

³² Pierre M. Gallois, "French Defense Planning—The Future in the Past." *International Security* 1, no. 2 (1976): 15-31; Reclus, Onesime. "France: Its National Defense." *Journal of Geography* 13, no. 9 (1915): 280-283.

leadership role in European Union meetings, embodying France's stance and vision in a broader context.

The president also has considerable power over the French government. The president can dissolve the National Assembly and call new elections, although in the interest of a sound government this is rarely done. In an emergency, the French President could have become a virtual dictator, taking complete control of the French government and armed forces. The president is also limited in his control over the law. Under normal circumstances, however, the President may not make laws or regulations but may only give recommendations to Parliament and the Prime Minister.

With a fairly broad authority possessed by the President, the President is very instrumental in domestic politics, especially abroad. So that in the international arena the President plays an important role and is more famous internationally. The President is not only a symbol and symbol that has very limited power but the President is active in the course of the country's government.³³

The government determines and carries out the policies of the French Republic. Members of government are sorted in the exact order established at the time of formation of the government. In this hierarchy, the Prime Minister is the Head of Government. It is the Prime Minister's responsibility to direct the government's actions. The Prime Minister can delegate some of his powers to the Minister. The Prime Minister is appointed by the President. The Prime Minister is accountable to the French Parliament. A unique feature of the French Constitution is that the Prime Minister is not necessarily the leader of the majority in Parliament. The Prime Minister's job is to direct and supervise the running of the government. The Prime Minister is also responsible for the

³³ Joni Dawud, "Sistem Pemerintahan Semi Parlemerter dan Semi Pesidentil di Prancis." *Jurnal Wacana Kinerja: Kajian Praktis-Akademis Kinerja dan Administrasi Pelayanan Publik* 8, no. 2 (2020): 59-65.

implementation of laws and unlike the President who has the authority to propose laws in Parliament.³⁴

In the French political framework, the Prime Minister's appointment is not contingent on parliamentary membership, but if a sitting member of Parliament assumes the role, an immediate resignation from parliamentary duties is required. The tenure of the Prime Minister is tethered to parliamentary confidence; dismissal by the President is only possible upon the Prime Minister's formal resignation. The National Assembly holds the authority to dismiss the government through a vote of censure.

The Prime Minister assumes the responsibility of proposing a ministerial list to the President. Although, in theory, ministers are chosen by the Prime Minister, in practice, collaboration between the President and Prime Minister is common—especially when they share the same political alignment, a scenario known as "*la cohabitation*."³⁵ In such instances, the President and

³⁴ Anne Stevens, *Government and Politics of France*. (London: Bloomsbury Publishing, 2017); Williams, Philip M. *The French Parliament (1958–1967)*. (London: Routledge, 2021).

³⁵ In the context of French politics, "la cohabitation" refers to a unique scenario in which the President and the Prime Minister come from different political backgrounds or parties. This situation arises when the President and the parliamentary majority are not aligned politically, resulting in the appointment of a Prime Minister who belongs to a party or political group different from that of the President. Under normal circumstances, the President and the Prime Minister share a common political affiliation, creating a cohesive executive branch. However, in a cohabitation scenario, the President may belong to one political camp, while the Prime Minister, who heads the government, belongs to another. This situation occurs when parliamentary elections yield a majority for a political party other than the one of the sitting President. During periods of cohabitation, the political landscape can become more complex and challenging. The division of political power between the President and the Prime Minister may lead to policy conflicts and differing priorities. In such instances, the President retains certain constitutional powers, while the Prime Minister oversees the day-to-day functioning of the government. Cohabitation can bring about a dynamic where collaboration and negotiation between the President and the Prime Minister become crucial to ensure the effective governance of the country. Despite the potential for challenges, it also reflects the resilience and adaptability of the French political system in accommodating diverse political scenarios. See Anne Stevens, and Anne Stevens. "President and Prime Minister: Executive Leadership." *Government and Politics of France* (2003): 63-82; Andrew Knapp, and Vincent Wright. *The Government and Politics of France*. (London: Routledge, 2006); Schain, Martin A. "Politics in France." *European Politics Today* (2008): 129-77.

Prime Minister work jointly to compose the government, with the President's approval essential for the appointment of government ministers. This intricate dance of collaboration underscores the nuanced dynamics of French governance, where the interplay between the executive branches is pivotal in forming and sustaining a functioning government.

Within the intricate hierarchy of the government, ministers in France assume distinct roles and are stratified based on their significance. At the apex are the Ministers of State, a prestigious group of senior ministers who hold membership in the Council of Ministers. This honorary title is bestowed upon select ministers, signifying prestige and distinction. Next in line are the Ministers, another category of senior ministers and members of the Council of Ministers. They wield leadership over specific government ministries, steering policy directions and implementations.³⁶

At the foundation of this ministerial hierarchy are the Secretaries of State, characterized as junior ministers. This is the lowest rank, and they operate either directly under a minister or, at times, under the Prime Minister. Despite their junior status, Secretaries of State play crucial roles, contributing to the seamless functioning of government affairs.

One of the highlights of France's executive power is its flexible system. When the president and prime minister are from different parties, the prime minister has a majority in parliament than the president, but if the president and prime minister are from the same party, the president effectively or at least politically plays an important role in the government because he is the leader of the majority party in Parliament, so this system is rather flexible.

The executive in France is highly effective and powerful with a true leadership role in the legislative process using decrees or in matters within the

³⁶ Werner Kirsch, "The distribution of power in the Council of Ministers of the European Union." In *Institutional design and voting power in the European Union*. (London: Routledge, 2016), pp. 93-108; François Petry, "The role of cabinet ministers in the French Fourth Republic." *Cabinet Ministers and Parliamentary Government* (1994): 125-38.

limits of parliamentary jurisdiction, having almost exclusive power to initiate laws and amendments.

B. Legislative Power

In France, legislative power is not fully vested in Parliament because the executive has little purely constitutional power to make laws in certain matters, this is not done by devolution of powers from Parliament (although that can be done in some cases the constitution stipulates the possibility of Parliament not making laws and in this case the executive himself has to handle lawmaking.

The French Parliament is a bicameral legislature with two chambers consisting of the Senate (*Sénat*) and the National Assembly (*Assemblée Nationale*). Each chamber conducts legislative sessions in a separate location in Paris. The lower house in the French political system is the National Assembly. The National Assembly tends to specialize in researching the day-to-day business of government. The National Assembly consists of 577 members of parliament, who are elected for five-year terms. Since June 2012 (14th Parliament), 11 MEPs are elected by French citizens living outside France. They are national officials, but also represent local constituencies, and as such, act as intermediaries between citizens, who have delegated to them part of their sovereignty, and State power. Like the Senate, the National Assembly is empowered to propose and amend bills and vote on budgets. However, while both chambers must pass legislation to become law, in the event of a disagreement between the two chambers, the Government may decide to give the last word to the National Assembly in the legislative process.³⁷

Unlike the Senate, the National Assembly has the power to cause the fall of a government if its majority votes to condemn it. In this case, the President

³⁷ Michael P. Fitzsimmons, *The remaking of France: The National Assembly and the Constitution of 1791*. (Cambridge, MA: Cambridge University Press, 1994). See also Jeannette Money, and George Tsebelis. "The Political Power of the French Senate: Micromechanisms of Bicameral Negotiations." *The Journal of Legislative Studies* 1, no. 2 (1995): 192-217; Jean-François Godbout, and Martial Foucault. "French legislative voting in the Fifth Republic." *French Politics* 11 (2013): 307-331.

forms a new Government. However, this procedure remains remarkable and has occurred only once since the establishment of the Fifth Republic by President de Gaulle in 1958. Deputies in the National Assembly are elected for five-year terms by direct universal suffrage in a two-round electoral system. Every five years, a full National Assembly is ready for re-election.

The upper chamber within the French political system is the Senate. Its legislative authority mirrors that of the National Assembly, engaging in the proposal and amendment of bills while also participating in budgetary votes. In the legislative process, the National Assembly holds the capacity to supersede the Senate in case of disagreements. Unlike the National Assembly, the Senate does not face dissolution. Senators serve six-year terms, a shift from the previous nine-year tenure, with half of the seats subject to re-election every three years. The Senate comprises 331 seats, including twelve senators representing French citizens residing abroad. Notably, the Senate specializes in constitutional and foreign affairs matters, particularly concerning European integration. Apart from its legislative role, the Senate assumes a crucial function in monitoring government actions, critically assessing public policy to ensure accountability and effectiveness.³⁸

C. Judicial Power

Judicial power as the enforcement of law and justice that has independence that cannot be intervened by other powers. The law is indiscriminate, before the law everyone is treated equally, no one has privileges before the law The French legal system is centered on codified law, but case law has a significant influence in the courts. The French judicial system is divided into two parts: judicial and administrative. This judicial branch deals with civil law and

³⁸ Nadia Lahdili, and Fella Djilaili. "The Republic of France." *The Palgrave Handbook of Comparative Public Administration: Concepts and Cases*. (Singapore: Springer Nature Singapore, 2022), pp. 179-214; Andrew Knapp, and Vincent Wright. *The Government and Politics of France*. (London: Routledge, 2006).

criminal law while the administrative branch deals with appeals against executive decisions.³⁹

The judicial power system in France consists of various levels of courts, ranging from the basic court to the highest court, the Supreme Court. The basic court is responsible for handling uncomplicated cases as well as conducting first trials for more serious cases. The high court is responsible for handling more complicated cases and conducting a second trial if there is an appeal from the basic court. The Supreme Court is the highest court in France responsible for controlling the court system and granting or rejecting appeals from the high court. In addition, the Supreme Court is also responsible for confirming basic and high court decisions that are considered important or controversial.⁴⁰

In addition to the aforementioned institutions, there are other notable entities, one of which is the *Conseil Constitutionnel* (Constitutional Council). This institution serves as a state body with the primary function of overseeing legislation to ensure its compliance with the Constitution. Essentially, the *Conseil Constitutionnel* acts as a guardian, preventing any laws or regulations from conflicting with the fundamental principles laid out in the Constitution. This oversight role enhances the integrity of the legal framework, promoting adherence to constitutional principles within the legislative landscape.⁴¹

Conclusion

³⁹ Jack Hayward, "Separate and Rule-the Emerging Judicial Power in France." *Government and Opposition* 20, no. 1 (1985): 104-117; Richard J. Cummins, "The General Principles of Law, Separation of Powers and Theories of Judicial Decision in France." *International & Comparative Law Quarterly* 35, no. 3 (1986): 594-628.

⁴⁰ C. Neal Tate, "Why the Expansion of Judicial Power." *The Global Expansion of Judicial Power* 27 (1995): 28-33; James W. Garner, "Judicial Control of Administrative and Legislative Acts in France." *American Political Science Review* 9, no. 4 (1915): 637-665.

⁴¹ H. Davis Michael, "The Law/Politics Distinction, the French Conseil Constitutionnel, and the US Supreme Court." *The American Journal of Comparative Law* 34, no. 1 (1986): 45-92. See also Denis Baranger, "Sur La Manière Française De Rendre La Justice Constitutionnelle-Motivations Et Raisons Politiques Dans La Jurisprudence Du Conseil Constitutionnel (The French Manner of Judicial Reviewing—Reasoning and Policy Arguments in the Decisions of the French Constitutional Council)." *Jus Politicum* 7 (2012).

IN SUMMARY, the examination of the government systems in Indonesia and France reveals both similarities and distinctions. Both countries embrace Montesquieu's *trias politica*, dividing power among executive, legislative, and judicial branches. However, the key difference lies in their governance structures. France operates under a semi-presidential system, wherein the president serves as the head of state, and the prime minister acts as the head of government, appointed by the president. On the other hand, Indonesia follows a presidential system, with the president assuming dual roles as both head of state and head of government. Unlike the symbolic role of the president in a parliamentary system, the French semi-presidential model allows the president to retain significant constitutional powers, ensuring their active involvement in the political landscape of France.

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