

THE STATUS OF THE EXECUTIVE OFFICE OF THE PRESIDENT ON INDONESIAN CONSTITUTIONAL SYSTEM

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ABSTRACT

The Executive Office of the President of Indonesia (Kantor Staf Presiden or KSP) as one of the President's support institutions raises several questions in the Indonesian constitutional system. The main question is whether the KSP established by Presidential Regulation Number 26 of 2015 contradicts the constitutional system? By using the doctrinal method, this article concludes that the establishment of KSP is unconstitutional because the jurisdiction of the KSP overlaps with that of other institutions, which according to Indonesia's 1945 Constitution and some statutes have to assist the President such as the Vice President, Ministers, and the Presidential Advisory Council. The position of the KSP must be changed to a ministry so that it can perform governmental functions, namely, the enhancement, coordination, and synchronization of government programs.

Keywords: The Executive Office of the President, Indonesian Constitutional System, Presidential Supporting System.

INTRODUCTION

As one of the President's supporting institutions, the Executive Office of the President (Kantor Staf Presiden or KSP) raises several Indonesian constitutional government issues. This is because the KSP, formed by Presidential Regulation (Peraturan Presiden or Press) Number 26 of 2015 on the Office of the Presidential Staff (Press 26/2015), has powers that overlap with other institutions whose duties are also to support the President's work such as the Presidential Advisory Council (Dewan Pertimbangan Presiden or Wantimpres) and the Vice President. More is at stake because many of these institutions with overlapping powers with the KSP are established by rules whose position is higher than Press 26/2015 in the Indonesian legal hierarchy, such as the 1945 Constitution and the Statutes (Cases, 2015).

In substance, the power of the KSP in the Press 26/2015 can be classified into two groups. First is the authority to control, resolve, accelerate and monitor national priority programs. Second is the authority to submit data analysis and strategic information to support the decision-making process. Those two powers are very likely to collide with the authority of the ministers as the President's assistants since Article 17 of the 1945 Constitution states that the ministers assist the President, elaborated further in Law No. 39 (Law, 2008) on the Government Ministry (the Law of Ministry) that mentions various kinds of government affairs as the basis to forming a ministry office. Each of these ministries is indeed implementing national priority

programs by following the President's vision and mission. Therefore, the minister as the leader of the ministry office must implement the national priority programs.

Moreover, Article 14 of the Law of Ministry states the ministries are "*to synchronize and coordinate the Ministry's affairs, the President may form a coordinating Ministry.*" Thus, the authority to control, resolve, accelerate and monitor national priority programs should be sufficient to coordinate ministers' presence. When referring to the President's assistants who can control, resolve, accelerate and monitor national priority programs, there is the Vice President whose position is stronger than the ministers.

With such considerations, some Indonesian constitutional law scholars such as Irman Putra Sidin criticized the establishment of the KSP because, in his view, the function of the KSP can be accommodated by the Vice President. In fact, according to another constitutional law scholar Mustafa Fachri, the KSP has unlimited power to handle strategic issues and, thus, this raises another question of whether the President has control over the KSP or the other way around (Sahbani, 2015).

Apart from that, concerning the duty of the KSP of delivering data analysis and strategic information to support the President's decision-making process, the Vice President and the Ministers also have the same duties. Even Article 16 of the Indonesian 1945 Constitution (the 1945 Constitution) also provides the President's Advisory Council the similar duties with the KSP. So, what is the difference between the KSP and the Wantimpres?

Considering those problems, some people under the Constitutional Enforcement Coalition filed a judicial review petition to the Indonesian Supreme Court requesting that the Supreme Court rule that the Press No. 26/2015 be revoked. The petitioners claim that: first, the regulation contradicts Article 13 of Law No. 12 (Law, 2011) on the Formation of Legislation because the article states that the Presidential Regulation is the implementing legislation of the government regulation while the Press No. 26/2015 does not provide an article that mentions if it is established to implement the government regulation. It only mentions Article 4 (1) of the 1945 Constitution as a basis for its formation. Second, the claimants state that the regulation contradicts the Law of Ministry because this Law limits the number of Ministerial offices to only thirty-four, whereas the existence of the KSP makes the number of Ministerial offices thirty-five (Constitutional Enforcement Coalition, 2015). Unfortunately, in decision number 21P/HUM/2015, the Supreme Court rejects the claimant's petition because the petitioners cannot explain the direct losses suffered due to press No. 26/2015; they are deemed not to have legal standing (Legislation, 2015). Since the Court decision has not reviewed the substance of the Press, this encouraged us to write a more in-depth study of the position of the KSP in the Indonesian constitutional system.

Because Indonesia adopts the presidential system, it does provide the President's freedom to issue policies, including the existence of institutions that assist his works. However, this freedom cannot be interpreted freely because the 1945 Constitution and several laws strictly regulate the President's assistants' status and position. This means that there is a constitutional design regarding presidential assistants that must be arranged not to overlap.

Based on the background that has been described above, we would like to make a more in-depth analysis of the position of the KSP as a President's assistant in the Indonesian constitutional system since there are only a few studies that analyse the position of the KPS in the Indonesian constitutional system (Santika, 2016). Meanwhile, this paper will study the position of the KSP in the Indonesian constitutional system more deeply by comparing it with

the President's supporting system model in the United States, a country hailed by Alan R. Ball and B Guy Peters (2000) as the outstanding model of the presidential form of government.

The Establishment of the KSP within the Indonesian Presidential System

The analysis of the formation of the KSP in Press No. 26/2015 as one of the President's supporting institutions is inseparable from Indonesia's Presidential system's design. One of the fundamental agreements in the Amendment of the 1945 Constitution from 1999 to 2002 is to purify the Indonesian presidential system (Isra, 2010). This constitutional amendment is also aimed at strengthening the principle of checks and balances, which in the original text of the 1945 Constitution is weakly reflected since some articles are characterized as being too "*flexible*," making the President too dominant in the Indonesian constitutional system (People's Consultative Assembly, 2007). Therefore, the formation of the KSP cannot be separated from this mandate.

However, before discussing the President's assistants' design, we need to look at the presidential system's general characteristics as a basis for the initial analysis. Bagir Manan, by looking at the United States model, states that the main characteristic of a pure presidential system is that the president is positioned as the sole executive and is not responsible to the representative body. One of the President's central powers is the administration of general government, in the form of (1) administering the security and public order; (2) carrying out the task of government administration, from correspondence, documentation, and others; (3) administering the public services; and (4) implementing public welfare programs (Manan, 2006). Besides, the President also has a particular task as the head of government, such as becoming the commander in chief of the armed forces; performing foreign relations; and giving awards, titles and honors (Manan, 2006).

It is impossible to exercise such general and special powers by the President alone, so the President needs ministers to help him carry out his duties. That is why one of the main features of the presidential system, according to Jimly Asshiddiqie, is that the President appoints ministers as his subordinates and responsible to him, and, consequently, is not allowed to hold office in parliament (Asshiddiqie, 2008). This is in line with Douglas V. Verney's opinion, which mentions one of the presidential system's characteristics: the President appoints the head of the department (minister) as his subordinate (Verney, 1992). The traits mentioned above emphasize that the President can appoint the ministers who head the state departments or ministries in the presidential system. However, from the characteristics of the presidential system, it is not yet clear how many ministries the President can form, including whether the President can form institutions other than ministries based on the President's policy needs.

By analysing the characteristics of the presidential system, especially regarding the President's power to appoint ministers, this paper will analyse whether the Indonesian presidential system legitimizes the President to create institutions other than ministries to support his function.

Only two presidential assistants look at the Indonesian presidential system's design on the 1945 Constitution before amendment (the original version). First, based on Article 4 (2), there is the Vice President. Second, based on Article 17 (1), there are also the ministers. The Vice President in the conception of Indonesian founders has a central role as the President's primary assistant and a substitute if the President cannot perform his role. During the earliest years of

Indonesia's independence, Vice-President Mohammad Hatta's position was quite significant and was considered a *dwitunggal* (*duumvirate*) with the then President, Soekarno. At that time, even the Vice-President can issue a Decree that significantly changed the Indonesian constitutional system, as it placed the President only as the Head of State while the government's role was carried out by the Prime Minister (Constitutional Court, 2010). That is why the vice president's role at that time is not merely a "*reserve*." Things then differed when President Soeharto, who had been in power for almost 32 years, placed Vice President's position only as a backup for him (Koynja, 2015).

Meanwhile, the original version of the 1945 Constitution positioned the ministers in a separate Chapter from the President, namely Chapter V about the Government Ministry, separate from Chapter III on Executive Power. According to Jimly Asshiddiqie, state ministries' placement in a separate chapter shows the ministers' importance in the Indonesian constitution system because it is the government's actual chief (Legislation, 1945). Therefore, the Elucidation of the original 1945 Constitution stated:

"The government ministers are not ordinary high-ranking officers. Even though the position of the minister depends on the president, they are not ordinary high-ranking officers because it is the ministers who mainly exercise the power of the government (pouvoir executive) in practice (Asshiddiqie, 2006)"

Until this point, the 1945 Constitution before amendment only provided the President with two assisting institutions: the Vice President and the ministers. The original 1945 Constitution also established a separate institution whose duty is to consider the President, namely the Supreme Advisory Council. However, because it was positioned as an independent institution from the President, the DPA was not under the President's direct control. One of the duties was based on Article 16 Paragraph (2) of the 1945 Constitution before amendment that stated that the DPA was "*obliged to answer the questions from the President and has the right to advise the President.*" However, after the amendment, the institution of the DPA was abolished.

After the amendment to the 1945 Constitution, as mentioned earlier, a new institution is established in the government to assist the President, namely Wantimpres. The main difference from the DPA is that it is positioned directly under the President. However, it is similar to the DPA in that its duties were to advise and provide the President with considerations.

Thus, the constitutional design of the 1945 Constitution after amendment recognizes three institutions that can assist the President, namely the Vice President, the ministers, and the Wantimpres. These three institutions have different duties and functions. There is one who acts as the leading assistant and can even serve in place of the President, namely the Vice President. Some are in charge of leading the ministry to perform government administration, namely (the ministers). Furthermore, there is a task with the duty to provide advice and consideration to the President, namely the Wantimpres.

Meanwhile, the Vice President has a different degree of assistance from the other two institutions and is even seen as the same institution as the President due to the following reasons. First, the Vice President is elected by the people, together with the President, in one pair according to Article 6A (1) of the 1945 Constitution. Second, the requirements to serve as Vice-Presidential Candidate are the same as those for Presidential Candidates according to Article 6 (1) of the 1945 Constitution. Third, the vice president's term of office is the same as the President's, which is five years and may subsequently be re-elected, only for one term according to Article 7 of the 1945 Constitution. Fourth, the Vice President can be dismissed in his term of office for the same reason to dismiss the President according to Article 7A of the 1945 Constitution. Furthermore, the Vice-President can also act for and on behalf of the President if

the President dies, resigns, or is unable to conduct his obligations during his term of office according to Article 8 (1) 1945 Constitution.

However, this does not mean that the vice president's position is the same as the President's. The Vice President remains the President's subordinate, but the Vice President's assistance is different from other President's assistants, such as the ministers or Wantimpres. Jimly Asshiddiqie (2008) argues that there are seven specific forms of assistance from the Vice President, namely:

1. Assisting the President in carrying out his/her obligations;
2. Accompanying the President in performing his/her duties;
3. Representing the President in performing a particular task;
4. Representing the President in performing a particular task on behalf of the President;
5. Replacing the President;
6. Performing the Vice Presidential duties independently.

Also, regarding the ministers, after the amendment to the 1945 Constitution, there was no significant change in regulation. There are only additions to Article 17 (4), which states that state ministries' formation and dissolution shall be regulated by law. The addition of that provision was motivated by the incident that had happened before, about the dissolution of two ministries (Ministry of Social Affairs and the Ministry of Youth and Sports) by the elected President Abdurahman Wahid in 2000 (Matalata, 2009). As a result, there were problems in reassigning civil servants from the dissolved ministry and difficulties in continuing the development program previously tasked to the dissolved ministry. After Wahid was impeached in 2001, the two dissolved departments were re-formed by the then President, Megawati. This situation showed a legal uncertainty both for government affairs and the government apparatus (DPR RI, 2009). This momentum made arrangements regarding the formation, change, and dissolution of state ministries to be regulated in law so that the President would not easily dissolve the government ministries. This is an effort to limit the President's power while still giving him full authority to appoint the minister.

In more detail, Article 15 of the Law of Ministry regulates the limitation of the number of ministries to a maximum of 34. The limitation is based on various reasons, including introducing bureaucratic reforms, namely that an efficient and effective bureaucracy must be small in number. The number of 34 ministries is taken from the existing conditions when the Law of Ministry was formed.

Also, Article 3 of the 1945 Constitution stipulates: "*Every minister is in charge of particular affairs in the government,*" while Article 4 (2) of the Law of Ministry states certain functions in a government consisting of:

1. Governmental affairs explicitly expressed in the 1945 Constitution;
2. Governmental affairs whose scope of its job is mentioned in the 1945 Constitution;
3. Governmental affairs in improving, coordinating, and synchronizing the government program.

The three affairs mentioned in the Law of Ministry above show that the President's assistant's institutional design in the form of a state ministry is structured to align with the 1945 Constitution while giving the President the freedom to form the ministries. This discretion is not without limitations because the consideration of efficiency and effectiveness limits it. Thus,

freedom and limitation are inherent in the President's power to determine ministries (including his ministers) as his assistants.

Meanwhile, the Wantimpres is more strictly regulated in Law No. 19 of 2006 on the Wantimpres (Law, 2006), where Article 2 of this law emphasizes that Wantimpres is placed under the President and is responsible to the President. This explanation aimed to distinguish it from the DPA, which had previously been a separate advisory institution to the President. The primary duties and functions of Wantimpres based on Article 4 of the Wantimpres Law are to provide advice and considerations, with or without the President's request. Article 6 of the Wantimpres Law also gives it authority by the President's request to attend the cabinet meetings and government visits. This shows that the Wantimpres can play an active role in giving the President Advice and consideration.

Based on the description above, the 1945 Constitution only recognizes three presidential assistants, the Vice President as the primary assistant, the ministers who lead the ministries and the President's program's technical implementers, and the Wantimpres that gives the President advice and consideration. Meanwhile, the creation of the KSP become problematic, given that the Press 26/2015 gave them enormous power that overlaps with the functions of the President assistants asset in the 1945 Constitution, it can be seen in Article 2 of the Press 26/2015, which states that "*The Office of the Presidential Staff has the task of providing support to the President and Vice President in executing control over national priority programs, political communication, and the management of strategic issues.*" Furthermore, Article 3 of the Press 26/2015 also states that the KSP has a function:

1. To ensure that the national priority programs are implemented consistently with the vision and mission of the President;
2. To comprehensively solve problems about the national priority programs that face obstacles in their implementation;
3. To accelerate the implementation of national priority programs;
4. To monitor the progress of national priority programs;
5. To manage strategic issues;
6. To manage political communication strategies and information dissemination;
7. To deliver data analysis and strategic information to support the decision-making process;
8. To carry out administrative activities of the Presidential office;
9. To implement other functions ordered by the President.

The functions to control and monitor the national priority programs can be performed by the Vice President and not the KSP. While the function of delivering data analysis and strategic information should be performed by the Wantimpres and the ministries specifically established to coordinate the government programs such as the Ministry of National Development Planning. Thus, by analyzing it through the 1945 Constitution, the Wantimpres Law, and the Law of Ministry, it is clear that the formation of the KSP's becomes problematic. It also illustrated that the Press 26/2015 contradicts three hierarchically higher regulations.

Furthermore, there are other problematic issues with the KSP. The Press 26/2015 gives the Chief of the KSP financial rights and other facilities at the ministerial level. To make matters worse, the KSP can even take on the vice president's role as the President's primary assistant. This was confirmed by the statement of Indonesian Cabinet Secretary at the time of the formation of the KSP, who said that "*aspects of control that the KSP will carry out are*

programs that must be implemented across the ministerial level". This emphasizes that the KSP as the President's assistant, can play a role similar to the ministers and even the Vice President.

Apart from that, there is also a suspicion that the KSP was formed to accommodate the current President's political interest. This can be seen from the speed at which this institution was formed, as the KSP was formed by the Press 26/2015 on 24 February 2015 to amend the Press No. 190 the Year 2014. Meanwhile, the Press No. 190 the Year 2014 is established on 31 December 2014, only two months before the President decided to amend it with the Press 26/2015 (Cases, 2014). So, it is suspected that this regulation aimed at giving government positions to the people close to the President, one of which is the former General Luhut Panjaitan-one of the President's campaign team leaders during the 2014 presidential elections (Kompas, 2015).

This shows that the formation of the KSP was not based on legal and constitutional considerations but only to accommodate a political interest. So, it was not surprising if the Press 26/2015 contradicts many hierarchically higher regulations.

Harmonizing the KSP Position in the Indonesian Presidential System

Although the previous section has shown the problems of overlapping authority between the KSP and the President's other assistants according to the 1945 Constitution, it does not mean that forming an institution such as the KSP must be stopped. The formation of the KSP, which was previously named the Presidential Staff Unit by President Joko Widodo, actually follows the model of the Presidential Working Unit to Control and Monitor Development, formerly established by President Susilo Bambang Yudhoyono based on Press Number 54 (Cases, 2009) UKP4 is also a continuation of the Presidential Working Unit to Organize Program and Reformation established by President Susilo Bambang Yudhoyono based on Press Number 17 (Cases, 2006).

When the UKP3R was formed in 2006, the Law of Ministry had not yet been enacted, so the President's assistant's design was not yet regulated in the law. However, the formation of the UKP4 in 2009 became a problem because the Law of Ministry was already issued, so that the Presidential assistants' design had been regulated in terms of its formation and change. Suppose UKP4 or the KSP are considered non-ministerial institutions (because they are not included in government ministries). In that case, they should be under a ministry, considering Article 25 (2) of the Law of Ministry that states: "*Non-ministerial institutions are positioned under the President and responsible to the President through the Coordinating Minister.*" The Maritime Security Institution and the Task Force to Combat Bribery are some examples of the non-ministerial institutions (Cases, 2016). These institutions are responsible to the President through the Coordinating Ministry of Politics, Law, and Security. Thus, by giving the UKSP4 and the KSP the power to evaluate ministries, it is an apparent contradiction to the Law of Ministry that wants to position non-ministerial institutions under the ministry (Cases, 2014).

Article 3 (1) of Press No. 54/2009 on the UKP4 gives the UKP4 the power to assist the President in controlling and supervising the development program. With this power, the functions of the UKP4 are almost similar to the tasks and functions of the KSP, as explained before. However, the only difference between the UKP4 and the KSP according to Article 2 of the Press No. 54/2009 is that the President and the Vice President control the operations of the UKP4, while for KSP, this arrangement absent in the Press No. 26/2015. This condition has led

to various criticisms on the duties and functions of the KSP, as mentioned. However, both UKP4 and KSP have duties and functions that exceed the ministries. The KSP specifically may even overlap with the duties and functions of the Vice President. We assume that they are not following the design of the Presidential assistant system on the 1945 Constitution. Even though the KSP (or other future institutions the President may create having the same duties as the KSP) is formed as a Presidential assistant to monitor, control, and provide advice and considerations, it should be established as a ministry. Thus, it will be compatible with Article 4 (2) c of the Law of Ministry, which is the ministry that deals with government affairs in the context of coordinating and synchronizing government programs.

Reflecting the United States model that adopts a presidential system model, three institutions that assist the President are the White House Office, the Executive Office, and the cabinet (Wilson et al., 2015).

The White House Office was established in 1930 by a recommendation from “*the President’s Commission on Administrative Management*” with the task to provide advice/consideration to the President. The White House Office is linked with the Presidential institution, so its office is located in the Presidential Palace's western wing (the White House) (O’Brien, 2018). The President directly appoints the White House Office staff without confirmation from the Senate, so usually, the White House Office members are friends, colleagues, and supporters of the President in the presidential elections. This office's organizational arrangements are left to the President’s policy, so there may be a difference between one president to another. However, commonly there are three organizational models of the White House Office. First, the pyramid model, used by President Eisenhower, Nixon, Reagan, and George Bush (both senior and junior), where each member of the White House Office must provide a hierarchical report to the Chief of Office, and then, the latter gives the report to the President. Second, the circular structure model used by President Jimmy Carter, where the staff of the White House Office can give a report directly to the President. Third, the ad hoc structure model, which is used by President Clinton, where the White House Office creates a task force, committees, and informal groups that provide advice directly to the President. Some presidents combine these models in practice, such as Roosevelt (Wilson et al., 2015).

Another institution is the Executive Office of the President (EOP), which was established in 1939 as a federal government agency that has to serve the President, such as giving advice and assisting the President to make political, administrative, and management policies issues. However, EOP does not have an office in the White House that distinguishes it from the White House Office. The appointment of the EOP staff also needs confirmation from the Senate. EOP also supervises several major agencies, such as the Office of Management and Budget (OMB), Director of National Intelligence (DNI), Council of Economic Advisers (CEA), Office of Personnel Management (OPM), and Office of the U.S. Trade Representative (Wilson et al., 2015).

Next is the Cabinet, which consists of the ministers who lead departments that traditionally assist the President to perform his governmental duties. There are 15 departments in the United States, including the Department of State, Treasury, Justice, Interior, Agriculture, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation, Energy, Education, Veterans Affairs, and Homeland Security (Wilson et al.,

2015). The heads of departments/ministers are appointed by the President, with confirmation from the Senate.

Apart from the three institutions above, the United States constitutional system also has the President's primary assistant, the Vice President. There are the two main tasks of the Vice President; the first is to leading the Senate deliberations, the second is to become a standby replacement for the President when the President dies or is unable to perform his duties (Relyea, 2010). However, the vice president's position in the United States often raises grievances because people tend to view this position as "*an empty job*" (Wilson et al., 2015). The former United States Vice President John Adams, for example, described it as "the most insignificant office that ever the invention of man contrived or his imagination conceived". At the same time, Thomas Jefferson said in a softer language: "*The second office of the government is honorable and easy; the first is but a splendid misery*" (Relyea, 2010). The Vice President of the United States even has a more significant role to perform legislative function (because he is the leader of the Senate deliberations) rather than performing an executive role (Relyea, 2010).

These conditions changed during World War I in 1919 when President Woodrow Wilson asked Vice President Thomas R. Marshall to lead the cabinet because he was in France to negotiate a peace treaty. After that, the Vice President of the United States of America became the President's primary assistant, including the cabinet's leading. Thus, the Vice President also established the Executive Office of the Vice President as an institution that provides administrative and policy assistance to the Vice President (Relyea, 2010).

Based on the Presidential supporting system design description in the United States, we obtain several lessons. First, the Vice President, aside from being a successor candidate to the President if the President is permanently absent, Vice President is also intensively involved in cabinet meetings to produce President's policies. That means the Vice President is the President's principal partner, not just a standby replacement. Second, the institutions that assist the President of the United States (other than the Vice President) are distinguished between those that directly organize the government (i. e., the cabinet), the institutions that assist based on the President "*political preferences*" and its office are located in the presidential palace (i. e. the White House Office), and institutions that assist based on professional aspects but do not have an office in the presidential palace (i. e. the Executive Office of the President/EOP).

By comparing the Presidential supporting system's design in the United States and Indonesia, we think the KSP in Indonesia should be established by following the EOP model. Although it is not positioned as department level, as already mentioned-as the EOP is an agency that oversees several agencies needed by the President to perform his duties-the KSP can be the leader of several institutions that serve as the provider of government service duties or think tanks. However, KSP still cannot control the ministers in the cabinet because it is a different institution. This is because the authority to control the ministers should remain in the President's hands, with the Vice President as his primary assistant. Even though the KSP has been given the authority to control the ministers, it must be positioned as a separate ministry. This means that the Head of KSP should be placed as a minister.

If that model has been adopted, some ministries that coordinate the government programs should be placed under the KSP. Thus, several ministries, such as the Ministry of Coordination and the Ministry of the National Development Planning must be changed into agencies below the KSP. Not only should that, but the institution of Wantimpres also be reviewed because the KSP can perform its main task and functions. Especially, since in practice, the President often does

not use the position of Wantimpres as the primary adviser for making policies. This point has further been acknowledged by one of the former members of the Wantimpres, Adnan Buyung Nasution. According to Nasution (2015), during the Susilo Bambang Yudhoyono presidency, many advice and suggestions from the Wantimpres were not be heard by the President.

However, the idea to make the KSP have the ability to supervise several agencies that were previously ministries requires further study in the future, mainly through the perspectives of the Law of Ministry because the actions to merge or separate the ministries need to be confirmed by the House of Representative (Dewan Perwakilan Rakyat or DPR). Even in the dissolution of ministries and having to be confirmed by the DPR, in some instances, there is also the need for the approval of the DPR, especially for the dissolution of ministries that focuses on the issue of religious affairs, law, finance, and security.

CONCLUSION

Based on the above analysis, the following can be concluded. First, the formation of KSP based on the Press 26/2015 contradicts the Indonesian constitutional design because the KSP, which was formed by a presidential regulation, actually defeating several institutions that had been formed by the 1945 Constitution and several statutes, such as the Vice President, ministers, and Wantimpres. The function of the KSP to control and give advice makes the authority of the KSP overlap with other institutions assisting the President. So, it shows an ineffective and inefficient side of the Indonesian presidential supporting system. Second, to make the KSP's position in line with the Indonesian constitutional design, the KSP must be made as a separate ministry to carry out one of the ministry's functions in coordinating and synchronizing the government programs.

REFERENCES

- Asshiddiqie, J. (2006). *Development and consolidation of state institutions after the reforms*. Secretariat general and registrar of the constitutional court of the republic of Indonesia, Jakarta.
- Asshiddiqie, J. (2008). *The essences of Indonesian constitutional law after the reforms*. Jakarta: Bhuana popular sciences.
- Ball, A.R., & Peters, B.G. (2000). *Modern politics and government*. Macmillan Press Ltd.
- Cases. (2006). *Presidential decree no 17 on the president's working unit of the organization program and the reformation*.
- Cases. (2009). *Presidential regulation no 54 on the president's working unit in the supervising and controlling the development*.
- Cases. (2014). *Presidential regulation no 178 on the maritime security institution*.
- Cases. (2014). *Presidential regulation no 190 on the presidential staff unit*.
- Cases. (2015). *Presidential regulation no 26 on the executive office of the president*.
- Cases. (2016). *Presidential regulation no 87 on the task force to combating bribery*.
- Constitutional Court. (2010). *Comprehensive manuscript on the amendment of the 1945 constitution 1999-2002*. Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi.
- Constitutional Enforcement Coalition. (2015). *Perpres Staf Kepresidenan Digugat*" (Presidential Regulation on the Executive Office of the President has been Challenged), Media Indonesia, (<http://www.mediaindonesia.com/index.php/news/read/1231/Perpres-stafkepreside-nan-digugat>).
- Isra, S. (2010). *The shift of legislative function and the strengthening of parliamentary legislation model on the Indonesian presidential system*. Rajawali Pers, Jakarta.
- Kompas. (2015). *Jokowi changes the presidential regulation on the executive office of the president*. Retrieved from <http://nasional.kompas.com/read/2015/03/02/22305011/Demi.Luhut.Jokowi.Ubah.Perpres.Terkait.Kantor.Staf.Presiden>

- Koynja, J.J. (2015). The constitutionality of the vice president functions and power after the amendment of the 1945 constitution. *Jatisawara Law Journal*, 30(2), 337-352.
- Law. (2006). *No 19 on the president's advisory council*.
- Law. (2008). *Law no 39 on the government ministry*.
- Law. (2011). *Law no. 12 on the formation of legislation*.
- Legislation. (1945). *The Indonesian constitution*.
- Legislation. (2015). *The Indonesian supreme court decision no. 21p/hum*.
- Manan, B. (2006) *Presidential institution*. Yogyakarta: FH UII Press.
- Matalata, A. (2009). *Speech by the minister of law and human rights, in the secretariat of the pansus of the house of representatives of the republic of Indonesia*. The long road to the establishment of laws of the ministry of state, record traces of the discussion process and the birth of the law on the ministry of state as the DPR RI Initiative Bill, Jakarta.
- Nasution, A.B. (2015). Adnan's style exposing the *wantimpres*. Retrieved from <http://news.metrotvnews.com/peristiwa/JKRj7j5K-gaya-adnan-bongkar-dapur-Wantimpres>
- O'Brien, S.B. (2018). *Why presidential speech locations matter, analysing speechmaking from Truman to Obama*. Palgrave Macmillan.
- People's Consultative Assembly. (2007). *A guidelines to socializes the 1945 constitution, based on the chapter, article, and the paragraph*. Sekretariat Jenderal, Jakarta.
- Relyea, H.C. (2008). *The executive office of the president: An historical overview*. Congressional Research Services, CRS Report for Congress.
- Relyea, H.C. (2010). The executive office of the vice president: Constitutional and legal considerations. *Presidential Studies Quarterly*, 40(2), 327-341.
- Sahbani, A. (2015). An academician criticizes the executive office of the president. *Online Law*. Retrieved from <http://www.hukumonline.com/berita/baca/lt552ba3f9b7d85/akademisi-ikut-persoalkan-kantor-staf-kepresidenan>
- Santika, N.L.P. (2016). Competing authority between the executive office of the president and the coordinator ministry. *Journal of Magister Law of Udayana*, 5(3), 591-604.
- Verney, D.V. (1992). Parliamentary government and presidential government. In A. Lijphart (Eds.), *Parliamentary Versus Presidential Government*, Oxford University Press.
- Wilson, J.Q., Dilulio, J.J., & Meena, B. (2015). *American government, institutions & politics*. Cengage Learning, Stanford.