

THE COMPARISONS OF INDONESIAN AND PHILIPPINE IMPEACHMENT MODELS IN THE PRESIDENTIAL GOVERNMENT SYSTEM

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ABSTRACT

Abuse of power and arbitrary actions by authorities has always been a universal phenomenon, which was developed through various methods of monitoring. It is widely recognized in both the Parliamentary and Presidential government systems. Particularly, the impeachment method developed in presidential countries with respective characteristics. Furthermore, it depends on the historical background and the purpose of establishing impeachment institutions as stipulated in the constitution of each country. Indonesia and the Philippines with the presidential system recognize impeachment as a method of monitoring and limiting the powers of the authorities. However, the impeachment model adopted in these countries has different characteristics. A three-step and two-step impeachment model was used by Indonesia and the Philippines respectively. Besides, Indonesia applies a combination model of political and juridical justice, while the Philippines only use a political justice model. In addition, a similarity also existed between these two countries' impeachment models. It exists in terms of the limited reasons for the impeachment of the President/Vice President as stipulated in their respective constitutions.

Keywords: Government System, Presidential System, Indonesia, Philippine's

INTRODUCTION

Discourse on impeachment deals with the system of monitoring and limiting power, which is used to manage and conduct the nation's interests as a state-forming subject. This is based on the formation of laws and regulations as the prerogative of the state (Strong, 1966). Law and statutory regulations are guidelines used by the state administration practice to legitimately conduct the nation's interest. In this context, power always has a positive meaning for the state and the administration practice. However, its ideal function as an instrument for managing the nation's interests does not always come up in reality. It also can be employed for personal, family, or group interests as a form of abuse and arbitrary actions resulting in violations of citizens' and human rights as unresolved issues. This problem is a "disease" that arises in the practice of public administration whenever there is no restriction of power.

Abuse of power and arbitrariness by authorities remains a universal phenomenon since the age of Plato and Aristotle (Rapar, 2010). It also occurred in the XVII century in France during the Montesquieu era (Azhary, 1995). During the reigns of Hitler and Stalin, the same phenomenon resulted in violations of human rights (Steven, Jason & Abrams, 1997). In the contemporary era, it occurred in Yugoslavia and resulted in violations of human rights (Steven Ratner et al., 1997). Similarly, this problem also occurred in the African continent (Arinanto, 2005). In Asia, it was experienced during the era of President Ferdinand Marcos in the Philippines, (Bresnan, 1988). It results in violations of citizens and human rights (David & Fernquest, 2018). Furthermore, it occurred in Indonesia in the era of the authoritarian New Order regime for 32 (thirty-two) years during Suharto's leadership (Subekti, 2008). These are evidence of abuse of authority and arbitrary actions as universal phenomena in human life.

Various methods of monitoring and limiting power have been developed to prevent abuse of power and arbitrariness since ancient Greece (Zoelva, 2011). One of them is the impeachment methods (Black Law Dictionary, 1991) used for controlling and limiting power in a check and balance frame (Hufon, 2018). While the adoption model adopted in Indonesia and the Philippines became the subject of discussion. Both countries have developed impeachment methods after changing their respective constitutions. Indonesia amended the 1999-2002 constitution and the Philippines in 1987 after passing through the era of arbitrary authoritarian rule regimes. Indonesia also experienced an era of authoritarian government regimes during the Soeharto era and the Philippines during the Ferdinand Marcos era. Therefore, the motive for conducting a comparative study on the constitution of the Indonesian and Philippine impeachment model as a method of controlling and limiting power was two reasons. The first is the similarity of the government of the two countries, *i.e.*, the Presidential system. The second is the similarity of the past experiences of the two countries under authoritarian regimes. However, the similarity of these two aspects does not necessarily mean that the two countries have the same characteristics in the impeachment model. They developed attributes of impeachment models that contain similarities and differences in the perceptions of the two nations towards efforts to prevent the phenomenon of abuse of power and arbitrary actions.

Legal Issue (Legal Problem)

The legal questions are the similarities and differences between the impeachment method applied in these countries to limit and control the powers of officials within the framework of the Presidential government system.

Research Method

This study applied the juridical-normative study method with a constitutional comparison approach. It examines positive legal norms collectively with relevant legal principles and doctrines. Furthermore, the comparative constitutional approach is limited and it deals with impeachment institutions as a form of limitation and supervision of power in the context of the check and balance system.

Various State Power Limitation Systems

Lord Acton's phenomenal political argument says, "Power tends to be corrupt, absolute power is corrupt absolutely!" This is affirmed by various occurrences of abuse of power and arbitrariness, which result in violations of human and citizens' rights. It occurs in the reality of state administration practices in several countries, as stated previously. Consequently, each country endeavors to develop methods of monitoring and limiting power with its respective characteristics, aiming to bring about a democratic government regime based on the law that respects human dignity. It reflects the response of each state (nation) to abuse and arbitrary phenomenon that will always appear when there is no limitation and supervision to the ruler's authority.

Various methods of monitoring and limiting power have been developed since ancient times. This was evident in Plato's assumption using a meta-judicial approach as a model of monitoring and limiting authority. It was further stated that the ruler's morality is the main basis for supervision and limitation of power. It can be formed based on a systematic and tiered educational system of potential rulers. Commenting on Plato's approach, John Alder says, "In his most famous work, *The Republic*, written in the third century BC, Plato's solution to the problem of ensuring just government was to train a special corps of philosopher-kings with no other agenda but to rule." (Alder, 2002) However, the method was ineffective in reality and therefore making Aristotle take a different approach. He developed the idea of controlling and limiting power from a juridical perspective after conducting a comparative study of the

constitution of the Greek city-states. In addition, there is a starting point from the principle of governance based on the constitution called *politeia*. This idea became the roots of modern constitutionalism developed by writers such as John Locke, Montesquieu, Immanuel Kant, Julius Stahl, and others.

The first method of monitoring and limiting power developed by humans in modern times is the separation (legislative, executive, and federative) pioneered by John Locke (John Alder, 2002). It was developed and modified by Montesquieu into *Trias Politica* doctrine. Furthermore, it teaches the absolute separation of legislative, executive, and judicial powers in terms of institution and function and becomes a famous separation of powers doctrine at a later time. This method was modified by the American nation with that of checks and balances (Daniel Hall, 1997) which intends to build a balance in the context of the state organs relations within the framework of the state power organization. This mechanism is implemented in various systems, methods, or various countries, and may also be applied as mutual monitoring and balancing within each branch of power. For example, in the legislative branch, checks and balances are reflected in symmetrical or a-symmetric systems of strong bicameral representation.

First, the check and balance method are applied in a limited manner within the legislative power environment, and it appears in the bicameral representation system between the first and the second chamber. The resulted representation system is strong, medium-strength, and weak bicameralism variants (Lijphart, 2004). Other authors have developed the theory of symmetric and a-symmetric bicameral representation (Purnomowati, 2005). In the symmetric bicameral system, the powers of the first and the second chamber are relatively equal. Meanwhile, in an a-symmetric bicameral system, the first and the second chamber have relative unequal power.

Second, the method of checking and balancing the executive and legislative powers. The implementation deals with the context of laws formation by granting veto power to the executive body to reject bills submitted by the legislature (Hall, 1997) and they can veto a bill that originates from the legislative initiative. However, the President's veto can be canceled when the majority of Congress members approve it, such as in America.

Third, the check and balance method in the relationship between judicial and legislative powers. This leads to a judicial review method of limiting and controlling authorities in the context of checks and balances (Barendt, 2008). Judicial review is a method of monitoring and limiting legislative power by the judicial body (power) (Mauro Cappelletti, 1991). In addition, Mauro Cappelletti stated the urgency as follows". . . available to a country wishing to restrain the arbitrary exercise of governmental power" (Capuletti, 1991). It aims to examine the legislative body's products that contradict the constitution, maintaining the hierarchy integrity of statutory regulations.

Fourth, the check and balance method in the relationship between legislative power with executive and judicial powers, called impeachment. It is a method of monitoring and limiting public officials by the legislature to prevent abuse of power and arbitrariness. This method is based on the principle of legislature supervision on public officials of judicial and executive powers. Daniel E. Hall made his comments regarding the impeachment of the United States constitutional system as follows: "As a check on both the President and the Judiciary, Congress holds the power of impeachment" (Hall, 1997).

Impeachment is an indictment against a public official such as the President/Vice President or others that are suspected of committing a criminal and offensive act, not meeting the requirements stipulated in the constitution. It also covers violations against the provisions of the law, and this can result in the dismissal of officials during terms of office. Impeachment institutions are commonly known in various government systems. In the British parliamentary system, it has different characteristics from the Presidential (Soimin, 2019) and in the government; it begins with a political perspective. For example, the British constitution is guided by the parliament supremacy doctrine (Wheare, 1966) and in this context, the power (sovereignty) of the people is executed by the institutions (Parliament), which consists of the House of Representatives and the Lords. The authority for impeachment rests with the House of

Representatives. Meanwhile, the competence to make a decision is on the House of Lords. These two chambers are the holders and implementers of the people's sovereignty, and it is the most extensive British impeachment model within the framework of the parliamentary system. All public officials can be subject to impeachment, including royal employees, court officials, as well as ordinary people (Hamdan Zoelva, 2011). This reflects the scope of supervision and limitation exerted by Parliament over public officials in the British Parliamentary government system.

Impeachment institutions are also well-recognized in the Presidential government system, such as in the United States (Soimin, 2009). In this system, the method originates from a juridical perspective. Besides, it also has several variants that are categorized into 3 (three) broad types. First is the United States impeachment model, which is the broadest category in the presidential government system. It can be subjected to public officials including the President/Vice President, Supreme Court Justices, and others (Hall, 1997). Second is the Philippine impeachment model as a moderate category since the object is more limited than the United States. The third is the Indonesian model as a limited category because it is only imposed on the President/Vice President. Within the framework of the Presidential government system, Indonesia and Afghan impeachment models as limited categories are very similar (Hufon, 2018). In addition, South Korea, Lithuania, Germany, and other countries employ impeachment methods with a more limited scope than America. Its institutions are developed by each country as an instrument to prevent and overcome the abuse of power by the authorities (Yudho, 2005).

E. Characteristics of Indonesia and the Philippines Impeachment Model

Characteristics of the Indonesian Impeachment Model

Indonesia is a constitutional state that is regulated by Article 1 paragraph (3) of the 1945 Constitution, "The State of Indonesia shall be a state based on the rule of law." Within the framework of a rule of law following Pancasila as the foundation of the country's philosophy. Indonesia implements a presidential government system like America and the Philippines. The President, assisted by the Vice President, is the head of state as well as the head of government. The term of office of the President/Vice President is fixed for 5 five years or a fixed executive system. After one term, both may be re-elected for only 1 (one) term of office. Based on this system, the President/Vice President has a strong position to birth the abuse of power and arbitrary actions. After the constitutional amendment, Indonesia developed impeachment institutions. It aims to strengthen the juridical reasons for monitoring and limiting the powers of the President/Vice President by the legislature. These controls and restrictions aim to strengthen the presidential government system as required by the 1999-2002 constitutional amendments.

In the Indonesian presidential government system, impeachment can be conducted against the President/Vice President for several limitations reasons, as stipulated in Article 7A of the 1945 Constitution. This includes treason against the state, corruption, bribery, other serious crimes, disgraceful acts and proven to no longer meet the requirements as President. The restrictions reduce the efforts to overthrow the President/Vice President during the term of office through impeachment for political reasons, such as in the Soekarno and Abdurrahman Wahid Era. These two presidents resigned due to the reproach mechanism preceding the amendment of the constitution for political reasons which erupted in the MPR. In the amendment according to the constitution, complaints to the president/vice-president needs to be decided in a plenary session of the DPR, in which 2/3 of the members participate as a quorum condition. When the requirements of the trial quorum are fulfilled, the indictment should be approved by 2/3 of the DPR members at the plenary session.

After obtaining the approval, the indictment will be sent to the Constitutional Court to be examined, tried, and decided for no later than 90 (ninety) days after being received. The Constitutional Court has three options for ruling on the DPR's indictment, *i.e.*, Firstly it declares the petition unacceptable when the requirements are not fulfilled. Secondly, it accepts the DPR's

request because they believed that the President/Vice President was proven to have violated the law or a disgraceful act, or does not meet the requirements as President/Vice President. Thirdly, the Constitutional Court rejects the DPR's application because the President/Vice President is not proven to have violated the law or act disgracefully or does not fulfill the requirements stated in the constitution (Compare with Marzuki, 2010). One of these possibilities will occur in the Constitutional Court trial.

When the Constitutional Court has an opinion that the President/Vice President proven to have violated the law or a disgraceful act or does not meet the requirements as President/Vice President, the DPR will immediately hold a plenary session aimed at forwarding the decision of the Constitutional Court to the MPR. After receiving the Constitutional Court's decision, the MPR will conduct a trial no later than 30 (thirty). As a quorum requirement, the MPR session needs to be attended by 3/4 (three quarters) of the members. When the requirements are met, the MPR can convene to decide the verdict on the Court decisions. The verdict may follow the approval of 2/3 of the MPR members present at the court. The decision regarding the DPR indictment is not binding on the MPR. Therefore, MPR can make decisions following its considerations from a political point of view. The MPR court is not a juridical trial but rather a political one.

Two possible decisions will emerge from the MPR court. First, the President/Vice President is dismissed based on the DPR's accusations, which has been proven in the Constitutional Court trial. Second, the MPR refuses to dismiss the President/Vice President, even after the Constitutional Court has proven the DPR's accusations. Although, these rejections are decisions made based on political considerations, and when the MPR does not dismiss the President/Vice President under proven charges, then, the dismissal during the term of office based on the impeachment method is determined by a political trial.

Characteristics of Philippine Impeachment Model

The Philippines is a unitary state under a democratic, constitutional republic, and presidential representatives like the United States and Indonesia. According to its 1987 Constitution, the President is the head of the government and serves for 6 (six) years (fixed executive system) for one term. The President is assisted by the Vice with the same length of service. Based on the principle of the fixed executive system above, both of them have a strong position, which has the potential to bring back an authoritarian regime like in the President Marcos era (Purnomowati, 2005). This concern encourages impeachment institutions to be developed in the 1987 Philippine constitution, and after the 1987 amendment, this method was emerged in the Philippines to build a democratic government regime like in Indonesia. Furthermore, democratic governance is intended to be realized by developing methods of monitoring and limiting the power of the President/Vice President and other public officials by the legislative body (House of Representative and Senate). The dark story of the Filipinos during the authoritarian regime of Ferdinand Marcos should not be repeated after the 1987 constitutional amendment. In consequence, the power of public officials such as the President, Vice President, Supreme Court Justices, Judges, and Ombudsman needs to be placed under the supervision of the legislative body.

In the context of the fixed executive system, the President/Vice President may be dismissed during the term of office based on reasons regulated by the constitution. Under Article 11 paragraph (2) of the 1987 Philippine Constitution, the scope of impeachment includes public officials, *i.e.*, President/Vice President, members of the Supreme Court, members of the Constitutional Commission, and ombudsman. In the Philippines impeachment model, there are several reasons for proposing impeachment against the President/Vice President and other public officials. In addition, this study also states several grounds for impeachment. These include culpability of the constitution, treason, bribery, graft, corruption, other high crimes, and betrayal of public trust. The state organ authorized to apply for impeachment in the House of Representatives (Article 12 paragraph 3 paragraph 1 of the 1987 Constitution). Impeachment

articles should be approved by 1/3 (one-third) of the House of Representatives members (Article 12 Paragraph 3 of the 1987 Constitution). Following this reason, the indictment was submitted by the House of Representatives to the Senate, which is a state organ that has the authority to judge and decide charges against the President/Vice President or other public officials. The Senate session is chaired by the Chief Justice of the Supreme Court and does not have voting rights in decision-making. The decision to accept or reject the charges should be approved by 2/3 (two-thirds) of the members of the Senate. When the indictment is supported by only less than 2/3 (two-thirds) of the members of the Senate, impeachment is declared unacceptable. On the contrary, when supported by 2/3 (two-thirds), impeachment can be accepted and the accused public official will be dismissed immediately. The decision produced by the Senate relates only to termination of office, and they can also be held accountable and prosecuted under the law.

Analysis

The presence of impeachment institutions in Presidential government systems such as Indonesia and the Philippines is part of a mechanism for monitoring and limiting the power of public officials. It prevents the abuse of power and arbitrary actions such as in the authoritarian regime of Soeharto and Ferdinand Marcos. The method used remains part of the check and balance mechanism between legislative power with executive and judicial authorities. After the constitutional amendment, these two countries developed impeachment as a method of monitoring and limiting the powers of the President/Vice President and other public officials. However, in several aspects, the characteristics of the impeachment models are different despite the same past and government system. These differences demonstrate that different models of impeachment can be used in the Presidential government. In the context of the comparison between the Indonesian and Philippine models, the aspects of impeachment compared consist of object, reasons, and mechanism (Foreword by Asshiddiqie on Yudho, 2005) and they are the most important aspects.

In the Indonesian impeachment model, public officials to be impeached are very limited, *i.e.*, the President and Vice President. Public officials in judicial and legislative powers such as Supreme Court Justices, Constitutional Court Judges, Attorney General, Chief of Police, Members of DPR, Ombudsman Commissioner, Commissioner of KPK, Commissioner of KPU, Commissioner of Judicial Commission, and others are not included. Therefore, the Indonesian model is very limited when compared to the Philippines and the United States. The impeachment method of the Philippine model includes broader public officials than Indonesia, *i.e.*, the President and Vice President, Supreme Court Justices, Constitutional Commission Judges, Ombudsman officials (Article 11 paragraph (2) of the 1987 Philippine Constitution provides that, "The President, Vice President, the Members of the Supreme Court, the Members of the Constitutional Commission and the Ombudsman may be removed from office on impeachment for, and conviction of, culpable violation the Constitution, treason, bribery, graft, and corruption, other high crime, or betrayal of public trust.") However, the impeachment object of the United States model is more extensive since the President, Vice President, Chief Justice, and all public officials are included (Article 2 paragraph (4) of the United States Constitution regulates, "The President, Vice President and all civil Officers of the United State of America shall be removed from the office on impeachment for and conviction of Treason, Bribery of the High Crime and Misdemeanors.") The scope differences above reflect the thoughts of each nation regarding the abuse of power and arbitrary actions. These phenomena can occur in the practice of public administration, which should be placed under the control of the legislator.

The limitation of the impeachment object in the Indonesian model implies a restriction on the authority of the DPR (House of Representatives) to supervise and restrain the power of public officials. They only place the President and the Vice President on supervision. Therefore, other public officials are free from the supervision and limitations of the legislature. In contrast, these public officials also play an important role on the ground that the possibility of committing abuse of power, arbitrary acts, and violations of the law is created. Such conditions open up

opportunities to commit an abuse of power, arbitrary actions, violations of the law, disgraceful acts, etc. An example is the case of the Chief Justice of the Constitutional Court, Akil Mochtar that was involved in corruption and bribery cases (Asshiddiqie, 2015).

In the Philippine impeachment model, the authority of the House of Representatives to supervise public officials has a wider expanse than Indonesia but is more limited than the United States. In the Philippine constitution, public officials are under the supervision of the legislature through an impeachment mechanism. It implies that their supervisory function covers a wider area than the Indonesian Parliament. Therefore, the broader object of impeachment has a greater potential to prevent possible abuse of power, arbitrary actions, corruption, lawlessness, disgraceful acts, etc. Furthermore, it provides a greater chance of preventing public officials from committing these violations. The Philippine impeachment model remains moderate when compared with the limited Indonesian and broad American models. In the context of the object scope, the differences in the impeachment method between the Indonesian and Philippine models are obvious as described above.

The Indonesian and Philippine impeachment models provide limited grounds for impeaching the president and vice president or other officials enshrined in constitutions. Therefore, political factors as grounds for impeachment can be minimized, since the President/Vice President is not disrupted in governing the state. Besides, in their impeachment method, the criminal act of bribery is a common reason for impeaching the President/Vice President. However, another reason differs from each other. In the Indonesian model, the reason is the unfulfilled requirements as President/Vice President. Meanwhile, in the Philippine model, it refers to a betrayal of public trust, and it is similar to the case in the United States, which is still being debated. The Indonesian impeachment model recognizes 2 (two) kinds of reasons for impeachment, *i.e.*, legal and non-legal reasons (Compare with Zoelva, 2005). This category consists of reasons for violating the law (against law and constitution) and the President's incapacity (Zoelva, 2011). Similarly, in the impeachment model of the Philippines, reasons for impeachment also consist of legal and non-legal reasons. (See Article 11 paragraph (2) of the 1987 Philippine Constitution.) Similarities and differences in the methods of Indonesian and Philippine models regarding the impeachment reasons have been described in the explanation above.

The mechanism of the Indonesian impeachment model applies a three-step method and the state institution that plays a predominant role in the DPR. However, this role does not merely relate to the juridical dimension, and as an institution, this DPR role is far more important from a political aspect. The constitutional provision which gives the DPR the power to prosecute may be sterile for political reasons. This is due to the configuration factor of the dominant political power in the DPR, (Compare with the opinion of M. Laiza Marzuki, 2020) and when it reflects the dominance of political parties' coalition supporting the President/Vice President, the quorum of 2/3 (two thirds) of DPR members as a prerequisite for impeachment is unlikely to be achieved. The coalition will make various efforts to obstruct the achievement of the quorum of 2/3 (two-thirds) of DPR members. Therefore, political trials based on legal reasons stipulated in the constitution are likely to not be held. For example, the power of a coalition of political parties supporting President Jokowi that controls the DPR makes impeachment impossible with quorum requirements. Sofyan Hadi made the following comments: "The DPR process is a political battle between groups that support and those that do not support the government, or likewise, a battle between groups that agree to impeachment and those that disagree. In such conditions, it cannot be denied that the political power in the parliament will greatly determine when a President and/or Vice President can be impeached or not. Therefore, the role of the majority is very decisive and more prominent in every decision making)" (Hadi, 2016).

The impeachment model developed in the Philippines is different from Indonesia since it uses a two-step process. The state organs that play a role are the House of Representatives and the Senate, which are political institutions. According to Article 11 paragraph (3) of the 1987 Philippine constitution, the authority to impeach the President/Vice President or other public officials rests with the House of Representatives. This authority can be exercised after obtaining

approval from 1/3 (one-third) of the House of Representatives as a quorum requirement. However, this quorum will not be easily achieved when political parties that support the President-Vice President control the House of Representatives (The number of members of the Philippine House of Representatives is 214 (two hundred and fourteen) people with a multi-party system so that it is not easy to reach the quorum of 1/3 (one third) of the HoR members.) since the Philippines' party system is multiparty, it is always difficult to reach an agreement between all political parties. Some of the major political parties in the Philippines are Lakas, National People Coalition, Struggle of Filipino Democrats, Liberal Party, and others. Furthermore, when a coalition of supporting political parties of the President controls the House of Representatives, the agreement of impeachment is difficult to execute. As a legal mechanism, it can only be conducted when a coalition of political parties that do not support the President/Vice President are in control. Consequently, political trials based on the reasons mentioned in the constitution do not run easily and smoothly since the political configuration affects the institutions of the impeachment process. The same conditions as in Indonesia will occur in the trial of the Philippine House of Representatives. Meanwhile, political parties that support the President/Vice President will try to prevent the quorum of 1/3 (one third) of the members of the House of Representatives, thwart the impeachment process. This political configuration is one of the factors that has led to a small number of the President/Vice President of the Philippines being dismissed through the impeachment mechanism. President Joseph Estrada was the first President of the Philippines to be impeached under the provisions of the 1987 Constitution (Hufon, 2018).

In the Indonesian impeachment process, the role of the Constitutional Court is very important since it determines the dismissal of the President/Vice President during the term of office, and in this process, does not refer to being put on trial. The Constitutional Court only examines, assesses, and decides the reasons for impeachment, while the judicial process in the Constitutional Court should be purely juridical. Therefore, the reasons for the impeachment of the President/Vice President should refer to the 1945 Constitution and law. The involvement of the Constitutional Court in the impeachment process is evident to affirm the principles of the Indonesian state as a rule of law based on Pancasila. Hamdan Zoelva, the former Chairman of the Indonesian Constitutional Court said, "The impeachment forum in the Constitutional Court is legal. This forum is intended to protect the upholding of rule of law principles that respect the principles of the rule of law, among others, the principle of due process of law, the principle of equality before the law, and the principle of impartial justice in the impeachment of the President) (Zoelva, 2011). Besides, the Constitutional Court functions to reduce political reasons and tension for the impeachment). The Indonesian people can rely on the Constitutional Court to conduct a process of assessing and examining the reasons for the impeachment of the DPR based on juridical considerations and not political motives. The presence and involvement in the impeachment process are evident in an institution that strengthens the position of the President/Vice President in the presidential government system.

Furthermore, the role of the Constitutional Court in the impeachment process will be very prominent in the frame of various political configurations that cannot result in the domination of supporting parties of the President/Vice President in the DPR. In the various configurations of political power, the role of the Constitutional Court in the impeachment process is very important. When there is no domination of political parties in the DPR, the requirement for a quorum of 2/3 (two-thirds) as a prerequisite for impeachment will be achieved more easily. However, a different condition will occur when the DPR is dominated by political parties that support the President/Vice President. In Indonesia, the impeachment process can be continued up to the Constitutional Court only when the obstacle from dominating political parties can be overcome. This is evidence of the very important role of the DPR in the impeachment process.

When the approval requirements quorum problem of 2/3 (two-thirds) of DPR members can be passed, the Constitutional Court will convene to assess and examine the reasons for the impeachment. Only 2 (two) possible events will occur when the impeachment process reaches

the Constitutional Court, *i.e.*, the Court assesses the reasons for impeachment under the 1945 Constitution and the law on the ground that impeachment can be continued to the MPR. It also considers the reasons for impeachment are not appropriate with the 1945 Constitution and laws since it cannot be continued until the MPR. Then, there are 3 (three) possible variants of the Constitutional Court decision regarding impeachment against the President/Vice President. First, the decision states that the impeachment petition cannot be accepted because it does not meet the requirements as stipulated in the constitution (Yudho, 2005). Second, the reason for the impeachment is true when the President/Vice President is proven to have committed the alleged action. Third, the petition is rejected because the President/Vice President is not proven to have committed the claimed accusation.

At the occurrence of the second possibility, the DPR's accusations against the President will proceed to the MPR, where an independent decision out of the Constitutional Court will be made. They can approve the Constitutional Court decision and dismiss the President/Vice President. However, they can also make decisions that contradict the Constitutional Court and do not dismiss the President/Vice President. Furthermore, the influence of the political configuration plays an important and decisive role in the impeachment process of the MPR. When controlled or dominated by a political party that supports the President/Vice President, the MPR will not dismiss the President/Vice President even though the Constitutional Court agrees to the reasons for the impeachment. In the context of the explanation stated above, Nadir made the following comments, "The impeachment of the President during the term of office will be determined by the political forces that support him even though there is the involvement of the Indonesian Constituent Court. However, the involvement of the Constitutional Court is limited to an obligation, not an authority. . .)" (Nadir, 2012).

The impeachment mechanism as regulated in the 1945 Constitution proves that Indonesia's model is a judicial process in political institutions or based on legal reasons. When the MPR makes a decision that contradicts the Constitutional Court decision, the intervention and role of the Constitutional Court in the impeachment process may be insignificant. The majority political power in the DPR and MPR determines the fate of the President/Vice President as a subject of impeachment. At the occurrence of this possibility in the reality of state administration practices, the objectives of monitoring and limiting power in a rule of law will not be achieved. Reasons for violating the law and other reasons that are accused of the President/Vice President will be resolved politically. In the framework of a rule of law, violations of the law and other reasons should be resolved by the judiciary through the Constitutional Court (Nadir, 2016). Legal violations that are resolved by the judicial court are more useful for Indonesia instead of the political process, from the aspects of politics, costs, government stability, economy, and others.

The Philippine impeachment method does not involve the Constitutional Court in the process of impeaching public officials. The process is more straightforward since the House of Representatives and the Senate are involved. In Indonesia, the reasons for impeachment with the approval of 1/3 (one third) of the House of Representatives members are submitted to the Senate. Thereafter, the Senate will convene to determine the decision to impeach the President/Vice President or other public officials. The decision to accept or reject the accusation of the House of Representatives is conducted by 24 (twenty-four) Senators. The reason for impeachment can be approved with the approval of 3/4 (three quarters) of the Senate. When they agree with the reasons for the impeachment proposed, the President will be dismissed during the term of office. The Senate ruling only concerns dismissal during the term of office. Other legal aspects that arise as a consequence of impeachment are held accountable by the President/Vice President or dismissed public officials. There are only 2 (two) variants of the Senate decision, namely approving the reasons for the impeachment of the House of Representatives and as a consequence, the President/Vice President or other public officials are dismissed or rejecting the reasons and allowing the public official concerned to remain in office.

CONCLUSION

The explanation of the impeachment process above results in several conclusions. First, in the Indonesian model, it is a constitutional court process that is political and judicial. It has elements of justice, *i.e.*, the judicial process of the Constitutional Court. Therefore, the impeachment on the Indonesian model can be called a combination of political and juridical justice. However, in the Philippine model, the impeachment mechanism is a constitutional and political court process, regardless of legal reasons. Second, as a political court or a combination of political and juridical courts, the dominant factor in the power of supporting parties of the President/Vice President in representative institutions has a very decisive role. Furthermore, the power domination factor determines the beginning and end of the impeachment process in both the Indonesian and Philippine models. Third, the Indonesian model with a three-step impeachment process is more complicated than Philippine, which is only a two-step process.

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