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A Study on Authoritarian Regime in Indonesia: Perspective of the 1945 Constitution as a Democratic Constitution

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Abstract

The 1945 Constitution is the foundation of the constitution of Indonesia founded on the ideal of Pancasila that comprehend democratic values. As a democratic constitution, the 1945 Constitution is expected to form a constitutional pattern and a democratic government system. However, the 1945 Constitution has never formed a state structure and a democratic government system since it becomes the foundation of the constitution of the state of Indonesia in the era of the Old Order, the New Order and the reform era. Such conditions bear the question of why the 1945 Constitution as a democratic constitution never brings about the pattern of state administration and democratic government system. The conclusion is, a democratic constitution, the 1945 Constitution has never formed a constitutional structure and democratic government system because of the personal or group interests of the dominant political forces in the Old Order, the New Order and the reformation era has made the constitutional style and the system of democratic governance that cannot be built in accordance with the principles of democratic law reflected in the 1945 Constitution and derived from the ideals of the Indonesian law of Pancasila.

Keywords: *Authoritarian Regime; Democratic; Constitution*

1. Introduction

The philosophical view of human nature is the starting point of ideas which constitutes the state ideals of a country. This then creates the legal ideals of the country (the idea of law) (Darmodihardjo & Shidarta, 1996, p. 95). Moreover, a legal ideal delivers a set of legal principles as guidelines for the formation of the constitution. Therefore, the constitution always reflects the values of a country's legal ideals. Thus, democratic values in the ideals of a country are expected to create a constitution which is democratic and generate the pattern of state administration and democratic system of government.

The constitutional foundation of the Republic of Indonesia is also formed with the same outlook as mentioned above. The nation of Indonesia considers the nature of human being as both individual and social (mono-dualist) (Senate Board of Gadjah Mada University, n.d., pp. 40-41). This philosophical view results in the ideals of Indonesian state. The ideology of the country mark the ideals of law of the

Indonesian nation that is Pancasila which contains democratic values. The ideals of Pancasila establish a more concrete set of legal principles (Attamimi, 1990, p. 307). These legal principles are guidelines for the establishment of the 1945 Constitution. Part of the law principles is set forth in the 1945 Constitution and constitutes the characteristics of the Indonesian constitution (Wignyosoebroto, 2002, p. 45). The ideals of Pancasila that contain the values of democracy are expected to deliver a democratic constitution and the pattern of state administration system.

The principles of law in the 1945 Constitution are the principles of popular sovereignty, the rule of law, distribution or separation of powers, recognition and protection of the rights of citizens, and human rights. These legal principles are prevalent in the constitution of a democratic constitutional state (Lieber, Bogdanor, & Rudden, 1995, p. 36). All of the principles of law are stipulated by the drafters of the 1945 Constitution as the foundation of the Unitary State of the Republic of Indonesia by following the development of state and legal minds in Europe and America (Soepomo, 1998, p. 292). In accordance with the principles of law, Indonesia is one of the democratic-state with the characteristics of Pancasila as legal ideals (Soemantri, 1997, p. 3). The values of democracy in the principles of law are the basic resources to build a state structure and a democratic system of government in accordance with the ideals of the state and the ideals of Pancasila.

Ideally, as a democratic constitution, the 1945 Constitution can give the form of state administration and the regime of democratic government based on the principles of law mentioned above. However, in practice, as a democratic constitution, the 1945 Constitution has never backed a democratic government regime while functioning as the constitutional foundation of the Republic of Indonesia in several eras. According to the writers, the phenomenon of the constitutional foundation of the Republic of Indonesia is a paradoxical form because the democratic constitution has not produced a democratic regime yet. On the contrary, the democratic Constitution has produced an authoritarian or non-democratic regime. Therefore, Moh. Mahfud MD questioned "...why is the 1945 Constitution always creating an authoritarian and corrupted government?" (Mahfud, 2000, p. 140).

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2. *Research methods*

The Research method used in this research is juridical normative research method. This juridical-normative research method examines primary, secondary and tertiary legal materials that have been documented in the form of laws, books, dictionaries and legal encyclopedias. Normative juridical research methods commonly used in legal research from the perspective of Law Science as a normative science. Those legal materials are reviewed by the method of interpretation.

3. *Analysis and Discussion*

3.1 *The Authoritarian of an Old Order Regime in the Framework of Democratic Constitution of the 1945 Constitution before its Amendment*

The Old Order authoritarian regime under the President Soekarno took place in the framework of Guided Democracy. Soekarno intends to establish Guided Democracy due to the failure of liberal democratic practices in the period 1950-1959. In the view of President Soekarno, as a newly independent state, Indonesia is unlikely to practice liberal democracy. Indonesian Democracy must be a Guided Democracy as a variant of democracy practicing political democracy and socio-economic under the leadership of Soekarno (See Soekarno message, 1956). In Guided Democracy, power is centered on the hands of the President. President Soekarno and the Old Order managed to build a centralistic power on

the basis of the democratic constitution of the 1945 Constitution by exploiting the weakness of the 1945 Constitution. The Presidential Authority in Article IV of the Transitional Rules of the 1945 Constitution is a slit exploited smartly to form figures of Presidential Decision, Presidential Regulation and Presidential Decree which are not known in the 1945 Constitution but can serve as a very effective power instrument in the Old Order era.

President Soekarno began to build an authoritarian regime from the political infrastructure sector by controlling political parties through decree instruments, Presidential decisions, and regulations. In January 1960, President Soekarno declared Presidential Decree Number 7 of 1959 on the requirements and simplification of political parties with the aim of putting political parties under the supervision of the President (Muhaimin, 1982, p. 121). According to Ulf Sundhaussen (1986, p. 258), to subdue the parliament (which was later dissolved by the President -- pen.), Soekarno issued Presidential Decree Number 7 of 1959 stipulating that each party must formally accept the 1945 Constitution, Pancasila, and Manipol/USDEK¹ and have 150,000 members in 65 districts, and should not receive foreign aid. The decree succeeded in disbanding Masyumi and PSI. President Soekarno then enacted Presidential Regulation Number 3 of 1960 on the Recognition, Supervision, and Dissolution of the Parties after the dissolution of the House of Representatives. The simplification of political parties was followed by the formation of the National Front as a coalition of political parties in 1961. It was formed in accordance with Soekarno's concepts and ideas as a single party with a mass basis as its mobilizer (Sundhaussen, 1986, p. 127). Hans Thoelen points out "Under Soekarno's guided democracy, parties were controlled in the name of political lenity and nationalism..." (1987, p. 17).

The success of disbanding political parties paved the way to control the House. On July 13, 1959, ³⁵ President requested the Parliament to continue working in the framework of the 1945 Constitution approved by the House of Representatives in session on July 22, 1959 (Mansoer, 1977, p. 306). The President stipulates Presidential Decree Number 1 of 1959 dated July 22, 1959, which asserts that the House of Representatives elected in 1955 general elections to work under the 1945 Constitution. However, after the conflict between the Government and the House of Representatives on the State Budget, the President "dissolved or froze the duties of the House Members. The freezing was done by implementing Presidential Decree Number 34 of 1960 on Renewal of Composition of House of Representatives.

The freezing of members of the House of Representatives was followed by the formation of the Gotong Royong Parliament (DPR-GR). DPR-GR functions as a House of Representatives according to the 1945 Constitution by Presidential Decision Number 4 June 22, 1960. The composition of DPR-GR members consists of a combination of political parties appointed by the President. To ensure the cooperation between government and DPR-GR, the President appoints the Chairman, Vice Chairman and Member of DPR-GR. According to Article 2 of the Presidential Decision Number 4 of 1960, all DPR-GR members must approve the political manifesto (Manipol) USDEK. The purpose of the above actions is a consolidation of power. The consolidation of power that leads to the centralization of power continues to be done by President Soekarno by stipulating the DPR-GR as an assistant to the President who is automatically impossible to supervise the President. This constitutional influencing is a manipulation of the 1945 Constitution so that the President succeeds in controlling the House systematically as well as political parties.

The Presidential Decision and Regulation are also functioned to regulate and control the ⁴ People's Consultative Assembly or MPR. The establishment of MPRS (Interim People's Consultative Assembly) was done by Presidential Decision No. 2 of 1959 dated July 22, 1959 (Sagala, 1982, p. 48). In the

²⁴ ¹ USDEK is a political manifesto of the Old Order regime as an abbreviation of (a) the 1945 Constitution, (b) Indonesian Socialism, (c) Guided Democracy, (d) Guided Economy, and (e) Indonesian Personality

dissemination of members of the MPRS, the President used the Presidential Decree. According to Article 1 of Presidential Decree Number 2 of 1959, the composition of MPRS members consists of (1) members of the House of Representative plus (2) Regional Representatives and Class Envoys. However, the mechanism of dissemination MPRS members with Presidential Decree is the result of the President's interpretation because the 1945 Constitution does not regulate it. The appointment of MPRS members from Regional Representatives and Class Envoys is regulated through Presidential Regulation No. 12 of 1959 as the action rule of Presidential Decree Number 2 of 1959. The form of Presidential Regulation is also unknown in the 1945 Constitution system. However, the President intelligently exploits the weaknesses of the 1945 Constitution to produce things that are not legal forms but apply in practice.

The President also managed to control the MPR in the same way as it did with the House of Representatives, namely the appointment of the majority of MPR members by Presidential Decree and Presidential Regulation. Members of the Assembly appointed to control the MPR and obey the President. Chairman and Vice Chairman of MPRS and Chairman and Vice Chairman of DPR-GR appointed by the President as *Ex-officio* minister also subject to the President. In this way, the President succeeded in controlling the MPR with constitutional deceiving based on the Presidential Decree and Presidential Regulation. The authority of the People's Consultative Assembly as the executor of people's sovereignty becomes barren because it is controlled by the President. The MPR is unable to hold the President accountability. The prestige of MPR as the implementation of people's sovereignty declined sharply under the control of Mr. Soekarno through constitutional deceiving.

After taking various actions, political parties, DPR-GR and MPRS are under the control of the President. Daniel S. Lev (as cited in Amal, 1988, p. 103) describes the following, "after the beginning of 1959, the party and its institutions experienced a very rapid decline." The decline of the prestige of political parties, DPR-GR and MPRS sent the President Soekarno to the center of political power. All activities of the country pivot with the President. The centralized power reaches its perfect level that causes the mechanism of the government system stands still.

The enormous power makes the President authoritarian. The principle of a legal state was ransacked. The prestige of doctrine and the principles of democratic law in the 1945 Constitution disappeared in the era of the authoritarian regime of the Old Order. The legal system is used to accumulate power and the law is used as a means of intervening in the judiciary. Adnan Buyung Nasution (1995, P. 430) pointed out "Under Guided Democracy, the law becomes a veil for an arbitrary government." Denny Indrayana (2007, p. 139) illustrated the features of the Old Order as follows: "The grip of Guided Democracy authoritarianism enabled Soekarno to be the only ruler in the Old Order era. In his decision, he often violated the 1945 Constitution without being punished...".

The peak of constitutional violations of the authoritarian regime of the Old Order occurred when he had appointed as President for Life. On 18 May 1963, the MPRS appointed President Soekarno as President for life based on MPRS Decree Number III/MPRS/1963. Soekarno's appointment as President for life was the culmination of the destruction of Indonesian constitutionalism and the peak of the authoritarian practice of the Old Order regime. The destruction of constitutionalism and the glory of the authoritarian regime of the Old Order within the framework of the democratic constitution of the 1945 Constitution is the paradox of Indonesian history.

There are several violations of the constitution by the authoritarian regime of the Old Order. First, in 1960, President Soekarno dissolved the House and formed the DPR-GR which was then positioned as Assistant to the President. Secondly, the President interferes the power of the judiciary as an independent body through the law so that the President can intervene the judiciary affairs. Thirdly, in 1963, the MPR appointed Soekarno as President for Life. The constitutional violation is a proof that the 1945 constitutionalism of the state declined sharply and faded along with the increasing centralization of

President Soekarno's power and the arbitrariness of the authoritarian regime of the Old Order. The negative effects of the authoritarian regime of the Old Order create problems in state administration that would have become a national disaster.

3.2 The New Order Authoritarian Regime in the Framework of the Democratic Constitution of the 1945 Constitution before Its Amendment

The national disaster did happen at the time of the September 30th Movement driven by the Indonesian Communist Party known as G-30 S / PKI about 30 years after Soekarno was appointed as President for life. The PKI rebellion was the beginning of the collapse of the authoritarian regime of the Old Order. On March 11, 1966, Soeharto received a Letter of Command March 11 known as Supersemar from President Soekarno (Mahfud, 1998, p. 200). On March 12, 1966, Soeharto dissolved the PKI under Decree Number 1/3/1966. Soeharto conducted firm action against several Dwikora Cabinet Ministers deemed to be involved in the "G 30 S" or doubted his goodwill assisting the President (Mahfud, 1998). Soeharto's action dissolved the G 30-S / PKI and reshuffled the Dwikora cabinet backed by the MPR. According to MPRS Decree November IX/MPRS/1966, SUPERSEMAR is considered a special effort to overcome the threat of danger to the government's safety and revolution, the authority of the leadership of the Revolution and the integrity of the Nation and the State (MPRS, 1966). The MPR upgraded SUPERSEMAR status to MPRS Decree. It was determined based on MPRS Decree Number IX / MPRS / 1966 which cannot be revoked by President Soekarno (Compare with Crouch, 1986, p. 209).

SUPERSEMAR is valid until the formation of MPR result of the general election on July 5, 1968, in accordance with Article (1) of MPRS Decree Number XI / MPRS / 1966. However, the discussion of electoral draft law is tough for up to three and a half year due to the issue of the appointment of some members of the House and the Lower House by the Government was rejected by the political parties. The motive behind the appointment of members of the DPR and DPRD is certainly predictable to control the DPR (Mahfud, 1998, p. 216). Parliament needs to be controlled to ensure the majority of support to the government. However, the protests of political parties were successfully muted. On December 17, 1969, Law Number 15 of 1969 on General Elections and Law Number 16 of 1969 on the Composition and Position of the People's Consultative Assembly (MPR), House of Representative (DPR) and Regional House of Representative (DPRD) was enacted.

On March 12, 1967, Soeharto succeeded in encouraging the MPRS to hold a Special Session to withdraw the power of state administration from Soekarno and to appoint General Soeharto as Acting President until general elections conducted in accordance with MPRS Decree No. XXXIII/MPRS/1967. Prior to the 3 July elections of 1971, Lt. Gen. Soeharto was sworn in as President based on MPRS Decree Number XXXIII/MPRS/1967 on March 27, 1968. The inauguration of Soeharto marked the end of the history of President Soekarno and the PKI as the political power of the authoritarian regime of the Old Order. The inauguration also strengthened the position of the New Order which was determined to implement Pancasila and the 1945 Constitution purely and consistently. Indrayana (2007, p. 140) stated that "The New Order regime claimed to be a supporter of Democracy of Pancasila by Soeharto." The Jargon of Democracy of Pancasila presents the impression that New Order is a democratic regime.

Having succeeded in shifting the authoritarian regime of the Old Order, the New Order established its image as a democratic regime by choosing libertarian styles as a rational choice. However, libertarian styles soon shifted into autocratic after the 1971 elections and became increasingly impeccable since 1973. In the political format of the New Order, political parties are not allowed to have a significant role. They are solely the accessories of Democracy of Pancasila (Crouch, 1978, p. 276). The experience of the past with a multi-party system with the threat of government instability became the nightmare of the New Order government. The New Order attempted to streamline the party and close the access to the

new party establishment (Firdaus, 2015, p. 324). The New Order began to "work on" political parties that were expected to block the New Order. To face the 1971 election, some of the major parties assumed to be the government's winning barrier began to be tackled (Mahfud, 1998). The main targets of the New Order regime were the PNI (The Indonesia Nationalist Party) and the Islamic party closed to Bung Karno and the other Islamic Parties.

On July 3, 1971, elections were held. The Working Group (Golkar) emerged as the winner of the general election with 227 (two hundred and twenty-seven) seats (Pakpahan, 1994, p. 86). As a supporter of the government, Golkar's victory gave legality to the New Order for building a new political format and eliminating the multi-party system. After the 1971 election with the remarkable Golkar victory and the strengthening of military influence in parliament, the restructuring of the political parties came true (Suryadinata, 1992, p 79).

In 1973, the New Order restructured nine political parties into the United Development Party (PPP) and the Indonesian Democratic Party (PDI) and Golkar (Mahfud, 1998, p. 180). PDI is a fusion of I, Murba, and IPKI. The United Development Party (PPP) is a fusion of Nahdatul Ulama (NU), Parmusi, Partai Serikat Islam Indonesia (PSII) and Persatuan Tarbiyah Islam Indonesia (Perti). Those different ideological political parties are forced to fuse. After a pressured fusion, the New Order's libertarian-democratic style changed into authoritarianism. Fusion of political parties resulted in the format of a new party system called the One-Party System. (Indrayana, 2007, p. 142). Democratic styles had been tolerated since government searched for a new format of Indonesian politics. The format of a one-party system was maintained for three decades as it ensured the survival of the New Order regime. The format provided a victory for the New Order regime, so it was maintained from the early 1970s to 1998 (Kamaluddin & Alfian, 2015, p. 125).

After controlling the political party, the President began to disrupt the DPR systematically. The New Order wanted the House of Representatives as a proxy institution to achieve legality so that all governmental actions legitimate. The President's control over the House was effective because of the support of Golkar and members of the House appointed by the President. The New Order can control the House by exploiting the legislative and MPR decrees. Successful methods used to control the DPR are also applied in controlling the MPR. The President appointed members of the MPR with a larger number than the elected one. The majority of MPR members are from (a) members of the People's Legislative Assembly who are also members of the MPR from elements of the army and police, (b) Regional Representatives and (c) Group delegates appointed by the President. The MPR's political support needed the New Order regime so that the MPR must be controlled by the Government. As the implementer of the people's sovereignty, the MPR is expected to function as a proxy institution to give the legality of the President's accountability. The accountability of the President has always been well accepted by the MPR so that the administration of the state under Soeharto's leadership appears to be constitutional even though it is just a trick.

Prior to the 1971 general election, MPRS members who are exercising their responsibilities and powers until the MPR resulting from the election established was regulated by Law Number 10 of 1966. The number of MPRS members was 828 (eight hundred and twenty-eight) with 420 DPR-GR members; 117 people and 291 People Envoys (Saragih, 1987, p. 97). Members of the People's Consultative Assembly (MPRS) of Regional Delegates and Class Envoys are appointed by the President. The 152 Members of the DPR-GR who are also members of the MPRS of Golkar are appointed by the President. The total number of the MPRS appointed by the President is 560 persons or approximately 67.6%. The composition of MPRS members reflects parliamentary support to the New Order government which is more than sufficient to maintain power. After the elections of 1971, 1982, 1987, 1992 and 1997, the percentage of MPR support towards the New Order regime remained strong with the method of appointing members of the DPR and MPR.

The success of the New Order's authoritarian regime overwhelming the political parties, the use of Representatives and the MPR made all the political forces on President Soeharto's hand. The centralization of Presidential power during the New Order era resulted in the authoritarian executive heavy characteristics. In the framework of such a government system, all state institutions are under the control of the President. The dominance of the President makes the DPR and MPR subordinated to the President (Yuhana, 2007). MPR-DPR and political parties must accept "fate and destiny" controlled by the President. The supremacy of the MPR's power is just a disguise only. At the actual level, the supremacy of power is in the hands of the President. The supervision of the House of Representatives and People's Consultative Assembly is a mere formality. In fact, according to the 1945 Constitution before the amendment, the MPR is the implementer of people's sovereignty. However, the reality differs from the normative constitution. Denny Indrayana (2007, p. 147) puts the following comment "Given that Soeharto 100% controls MPR members, it is no wonder that the constitutional power of the MPR to oversee a president or to elect an alternative presidential candidate becomes barren." The accountability of President Soeharto as the MPR Mandate is always well received by the MPR. John Pieris described the power of the totalitarian regime of the New Order as follows:

"...with an unlimited power and without strict control of parliament (MPR-DPR) and political parties, President Soeharto can very freely do anything. It is also very possible because, at that time (the enactment of the 1945 Constitution has not been amended), the President has enormous power as the executive, legislative and judicial authority, are all in the hands of the President." (Pieris, 2007, p. 59)

History has proven that the New Order's motto of implementing Pancasila and the 1945 Constitution purely and consistently is mere nonsense and only a political jargon to attract public sympathy and cover the true face of the authoritarian New Order regime. This lasted for approximately 32 years until the fall of President Soeharto in 1998 due to the Reform Movement. The fall of Soeharto triggered a movement to reform various fields including the state administration through amendment of the 1945 Constitution.

3.3 Changes Authoritarian Regimes in the Representative and presidential System of Indonesia Post-amendment of the 1945 Constitution in Indonesia today

In 1998, a year after being re-elected as President for the sixth time, Soeharto, the main figure of the New Order, resigned after 32 years in power. It triggered the collapse of the New Order. President Soeharto's resignation paved the way for the election of new president (Subekti, 2008, p. 50). The incident is the beginning of a new era of Indonesian history that is the era of reform (Kamaluddin & Alfian, 2015, p. 133). A regime change can be seen as a fresh start for the Indonesian nation to start a new democratic life (Whare, 1975, p. 9). The reform movement chose moderate and cautious step to make changes to reduce the impact that might occur.

The constitutional reform through amendments to the 1945 Constitution is one of the main agenda of reformers. Proponents of reforms consider it necessary to amend the constitution because the 1945 Constitution is regarded as an entry point for an authoritarian regime. The Constitution (the 1945 Constitution) is seen by reformers in favor of giving the President an overwhelming authority. The centralization of power to individuals or to certain positions such as those of the New Order and the Old Order was the cause of which Indonesia was caught in the authoritarian political system from the late 1950s to the late 1990s (Marijan, 2010, p. 19). The amendment of the 1945 Constitution needs to be done to unravel the centralized Presidential powers that have always been a problem in the history of the Indonesian nation. However, reformers did not have a democratic form of government to be built. As the result, the first amendment of the 1945 Constitution produced an unclear governmental format. The 1945 Amendment took place in accordance with the dynamics of interest at the time of the amendment (Mas as

cited in Wijayanto, Isra, & Mas, 2002, p. 297). The amendment of the 1945 Constitution was conducted without a clear rationale. Amendments take place partial or patchy (Wijayanto, Isra, & Mas, 2002). In fact, the process of amendment to the 1945 Constitution was conducted without extensive public discussions like what was conducted in Thailand or South Africa (Wijayanto, Isra, & Mas, 2002, p. 52). The short-term interests of political parties dominated the amendment of the 1945 Constitution caused the direction of development of the government system became unclear.

Past trauma makes the main agenda of the first amendment of the 1945 Constitution aims to limit the powers of the President (Isra, 2010, p. 197). The power of the President is limited by limiting the term of office of the President. Article 7 of the 1945 Constitution shall be amended, the President and Vice President may in power for only 2 periods⁸. The experience of the authoritarian regime of Soekarno and Soeharto made the MPR declare that the President and Vice-President can be re-elected for the same post for only one term. The limitation of the scope of the President's power shall be made by the amendment of Article 5 of the 1945 Constitution so that the President's authority to form a law shall be transferred to the Parliament. After the amendment of the 1945 Constitution, the holder of the power to form a law turned to the House of Representatives resulting in a shift in legislative power. With these changes, the position (position) of the House is stronger than the President in the formation of law.

The President's power is also limited in appointing ambassadors and consuls. The President should request the consideration of the House which limits the right of the President. On the other hand, the involvement of the House in the process of appointing ambassadors extends the authority of the House⁴. The limitation of Presidential power is also done in granting amnesty and abolition. After the amendment of the 1945 Constitution, the authority of the President can be made only by requesting the House's consideration first. In fact, the authority to grant pardons, amnesty, abolition, and rehabilitation is the prerogative of the head of government (Pylee, 1960, p. 332)⁴. The limitation of Presidential power also occurs in granting pardons and rehabilitation. After the first amendment of the 1945 Constitution, the authority of the President may be made by seeking the consideration of Supreme Court. Thus, the first amendment of the 1945 Constitution actually succeeded in dismissing the power of the President drastically.

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On the other hand, the first amendment of the 1945 Constitution successfully extended the House's authority (Isra, 2010, p. 179). After the first amendment of the 1945 Constitution, the House of Representatives obtained attribution of powers to form a law which reinforces the characteristics of the separation of powers system. The House also has the right to give consideration to the appointment of ambassadors. In fact, the authority to appoint an ambassador attached to the President as he has the authority to establish relationships with other countries (Manan, 1999, p. 178). In fact, the House of Representatives is entitled to give consideration to the President in granting amnesty and abolition which is to extend the authority of the House.

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Same as the first amendment the second amendment¹⁰ of the 1945 Constitution also took place without plans and agendas. The second amendment to the 1945 Constitution reaffirms the position of the House of Representatives because all House members are elected in the general election. In fact, the position of the House of Representatives is strengthened by the inclusion of the functions of legislation, budget and supervision in Article 20A Verse (1) of the 1945 Constitution and the right of interpellation, the right of inquiry and the right of expression in Article 20A Verse (2) of the 1945 Constitution of the Second Amendment. Parliament Members also have the right to initiate the drafting of laws as mentioned in Article 21 of the 1945 Constitution of the Second Amendment. The strengthening of position and authority of the House of Representatives accelerated the process of growing the characteristics of an authoritarian government system because the centralization of power in the House of Representatives grew stronger.

The third amendment of the 1945 Constitution proceeded better because there was a national consensus as the guiding principle of the amendment. One of the points of national consensus aims to reinforce the system of Presidential Government (Subekti, 2008, p. 85). The national consensus stems from the case of dismissal of President Soekarno and Abdurrahman Wahid in term of office for political reasons that are still debatable (Sulardi, 2012, p. 13). Proponents of the reform movement do not want such events to be repeated in the reform era. The consensus affirming the Presidential Government System aims to strengthen the position of the President and build the stability of the government. The relation of President-House power which may be formed in order to reinforce the Presidential Government System after the 1945 Constitutional amendment is as follows. First, the pattern of government is the presidential executive heavy that produces the strong President faced with a weak Parliament. "Second, the heavy legislative style produces the strong Parliament (strong legislative) confronted with weak President. Both styles cannot reinforce the Presidential Government System as it produces an autocratic government. After the amendment of the 1945 Constitution, the Indonesian government system that was formed was autocratic in nature, so it does not support the consensus "to reinforce the Indonesian Presidential Government System." The autocratic style occurred because of the centralization of power in one of the state organs that reflected the characteristics of an autocratic state organization².

There are two characteristics of the autocratic regime in the Indonesian Presidential Government system after the 1945 Constitution. First, the dominance of the House in the representative system which resulted in the mechanism of check and balance between the House and Senate (DPD) is not functioning. The DPD organs formed after the 3rd amendment of the 1945 Constitution aims to build strong bicameral parliament structures with equally strong and balance each other (Asshiddiqie, 2004, p. 149). DPD's ideal position is aspired as a counterweight to the House of Representatives to dismiss the monopoly and dominance of the House (Muchdor, 2006, p. 140). The DPD's equality with Parliament is expected to produce checks and balances within the legislative power. In a strong bicameral representative system, the DPD is expected to play with full authority in legislative, budgeting and oversight functions like the House of Representatives to become a counterweight to the House of Representatives. With the equal authority of DPR, DPD is expected to support national consensus to reinforce the Presidential Government System.

After the amendment of the 1945 Constitution, the existence of DPD was not what is expected. The authority of DPD in the function of legislative, supervision and budgeting are limited. It is just a complementary and subordination to DPR. The ending of entire DPD's activities is the House of Representatives. Thus, the main actor of Indonesia's representative system is the House of Representatives. The weak DPD position makes the House dominate the bicameral representative system. The non-ideal power relations of the DPR-DPD show an imbalance of power so that the ideals of a strong bicameral representative system cannot be realized. It reaps criticism and disagreement from experts. The DPD received various sneaky nicknames such as "law firms," "complementary systems of representation," "legislation bureaus." In fact, the DPD is seen as a complementary sufferer in the Indonesian political system. The Centralization of power to the House of Representatives makes a state organ with a legislative heavy predicate. Thus, the Indonesian representative system becomes a fake bicameral representative system. Indonesia's post-amendment system of the 1945 Constitution remains a problem because it is conceptually inconsistent. Indonesia's representative system is not qualified to be classified into a unicameral or bicameral system of representation with respect to the presence of MPR, DPR, and DPD as part of an official with independent authority in the Indonesian state structure (Sibuea, 2009a, p. 178). The amendment of the 1945 Constitution has resulted in an autocratic representation system that has a negative impact on the power relations of DPR-DPD in the representative system. The

²There are 2 (two) kinds of authoritarian system (1) desire that power held by a person or a small group of people and (2) tends to increase the power of state officials (rulers) and reduce the influence of the people.

check and balance mechanism become barren because the DPD cannot function as a counterweight to the House. The dominance of the House of Representatives in a representative system that makes the check and balance mechanism pose problems to the Presidential Government System and government stability. Secondly, the dominance of the House of Representatives in the Presidential Government System made the position of the President weakened so that the national consensus to reinforce the Indonesian Presidential Government System failed to be realized. The preferred Governmental System is a strong and fixed executive system of government. A lot of efforts to reinforce "Presidential Government System" can be cited as an effort to build "strong and effective government" (Asshiddiqie, 2004, p. 164). The key to building an ideal Governmental System is the ideal distribution of power. However, it failed to materialize in the third amendment of the 1945 Constitution.

The mistakes of distribution of power to the President-DPR in the first and second amendments of the 1945 Constitution cannot be corrected in the third amendment of the 1945 Constitution (Indrayana, 2007, p. 342). The foundation of the presidential government system to be reaffirmed in the third amendment of the 1945 Constitution has already been mistakenly built in the first and second amendments with the characteristic of centralization of power in an authoritarian House Representatives. Consequently, the dream to strengthen the Presidential Government System in the third amendment of the 1945 Constitution is far from reality. The third amendment of the 1945 Constitution failed to realize the agreement to reinforce the Presidential Government System. After the third amendment of the 1945 Constitution, the power of the President-House of Representatives formed deviated from the national consensus. The power of President-DPR relations became unbalanced because of the centralized power of the House of Representatives resulting in the House's dominance in the government system. Jimly Asshiddiqie expressed an example of the House's involvement in accepting ambassadors of foreign countries showing how powerful the House has been since the amendment (Indrayana, 2007, p. 369). After the third amendment of the 1945 Constitution, the House appeared very dominant in the Presidential Government System. The phenomenon of centralization of power in the 1945 Constitution as in the past repeated after the third amendment of the 1945 Constitution.

After the amendment of the 1945 Constitution, the power relations of President-House which are strong and heavy legislative are dealing with a weak executive. The House of Representatives as strong and heavy legislative resulted in the dominance of the House of Representatives in the government system. Legation of the legislature penetrated deeply into government activities. Every member of the House can question each budget series and ask the executive to be more accountable so that the House's power in budget discussions is too large because it reaches the most detailed parts of the budget (Hanan, 2014, p. 132). It also happens in the House's oversight function. The House can take various actions under the pretext of running a supervisory function even though the object being supervised is not theirs. Such a function of the House of Representatives illustrates an unhealthy President-House relationship. The check and balance mechanism between the House and the President can still run but the potential of disruption to governmental stability is enormous with the movements of members of the House of Representatives as above. According to the authors, such a state of power of President-House of Representatives is unlikely to support efforts to reinforce the Presidential Government System. The position of the House of Representatives as *strong and heavy legislative* with characteristics as a super body began to grow since the first and second amendment of the 1945 Constitution because of the large attribution of power so that the House is getting stronger and the President is getting weaker. The third amendment of the 1945 Constitution cannot turn back the clock to set up Presidential Government System in accordance with the national consensus.

In the position of the House of Representatives as a state organ with *strong and heavy legislative* characteristics, it appeared as a super body in the Presidential Government System and the Indonesian state administration system after the 1945 Constitution (Sibuea, 2009b, p. 1984). The position of the House as a *super body* would cause problems. The power relations of the President-House are

experiencing disruptions that negatively impact the stability of the government and the constitutional system. The 1999-2002 amendment of the 1945 Constitution deviates from the national consensus ideals. It produces an autocratic presidential Government System due to the centralization of the House's power. The 1945 Amendment re-lapsed into an authoritarian Presidential Government System. Sibuea stated that "the structure of the Indonesian state administration after the 1945 Constitution remained autocratic in nature as the Indonesian state structure before the amendment of the 1945 Constitution" (Sibuea, 2009b, p. 1984). Thus, what Moh. Mahfud MD stated that The 1945 Constitution has never succeeded in establishing a system of democratic governance but an authoritarian system as long as the 1945 Constitution serves as the foundation of the constitution of the State of Indonesia again proven after the amendment of the 1945 Constitution in the reform era (Mahfud, 2000, p. 140).

Conclusion

The 1945 Constitution as the foundation of the Constitution of the Republic of Indonesia is a democratic constitution. However, it has never succeeded in establishing a democratic Indonesia Presidential Government System. The cause of the authoritarian regime born within the framework of the 1945 Constitution as a democratic constitution is a constitutional trump up by rulers for personal or group interests as happened in the authoritarian regimes of the Old Order and the New Order. The Old Order and the New Order can build an authoritarian regime because it is planned systematically. After the amendment of the 1945 Constitution, the characteristics of the authoritarian government system are also found in the Indonesian Presidential Government system due to the centralization of power in the House. This was also due to constitutional trump up by the dominant political force at the time of the amendment of the 1945 Constitution. The pattern of authoritarian government was born post-amendment of the 1945 Constitution because the amendment process took place on the basis of consideration of short-term interests of political parties solely and not on the basis of the plan, directions and a clear amendment agenda.

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