
Jurnal Dinamika Hukum

Vol. 23 Issue 1, January 2023

E-ISSN 2407-6562 P-ISSN 1410-0797

National Accredited Journal, Decree No. 21/E/KPT/2018

DOI: [10.20884/1.jdh.2023.23.1.3521](https://doi.org/10.20884/1.jdh.2023.23.1.3521)

This work is licensed under a Creative Commons Attribution 4.0 International License (cc-by)

Comparative Presidential's Role, System and Constitutional Practice Between Indonesia and South Korea

Dwi Putri Cahyawati [✉](mailto:dpcahyawati@fkh.uin-suka.ac.id), Ibnu Sina Chandranegara, Nizam Burhanuddin, Ahmad Yani
Universitas Muhammadiyah Jakarta

Abstract

Indonesia and South Korea are two countries that both use a presidential system. This indicates that the two countries have something in common, especially regarding presidential institutions. But if we dive deeper, there are also differences between the two countries. But if you dive deeper, there are also differences between the two countries. This research has two research questions. What is the similarity between the presidential system in Indonesia and South Korea, and what are the differences between them. The results of the study found that although both use the presidential system of government, such a thing does not guarantee the equality of the position of the presidential institution in each country. In constitutional practice, there are variants of similarities and differences.

Keywords: Constitutional Comparison; Constitutional Practices; Presidential Institutions.

Abstrak

Indonesia dan Korea Selatan merupakan dua negara yang sama-sama menggunakan sistem pemerintahan presidensial. Hal yang demikian mengindikasikan bahwa kedua negara memiliki kesamaan, khususnya dalam hal lembaga kepresidenan. Namun jika diselami lebih jauh, terdapat juga perbedaan di antara kedua negara. Penelitian ini secara khusus memiliki pertanyaan penelitian antara lain bagaimana perbedaan dan persamaan lembaga kepresidenan dalam praktik ketatanegaraan di Indonesia dan Korea Selatan yang sama-sama menggunakan sistem pemerintahan presidensial. Hasil penelitian menemukan bahwa walaupun sama-sama menggunakan sistem pemerintahan presidensial, hal yang demikian tidak menjamin adanya kesamaan kedudukan lembaga kepresidenan di masing-masing negara. Dalam praktik ketatanegaraan, terdapat varian yang menunjukkan baik persamaan maupun perbedaan.

Kata kunci: Perbandingan Ketatanegaraan, Praktik Ketatanegaraan, Lembaga Kepresidenan

Copyright©2023 Jurnal Dinamika Hukum.

Introduction

The role of the president is presumed to vary amongst presidential, semipresidential and parliamentary systems. However, there are a variety of subtypes within semi-presidential systems. The debate often hinges on the prime minister and government and to whom they are more accountable. However, the accountability of prime ministers and governments to presidents can be rather

'fuzzy' (**Chandranegara, 2016**). Presidents are crucial political actors. They often play a decisive role as international actors, party leaders, electoral campaigners, government members, legislative proponents, constitutional guarantors, and veto players. Moreover, the importance of presidents is growing both politically and institutionally. Even though a literature on presidents has markedly increased in the last decades (**Chandranegara, 2019**). According to Jimly Asshiddiqie, the

✉ Corresponding author: dwiputricahyawati@umj.ac.id

variety of structures and functions of state organizations and institutions develops in broad types and forms, both at the central or national level and at the regional or local level. Such a symptom of development is an inevitable reality due to the demands of factual circumstances and needs, both due to social, economic, political, and cultural factors amid the dynamics of the increasingly complex wave of influence of globalism versus localism (**Asshiddiqie, 2012**).

The influence of various factors on the development of institutions and organizations within the country greatly determines how a country designs institutions in each country. One of the factors that significantly has an influence is developments taking place in other countries. This is, as stated by Fitra Arsil, that various nations make legal rules, especially in their constitutions, to maintain the stability of their government, and interestingly, the authorities made are, in many ways, modifications of the features of their government systems taken from the features of other government systems (**Arsil, 2017**).

Among the various state institutions whose development has often been influenced by the development of the same state institutions in other countries is the institution of the Presidency. In the context of power, the institution of the Presidency is often referred to as executive power, which is the branch of energy that holds the highest administrative authority of the state government. In this regard, Jimly Asshiddiqie stated that in this world, there are known to be 3 (three) state government systems, namely (i) presidential government system, (ii) parliamentary government system or cabinet system, and (iii) mixed system (**Asshiddiqie, 2006**).

The Presidential system of government is emphasized that the executive branch and the legislature have their respective positions, and the President and the government are not responsible to parliament because the two institutions are not directly connected, as well as the Parliamentary system of government. Therefore, there is no known leading state institution in the presidential system of government. In this system, the President and Vice President are elected by the people for a specific term of office following the Constitution's mandate. In carrying out their duties, the President is assisted by Ministers appointed and directly responsible to the President (**Chandranegara & Bakhri, 2021**).

The parliamentary system of government is a system that emphasizes a very close relationship between the institution and the executive institution. This is a consequence of implementing ministerial accountability to parliament because every Cabinet formed must have confidence support through a parliamentary vote. Thus the policies made by the government or Cabinet should not deviate from what is approved by parliament. In a parliamentary system, the posts of the head of state and head of government are separated from each other the state office and the head of government is, in essence, branches of executive power (**Tutik, 2016**). In this system, the parliament has the Prime Minister and brings down the government by issuing a vote of no confidence (**Goffar, 2009**).

Constitutionally, the Republic of Indonesia adheres to a Presidential system which means that the holder of control and responsibility for the running of the state government is the President, while the Minister is only an assistant to the President; this is stated in the torso and explanation of the 1945 Constitution (**MD, 1993**).

However, when viewed in the context of constitutional practice, the position of the presidential often shifts due to changes in the government system, from the previous presidential to parliamentary or vice versa (**Harrington, 2021**). Therefore, this change in the government system in Indonesia's constitutional history has implications for the position of the presidential institution, whether as a mere head of state or also includes the head of government (**Shane, 1988**).

On the other hand, South Korea also adheres to the Presidential system of government. As a result, South Korea has the official name in the international world *Republic of Korea*. South Korea is governed by a President elected by popular vote every five years and may only serve for one term (**Ahn, 1997**). Therefore, the incumbent or president who has done before cannot run again in the next general election. In carrying out his duties, the President of South Korea is assisted by the Prime Minister. The President's appointment with the National Assembly's approval shall conduct the Prime Minister's election (**Hahm, 2012**).

Indonesia and South Korea have similarities in terms of the system of government adopted, namely the presidential system. However, if we look closely, there are also some differences in the administration of the Constitution. These differences and similarities are reflected in constitutional practices throughout history in these two countries. Departing from this fact, researchers want to conduct research using a comparative approach to the glue of the Presidency in constitutional practice in Indonesia and South Korea. The study is intended to describe the similarities and differences in presidential institutions in constitutional conventions in the two countries.

Research Problems

The problem to be answered in this study concerns two things, among others: first, what is the similarity of the presidential system in Indonesia and South Korea and second, what is the differences between them.

Research Methods

The research method used in this study uses normative legal research, namely legal research conducted by examining legal material or mere secondary data; this type of research is said to be normative legal research. Normative legal research includes (i) research on legal principles; (ii) research on legal systematics; (iii) research on the level of vertical and horizontal synchronization; (iv) comparative law; and (v) legal history (**Soekanto & Mamudji, 2010**).

The research approach uses a historical approach and a comparative approach. The historical approach is used to analyze the institution of the presidency in constitutional history in Indonesia and South Korea. The comparison approach is used to compare the institution of the presidency in constitutional practices in the two countries.

Discussion

1. Presidential Role and Constitutional Practice in Indonesia

In the discourse on national leadership, we know the concepts of *King* and *Queen*, *the Ruler*, Chairman, President, and Prime Minister. Multiple terms refer to these concepts in various countries according to the official languages used in the countries concerned (**Chandranegara & Cahyawati, 2023**). These terms can be distinguished between the concept of the head of state and the concept of the head of government (**Chandranegara, 2019**). Since proclaiming independence on August 17, 1945 and ratifying the 1945 Constitution as a constitution the next day, Indonesia chose the term, President. According to Jimly Asshiddiqie, the Presidency is an institution or organization of positions which in the government system based on the 1945 Constitution contains two positions, namely President and Vice President (**Asshiddiqie, 2021**).

The Vice President accompanies the President in holding executive power. The President and Vice President are elected by general election with a term of office of 5 (five) years and can be re-elected once for the same term. In carrying out his duties, the President is assisted by ministers who are members of a cabinet prepared based on the prerogative of the President himself. All matters relating to the President and Vice President are contained in articles 4 to 16 of the 1945 Constitution (**Kansil, 2008**).

The existence of the presidential institution in constitutional practice in

Indonesia began on August 18, 1945, at the Preparatory Committee for Indonesian Independence session with the appointment of Soekarno as President of the Republic of Indonesia and Mohammad Hatta as Vice President of the Republic of Indonesia. As for the formation of the ministry as an aide to the president, it was only confirmed on September 2, 1945. The president prerogatively announces 12 ministers of department leaders and four ministers of state. At the same time, the President appoints the Supreme Court's Chief Justice, the Attorney General, the Secretary of State, and the Spokesperson of State (**Manan, 2006**).

In later developments, precisely on November 14, 1945, a Government Declaration was issued, which marked the beginning of the parliamentary system of government, with the formation of the first parliamentary Cabinet led by Sutan Syahrir as Prime Minister. At that time, the Cabinet and Prime Minister were responsible for the KNIP. Since then, the presidential system of government has changed to a parliamentary system of government. During this system, the 1945 Constitution did not undergo textual changes. Therefore, some argue that this government design change violates the 1945 Constitution (**Hanan, 2012**). According to Ismail Sunny, with the Government Declaration on November 14, 1945, the principle of responsibility of Ministers was officially recognized. Ministers become members of a cabinet headed by a Prime Minister. Therefore the centre of executive power has shifted from the President to the Prime Minister (**Sunny, 1965**).

Syahrir's Parliamentary Cabinet lasted only until June 29 1946, when Sukarno again took power during a state of emergency. Then, on January 29 1948, Sukarno re-formed the Presidential Cabinet and sent Mohammad Hatta as Vice President to lead the daily Cabinet. But in a subsequent development, the Netherlands launched military aggression on December 19, 1948. In that event, Soekarno and Hatta were arrested by the Dutch government. But before being taken prisoner, Sukarno had handed over the mandate to the Minister of Prosperity, Mr Syafruddin Prawiranegara, who was in West Sumatra to form an emergency government on 22 Dec 1948. This government lasted until July 13, 1949, when Mr Syafruddin returned his mandate to Mohammad Hatta.

Due to the state security conditions suppressed by the Dutch, the Unitary State of the Republic of Indonesia was changed to the United States of Indonesia. As a result, the Republic of Indonesia must merge into a state of the United States of Indonesia. This led to two constitutions that apply simultaneously: the United States of Indonesia Constitution and the 1945 Constitution. On December 27, 1949, Indonesian President Sukarno officially handed over the power of the Indonesian government to Mr Asaat Datuk Mundo, who previously became Chairman of the KNI Workers Agency after Sukarno became President of the Federation State. As a result, Mohammad Hatta was elected prime Minister of the federation.

The institution of the Presidency in this period was short-lived. Republic of Indonesia and Republic of United Indonesia reached an agreement to rejoin in the

form of a Unitary State on May 19, 1950, and on August 15, 1950, the proclamation of the re-establishment of the Republic of Indonesia replacing the Republic of United Indonesia was announced in front of the House of Representatives and Senate. The Republic of United Indonesia Constitution was amended into the 1950 Provisional Constitution. On the same day, the office holder of the President of the Republic of Indonesia was handed back from Assat to Soekarno (**Goffar, 2009**).

Under the 1950 Provisional Constitution, thus began the journey of the institution of the Presidency in a parliamentary democracy. Ministers are responsible for all government policies and are accountable directly to the House. The President and Vice President have no day-to-day government functions and only as symbols. Within nine years during the enactment of the 1950 Provisional Constitution, there were seven cabinet changes as follows (**Chandranegara & Bakhri, 2021**):

- 1) Cabinet of Mohammad Natsir (September 6 1950 – March 21 1951);
- 2) Sukiman and Suwirjo Cabinet (27 April 1951 – 3 April 1952);
- 3) Wilopo Cabinet (April 3 1952 – July 30 1953);
- 4) Cabinet of Ali Sastroamijoyo (July 31 1953 – August 12 1955);
- 5) Burhanudin Harahap Cabinet (12 August 1955 – 3 March 1956); 6)
Cabinet of Ali Sastroamijoyo II (March 24 1956 – March 14 1957); 7)
Cabinet of Ir. Juanda (9 April 1957 – 5 July 1959).

The journey of the parliamentary system under the 1950 Constitution is also not up to 10 (ten) years. The Presidential Decree on July 5, 1959, became the starting point for Indonesia's return as an adherent of the presidential system of government by dissolving the constituency and re-enacting the 1945 Constitution as the country's Constitution. Soekarno stopped the parliamentary conflict caused by liberal democracy, and the era of guided democracy began. The government system still had a potent mix at this time, so it was called a mixed presidential system (*quasi-presidential*). Because the President is still responsible to the People Consultative Assembly, not directly to the people as in the presidential system. The uniqueness of the presidential institution in this guided democratic era is that the President and Prime Minister are referred to as two different positions but are occupied by the same person, namely Soekarno. Soekarno's position as President was as head of state. Soekarno, as Prime Minister, was the leader of the Cabinet. Meanwhile, Mohammad Hatta remained as Vice President (**McIntyre, 2005**).

The uprising of the September Coup de etat movement or 30 Movement of the Communist Party of Indonesia (G-30S/PKI) was the beginning of the collapse of guided democracy under President Soekarno. They were started from the instructions given by President Soekarno to Major General Suharto to secure and restore conditions after September Coup de etat movement. Until the issuance of

the Order of March 11, 1966, which continued with the dissolution of the Communist Party of Indonesia based on Presidential Decree No. 1/3/1966 signed by Suharto. Even when President Sukarno formed the Ampera Cabinet, Suharto dissolved the Cabinet and arrested all ministers because they were involved in the September Coup de etat movement (**MD, 1993**).

The end of the presidential leadership of Soekarno was when the Temporary People Consultative Assembly rejected his accountability speech. So the Temporary People Consultative Assembly revoked the presidential title for life, dismissed Sukarno as President of the Republic of Indonesia, and appointed Suharto as Acting President. Only during the Temporary People Consultative Assembly General Session on March 27, 1968, based on Temporary People Consultative Assembly Decision No. XLIV/MPRS/ 1968, Soeharto officially served as the 2nd President of the Republic of Indonesia (**Chandranegara & Bakhri, 2021**).

President Soeharto ruled for no less than 3 (three) decades and formed seven times a Cabinet named Development Cabinet I – VII. The institution of the Presidency under Suharto was mighty, with only one presidential office under the command of the State Secretariat. At that time, there was no Cabinet or Vice President's Secretariat. After 32 years in power, on May 21, 1998, he resigned after resigning as President of the Republic of Indonesia. And replaced by Bacharuddin Jusuf Habibie. President Habibie formed a cabinet called the Development Reform Cabinet during his leadership. However, President Habibie's leadership period did not last long. On October 21, 1999, President B.J. Habibie's accountability speech was rejected by the MPR. So he resigned as President and did not run in the election (**Mochtar & Afkar, 2022**).

In the 1999 election, Abdurrahman Wahid was elected President, accompanied by Megawati Soekarno Putri as Vice President. In the era of President Gus Dur, it was the strengthening of the Presidential Institution by re-establishing authority to Vice President Megawati to strengthen the Vice President's Secretariat. This is done because Vice President Megawati also carries out many government tasks, so the support of the Vice President must also be vital. President Abdurrahman Wahid formed the National Unity Cabinet. However, Wahid's reign also did not last until the end of the term of office. On July 23, 2001, President Abdurrahman Wahid was deposed through a Special Session of the People's Consultative Assembly of the Republic of Indonesia (**Barton & Wahid, 2022**).

President Abdurrahman Wahid was succeeded by Megawati Soekarno Putri as the first female President to lead Indonesia. President Megawati has a Vice President, Hamzah Haz, In carrying out her duties; the Cabinet assists President Megawati she made, namely the Collaboration (*Gotong Royong*) Cabinet. The 2004 Election became a democratic election in Indonesia because, for the first time, the Indonesian people directly elected a pair of presidential and vice presidential candidates and so for the legislative elections. Susilo Bambang Yudhoyono was

elected President and his running mate Muhammad Jusuf Kalla as Vice President in this election (**Ma'mun & Kosandi, 2020**).

President Yudhoyono formed the United Indonesia Cabinet. In strengthening the Presidential Institute, a separation was carried out between the Cabinet Secretariat and the State Secretariat. In addition, the Presidential Working Unit for Development Supervision and Control (UKP4) was also formed, which plays a role in controlling development. In addition to these developments, President Yudhoyono also appointed several Special Presidential Staff. So the story of the Presidential Institute during the era of President Yudhoyono was the fastest. In the 2009 election, Susilo Bambang Yudhoyono again won the presidential election after defeating his former running mate, Jusuf Kalla. This time he was paired with Boediono (**Ziegenhen, 2005**). Both were inaugurated on October 20, 2009. In the 2nd period, President SBY formed the United Indonesia Cabinet Volume II. As for the structure of the Presidential Institute, it is only a change of officials without any structural changes.

After two terms in office, based on the 2014 election, President SBY was replaced by Ir. H. Joko Widodo, who was paired with Jusuf Kalla. Thus, this is the second time Jusuf Kalla has become Vice President but with a different presidential partner. After his inauguration on October 20, 2014, President Joko Widodo formed the Working Cabinet. In terms of the Presidential Institute, President Jokowi merged UKP4 back into the Presidential Secretariat.

President Joko Widodo was re-elected for the second time in the 2019 election and was inaugurated on October 20, 2019, this time paired with Ma'ruf Amin as Vice President for the Ministry Cabinet, President Jokowi formed a new Cabinet under the name Advanced Indonesia Cabinet, no longer using the name Working Cabinet. Each Minister and Ministry must not have their vision and mission, so they are only allowed to follow the vision and mission of the President. The striking structure of the Presidential Institution is the Presidential Special Staff which is more in number than before, namely as many as 13 Presidential Special Staff plus 8 Vice Presidential Special Staff (**Bland, 2021**).

2. Presidential Role and Constitutional Practice in South Korea

South Korea has the official name in the international world *Republic of Korea*. Before 1945, South and North Korea were one country. However, after World War II ended, accompanied by Japan's surrender to the allies, Korea was divided into two, namely South Korea and North Korea. South Korea adheres to liberal democracy, while North Korea adheres to communism (**Boer, 2021**).

In its constitutional affairs, South Korea is a unitary state, as well as Indonesia. Korea also has the same system of government, namely the Presidential. The Republic of Korea is governed by a President elected by popular vote every five

years and may serve for one term only (**Chaibong, 2008**). In carrying out his duties, the President of South Korea is assisted by the Prime Minister. The President's appointment with the National Assembly's approval shall conduct the Prime Minister's election.

South Korea uses a mixed presidential system. It is said to be mixed because there are still parliamentary influences in its constitutional system. Executive power is owned by the presidential institution headed by the President and accompanied by the Prime Minister. As for legislative power, it is held by the National Assembly (*National Assembly*), which is domiciled as a parliament. Therefore, the President and Prime Minister are not fully accountable to parliament. In general elections, the President is elected by the people for a five-year term without re-election. As head of state and head of government, the President is also the commander-in-chief of the armed forces (military).

In implementing government, South Korea is guided by the Constitution of the Republic of Korea (*The Constitution of the Republic of Korea*; [*Daehanminggug Heonbeob*]) as amended in 1987. The Constitution consists of 130 articles and six additional rules. They are divided into ten chapters: General Provisions, Rights and Duties of Citizens, National Assembly, Executive Institutions, Judiciary, Constitutional Court, Election Management, Local Powers, Economic Institutions, and the Constitutional Amendment. The Constitution of South Korea comprehensively regulates each state institution's functions, positions, duties and authorities, including the Presidency as executive, legislative, and judicial (**Ahn, 1997**).

In carrying out his duties, the President is assisted by the Prime Minister, whom he chooses based on the approval of the National Assembly. The Prime Minister is in charge of supervising the clerks and managing the coordination of government policy under the direction of the President. The President and Prime Minister are assisted by a *State Council* whose members are appointed by the President on the recommendation of the Prime Minister. *The State Council* can lead and supervise administrative ministers, negotiate important domestic affairs, and represent the government in the National Assembly. *The State Council* is accountable only to the President (**Haggard & You, 2015**).

The first president of South Korea was Syngman Rhee, who was elected by the *National Assembly* by popular vote in 1948. President Syngman Rhee ruled for four terms because there was no limit on presidential terms before the amendment, so President Rhee was re-elected in the 1952, 1956, and 1960 elections (**Moon, 2009**). During President Rhee's leadership era, there was still known as a Vice President. The Prime Minister is still limited to the leadership of the Cabinet. During the reign of President Rhee, there were 6 cabinet changes. President Rhee was known as an extremist anti-communist leader with an iron fist. During his leadership, there was a Korean war when North Korea attacked South Korea. The conduciveness of the

security situation and the corruption and electoral fraud committed by President Rhee led to his removal from the leadership on April 27, 1960 (**Strnad, 2010**).

After the resignation of President Rhee, South Korea experienced a transition period with four changes of acting officials (Acting). After the interim government, the 2nd permanent president was elected, Yun Bo-seon, who was the former Minister of Finance and Trade during President Syngman's administration. During this reign, there was a significant change in the Presidency's institution in which the Vice President's function was officially replaced by the Prime Minister, who at that time was chosen by Ho Chong to serve as Prime Minister. Ho Chong served as Prime Minister from April 27 1960 – August 18 1960, and was succeeded by Prime Minister Chang Myon, who served from August 18 – May 18 1961. However, given the security situation that was not conducive after the Korean war, the position of Prime Minister was replaced by the Chief Cabinet Minister occupied by a military official, General Jang Do-young, who previously served as Chief of Army Staff (KASAD). General Jang led the Cabinet from May 21 – July 3 1961, and was succeeded by General Song Yo-chan, who had previously also served as Chief of Army; he served from July 3 1961, to June 16 1962. President Yun took office on August 12 1960, and due to the military coup in 1961, he finally resigned on March 24 1962 (**Mobius, 1966**).

As a result of the military coup that resulted in the removal of President Yun Bo-seon, General Park Chung-hee became President. President Park became the longest-serving President for 18 years. He is also considered the most controversial and heavy-handed president through his wisdom. Among the controversial policies were the dissolution of the National Assembly and the passing of a presidential decree that later became the applicable Constitution, the Yushin Constitution. In this Yushin Constitution, significant changes occurred in the institution of the Presidency, in which the incumbent President could be re-elected for the next term, even indefinitely. This was exacerbated by changes in the presidential election system submitted to the National Unification Council, which the President further formed and manipulated to perpetuate Park Chung-hee's glory for 18 years (**Chaibong, 2008**).

President Park's rule ended when she died on October 26, 1979. After the death of President Park Chung-hee, Prime Minister Choi Kyu-hah was appointed Acting President. In the December 1979 elections, he was elected President. Prime Minister Shin Hyun-hawk accompanied President Choi in carrying out his duties. However, this did not last long because President Shin did not have military power, military power was still very influential during the time of President Park Chunghee. This began with replacing Prime Minister Shin Hyun-hawk with the *Chief of the Republic of Korean Air Force (ROKAF)* (**Chang & Park, 2004**). On August 16, 1980, President Choi Kyu-hah was overthrown by Lieutenant General Chun Doo-hwan, who took over the Presidency by force. General Chun Doo-hwan was elected in the same year's election. Highly controversial state policies include abolishing all

existing political parties, the National Assembly being dissolved and replaced by the Special Committee for National Security Monitoring and creating a new constitution that is less authoritarian than the judiciary but still gives the president sweeping powers. The Constitution allows a President to serve for a seven-year term and be elected again for another term (two terms).

Chun Doo-hwan stepped down as President after the 1987 election, and Roh Tae-woo was elected as the new President to succeed him. President Roh also came from the military with the rank of General. Despite his similar background, President Roh was not a dictator and is even remembered as the father of South Korea's reforms. In the constitutional field, President Roh Tae-woo reinstated the political parties that were dissolved in the previous regime, thus the return to a multi-party climate. Restore the existence of the National Assembly, which the President no longer controls but purely legislative power. Improved diplomacy with other countries, especially the United States and the Soviet Union, opened opportunities for reunification with North Korea. In the power of the Presidential Institute, President Roh cut the term of office of the President to 5 years and can only be elected once, and without being able to be re-elected (**Strnad, 2010**).

President Roh Tae-woo ended his term after Kim Young-sam was elected the new President in the 1993 elections. President Kim, in politics, has many policies that emphasize open public access to the government, both presidential and legislative institutions. For example, regarding the relationship between the Presidential Institute and the National Assembly, President Kim unified the parliament and presidential building complexes by removing the guardrails and security between the two institutions so that members of the National Assembly could quickly meet the President and vice versa. Furthermore, in the relationship of the Presidential Institute with the people, President Kim opened a press bureau so that the public could know about the Presidency's activities and the cabinet members through press releases (**Cha, 1993**).

During President Kim Young-sam's five-year tenure, six Prime Ministers accompanied him in office. President Kim Young-sam ended his term in 1997 and was succeeded by President Kim Dae-Jung. President Kim Dae-Jung did little in politics, statecraft, and especially the setting of the Presidency. This is because, at that time, Korea experienced an economic crisis. So from the beginning of his leadership President Dae-Jung until the last issued more policies in the financial field. Kim Dae-Jung changed Prime Minister eight times during his Presidency, including four acting prime ministers.

The following elected president was Roh Moo-hyun, who managed to win the 2002 election. President Roh issued many policies for human rights and student activist advocacy. But, unfortunately, President Roh became a president the West disliked in foreign policy because of South Korea's softening attitude towards North Korea. The state policy that President Roh Moo-hyun wanted to do was the transfer

of the centre of government and statehood, but it was not implemented (**Strnad, 2010**).

During President Roh's reign, there were seven changes of Prime Minister, including three acting Prime Ministers. Although disliked by both the domestic opposition and foreign parties, Roh Moo-hyun could complete his 5-year term. The president after Roh Moo-hyun is Lee Myung-bak. The former Hyundai CEO won the election and became President on February 25, 2008. Under his leadership, South Korea became the organizer of the G-20 Summit. Therefore, there are no policies affecting the Presidential Institute. President Lee changed Prime Minister four times, including one acting Prime Minister.

President Lee Myung-bak completed his term on February 24, 2013. Later, Lee Myung-bak was sentenced to prison for various cases of abuse of authority during his reign as President. After Lee Myung-bak, President Park Geun-Hye became president of the 2012 election results and took office on February 24, 2013. President Park Geun-Hye became South Korea's first female president. President Park Geun-hye is the son of the first President, Park Chung-hee. Park Geun-hye does not issue many policies. During his tenure, he was accompanied by three Prime Ministers, including one acting Prime Minister (**Moon, 2009**). However, due to Park Geun-hye's corruption and nepotism, the National Assembly removed Park Geun-hye from the Presidency. Under the Constitution, Prime Minister Hwang Kyo-Ahn was appointed acting President. President Hwang also concurrently serves as Prime Minister for the remainder of the President's term until the next election (**Bedeski, 2002**).

Based on the results of the 2017 election, the President-elect is Moon Jae-in and was inaugurated on May 10, 2017. Therefore, President Moon Jae-in became the incumbent president in his 4th year President. In carrying out the duties of the Presidency.

3. Comparison of Presidential as executives power Between the Two Countries

3.1. Similiarities

As countries that both adhere to the presidential system of government, the presidential institution in constitutional practice in Indonesia and South Korea has several similarities. First, in terms of the position of the President in the presidential system as head of state as well as twitching as the head of government and the People directly elect both. In the 1945 Constitution, this is expressly stipulated in Article 6A paragraph (1), while in the South Korean Constitution, it is specified in Article 67 paragraph (1).

Other similarities are also reflected in the structure of the Presidency, especially concerning the Cabinet ranks of the ministries below. Ministers in Indonesia are conducted jointly in the election between the President and Vice President. The Constitution only states that the President appoints and dismisses the Minister (article 17, paragraph 2). However, in practice in Indonesia, which is thick with deliberation and consensus, the President invites the Vice President to counsel in determining the ranks of Ministers in assisting the President and Vice President in carrying out their duties. Like Indonesia, the Republic of South Korea also applies the same thing in the election of its Ministers as Presidential and Prime Minister Aides. However, South Korea has stipulated it in its Constitution, where the President appoints his Ministers based on the proposal of the Prime Minister (article 94).

Structurally, Cabinet Ministers in Indonesia and South Korea have the same position under the President as an assistant to the President, both in the function of the President as Head of State and Head of Government. In its primary function as Head of State of the President and Vice President of Indonesia, the protocol administration secretariat is supported by the Ministry of State Secretariat and the Presidential Staff Office and the Cabinet Secretariat in regulating the Ministry Cabinet. While in South Korea, in carrying out his duties, the President of South Korea also has an organ in which industries and functions have security. Where the Office of the President supports the President of South Korea [*Hangul: Cheong Wa Dae*] in which oversees the Presidential Secretariat and also the Presidential Staff Office in addition to being the State Palace as well as *the residence of the President* and The First Lady is just like in Indonesia.

3.2. Difference

The most fundamental difference between the Indonesian and South Korean presidential institutions is that although both adhere to the Presidential system of government, South Korea does not have a Vice President. The Prime Minister replaces the existence of Vice President. The position of the Prime Minister in South Korea differs from that of the Prime Minister in Parliamentary countries, which separates the Functions of the Head of State and Head of Government. But the position of Prime Minister in South Korea is as "Vice President". This is because during its history, at the beginning of the South Korean government, there was the position of Vice President, but the name of the position was replaced with Prime Minister (Möbius, 1966).

Historically, the Indonesian state had a Prime Minister from the end of 1945 to July 5, 1959. In its implementation, although Indonesia had several times experienced changes between the presidential and parliamentary systems of government, in the end, the prime Minister's position was abolished.

In determining the Vice President in Indonesia, the Vice Presidential candidate is chosen together in a pair with the Presidential candidate at the time of the election. While in South Korea, the determination of the Prime Minister is carried out after the President's election results are elected, and then the President appoints the Prime Minister with consideration from the National Assembly (Parliament). But the South Korean Prime Minister's accountability remains to the President, not the National Assembly. Apart from being a Companion and Assistant to the President, the Vice President of the Republic of Indonesia and the Prime Minister of South Korea have the same duty, namely representing the President on a state occasion both at home and abroad or replacing the President if the President dies, or for other reasons written in law.

As for the term of office, in Indonesia, based on Article 7 of the 1945 Constitution, the term of office of the President and Vice President is for 5 (five) years and after that, they can be re-elected for the same term, only for one term. As for South Korea, based on Article 70 of the South Korean Constitution, the President can only serve one term.

The Vice President of Indonesia and the Prime Minister of South Korea are also closely related to the ranks of ministers below. In Indonesia, the Vice President is in charge of carrying out some of the day-to-day government duties, compiling the Cabinet's work agenda, and setting the focus or priority of government activities whose implementation is accountable to the President. While in South Korea, the Prime Minister is more explicit about the regulatory function of his Cabinet, where the Prime Minister serves as the head of the Cabinet and coordinates the Ministries under him. Therefore, it is emphasized that the position of the Ministry in South Korea is responsible to the President in coordination with the Prime Minister so that it is not a pure Prime Minister as Head of Government but remains as an aide to the President in his functions as Head of Government and Head of State.

In order to understand the characteristics of the Indonesian presidential system, comparisons are made with South Korea that can be seen in the following Table 1:

Table 1 Comparasion of Presidential Government System in Indonesia with South Korea			
<i>State</i>	Government System	Characteristics	Disadvantages

<i>Indonesia</i>	Quasi-presidential	The president holds executive power. There is a relationship among the president and the legislative in making laws. The president's responsibilities	There is still a tendency of excess power in the president, the use of prerogative rights is still not professionally oriented but is divided into positions with political parties, the
------------------	--------------------	--	--

		represent the system. role and continue to presidential	government's response to injustice is still weak in society.
--	--	---	--

<p>South Korea</p>	<p>Imperial Presidential</p>	<p>Adhering to a presidential system, led by the president. The president is the head of state, the head of government, and the commander-in-chief of the armed forces of South Korea. He can declare war and submit bills and veto to the legislature (National Assembly).</p> <p>The president can designate the prime minister to help him in his duties, but the National Assembly must first accept the nomination. The prime minister has the authority to propose cabinet ministers for appointment or dismissal.</p> <p>The president's tenure is limited to five years, it is not possible to be re-elected after the term of office expires. Impeachment of is possible on the grounds of a violation</p>	<p>South Korea's constitution gives the president far too much power, which could lead to the office being abuse (Horiuchi & Lee, 2008).</p>
		<p>of the constitution or other laws when carrying out official duties as a president</p>	

Conclusion

The following conclusions were drawn based on the analysis of the Presidential Institute in the Republic of Indonesia and the Republic of South Korea. First, the Presidential Institution in constitutional practice in Indonesia and South Korea has many similarities. Among them, in terms of the position of the President, namely as Head of State as well as Head of Government, the President is equally elected directly by the people, and the structure of the Presidential Institute, especially concerning the ranks of the Cabinet of ministries located under the President as an assistant to the President, both in the function of the President as Head of State and Head of Government.

Second, the difference in presidential institutions in constitutional practices in Indonesia and South Korea is reflected in several things, including First, the title of the President's companion, if in Indonesia the President's companion is the Vice President, while in South Korea, the President is accompanied by the Prime Minister; Second, the term of office of the President and Vice President in Indonesia is for 5 (five) years, and after that can be re-elected for one term. In contrast, the President can only serve one term in South Korea.

Suggestion

In the future, this research topic can be examined in depth, not only concerning presidential institutions but other state institutions between Indonesia and South Korea, as one approach to developing studies in constitutional law.

References (Constantia, 12 Pt)

- Ahn, Kyong Whan. "The Influence of American Constitutionalism on South Korea." *S. Ill. ULJ* 22 (1997): 71.
- Arsil, Fitra. "Teori Sistem Pemerintahan: Pergeseran Konsep Dan Saling Kontribusi Antar Sistem Pemerintahan Di Berbagai Negara." *Depok: PT Raja Grafindo Persada*, 2017.
- Asshiddiqie, Jimly. *Konstitusi Dan Konstitusionalisme Indonesia*. Sinar Grafika, 2021.
- . "Pengantar Ilmu Hukum Tata Negara Jilid II, Jakarta." *Sekretariat Jendral Dan Kepaniteraan MK RI*, 2006.
- Barton, Greg. *Abdurrahman Wahid: Muslim Democrat, Indonesian President*. University of Hawaii Press, 2002.
- Bedeski, Robert. *The Transformation of South Korea: Reform and Reconstitution in the Sixth Republic under Roh Tae Woo, 1987-1992*. Routledge, 2002.
- Bland, Ben. *Man of Contradictions: Joko Widodo and the Struggle to Remake Indonesia*. Penguin Random House Australia, 2021.
- Boer, Mauna. "Hukum Internasional Pengertian Peranan Dan Fungsi Dalam Era Dinamika Global." *Jakarta: PT Alumni*, 2001.

- Bünthe, Marco, and Mark R Thompson. "Perilous Presidentialism in Southeast Asia?," 2018.
- Cha, Victor D. "Politics and Democracy under the Kim Young Sam Government: Something Old, Something New." *Asian Survey* 33, no. 9 (1993): 849–63.
- Chaibong, Hahm. "South Korea's Miraculous Democracy." *Journal of Democracy* 19, no. 3 (2008): 128–42.
- Chandranegara, Ibnu Sina. "Architecture of Indonesia's Checks and Balances." *Constitutional Review* 2, no. 2 (February 2016): 270–91. <https://doi.org/10.31078/consrev226>.
- . "Defining Judicial Independence and Accountability Post Political Transition." *Constitutional Review* 5, no. 2 (2019): 294–329.
- . *Kemerdekaan Kekuasaan Kehakiman Pasca Transisi Politik*. Jakarta: Radjawali Press, 2019.
- Chandranegara, Ibnu Sina, and Syaiful Bakhri. "Designing Presidentialism Cabinet Under a Multiparty System in Indonesia." *International Journal of Innovation, Creativity and Change* 15, no. 2 (2021): 908–22.
- Chandranegara, Ibnu Sina, and Dwi Putri Cahyawati. "Conflict of Interest Prevention Clause in the Constitution: The Study of the Indonesian Constitution." *Heliyon*, 2023.
- Chang, Ha-Joon, and Hong-Jae Park. "An Alternative Perspective on Government Policy towards the Chaebol in Korea: Industrial Policy, Financial Regulations, and Political Democracy." *Competition and Corporate Governance in Korea: Reforming and Restructuring the Chaebol*, 2004, 24–61.
- Friedrich, Carl Joachim. "Constitutional Government and Democracy; Theory and Practice in Europe and America," 1941.
- Goffar, Abdul. "Perbandingan Kekuasaan Presiden Indonesia Setelah Perubahan UUD 1945 Dengan Delapan Negara Maju." *Jakarta: Kencana*, 2009.
- Haggard, Stephan, and Jong-Sung You. "Freedom of Expression in South Korea." *Journal of Contemporary Asia* 45, no. 1 (2015): 167–79.
- Hahm, Chaihark. "Beyond 'Law vs. Politics' in Constitutional Adjudication: Lessons from South Korea." *International Journal of Constitutional Law* 10, no. 1 (2012): 6–34.
- Hanan, Djayadi. *Making Presidentialism Work: Legislative and Executive Interaction in Indonesian Democracy*. The Ohio State University, 2012.
- Harrington, AR. "Presidential Powers Revisited: An Analysis of the Constitutional Powers of the Executive and Legislative Branches Over the Reorganization and Conduct of the Executive Branch." *Willamette Law Review* 44 (2007): 1–53.
- Heckscher, Gunnar. *The Study of Comparative Government and Politics*. Vol. 10. Routledge, 2013.

- Horiuchi, Yusaku, and Seungjoo Lee. "The Presidency, Regionalism, and Distributive Politics in South Korea." *Comparative Political Studies* 41, no. 6 (2008): 861–82.
- Lee, Youngjae. "Law, Politics, and Impeachment: The Impeachment of Roh MooHyun from a Comparative Constitutional Perspective." *The American Journal of Comparative Law* 53, no. 2 (2005): 403–32.
- Mahfud, MD. "Dasar Dan Struktur Ketatanegaraan Indonesia." *Universitas Islam Indonesia Press, Yogyakarta*, 1993.
- Ma'mun, Abdul Rahman, and Meidi Kosandi. "Politik Pendanaan Kampanye Dalam Pemilihan Presiden 2019." *LITERATUS* 2, no. 2 (2020): 162–80.
- Manan, Bagir. *Lembaga Kepresidenan*. FH UII Press, 2006.
- Marpaung, Lintje Anna. "Analisis Yuridis Normatif Perbandingan Prosedur Pemberhentian Presiden Dalam Masa Jabatannya Antara Indonesia Dengan Amerika Serikat Dan Korea Selatan." *Pranata Hukum* 10, no. 2 (2015).
- McIntyre, Angus. *The Indonesian Presidency: The Shift from Personal toward Constitutional Rule*. Rowman & Littlefield, 2005.
- Mobius, J Mark. "The Japan-Korea Normalization Process and Korean AntiAmericanism." *Asian Survey*, 1966, 241–48.
- Mochtar, Zainal Arifin, and Kardiansyah Afkar. "President's Power, Transition, and Good Governance." *Bestuur* 10 (2022): 68–84.
- Moon, Chung-in. "South Korea in 2008: From Crisis to Crisis." *Asian Survey* 49, no. 1 (2009): 120–28.
- Power, Thomas P. "Jokowi's Authoritarian Turn and Indonesia's Democratic Decline." *Bulletin of Indonesian Economic Studies* 54, no. 3 (2018): 307–38.
- Rishan, I. "Risiko Koalisi Gemuk Dalam Sistem Presidensial Di Indonesia." *Jurnal Hukum Ius Quia Iustum* 27, no. 2 (2020): 219–40.
- Shane, PM. "Independent Policymaking and Presidential Power: A Constitutional Analysis." *The George Washington Law Review* 57 (1988): 596–626.
- Strnad, Grazyna. "The Sixth Republic under Roh Taw Woo: The Genesis of South Korean Democracy." *Polish Pol. Sci. YB* 39 (2010): 204.
- Suny, Ismail. *Pergeseran Kekuasaan Eksekutif*. Aksara Baru, 1965.
- Tutik, Titik Triwulan. *Konstruksi Hukum Tata Negara Indonesia Pasca Amandemen UUD 1945*. Prenada Media, 2016.
- Ziegenhain, Patrick. "Consensual Decision-Making and No Rebels: Presidentialism in Indonesia." *Presidents, Unified Government and Legislative Control*, 2021, 145–61.
- . "Deficits of the Indonesian Parliament and Their Impact on the Democratisation Process." *Democratisation in Indonesia after the Fall of Suharto*, Berlin: Logos, 2005, 27–38.