

Framework of Government of the Republic of Indonesia

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Sovereignty and MPR

- ❑ Sovereignty belongs to the people and it is implemented in accordance with the Constitution.
- ❑ Sovereignty is no longer fully exercised by MPR: The so-called “MPR system” according to the original constitution ceased to apply.
- ❑ MPR is an assembly consisting of fully-elected members of the House of Representatives (DPR, *Dewan Perwakilan Rakyat*) and House of Regional-Provincial Representatives (DPD, *Dewan Perwakilan Daerah*).
- ❑ MPR remains as a separate assembly and (super-) parliament with specific functions: (1). As a constituent assembly, to amend the constitution; (2). Removing President and Vice-President based on well grounded impeachment charge initiated by DPR; (3). Swearing in the elected President and Vice-President.
- ❑ Presidential system: MPR does not elect or appoint President and Vice President; President is not accountable to MPR and there is no GBHN to instructs President.
- ❑ Political accountability of the President is basically to the people (s/he may or may not be re-elected) and to the Constitution (his policy is based on the guidelines provided in the constitution).

Legislature: Asymmetric bicameralism

- ❑ There is a two-chamber legislature: DPR and DPD
- ❑ DPR: House of Representatives with membership entirely elected by the people from party-list nomination according to PR system of election (PR: proportional representation).
- ❑ DPR is a full legislature holding many powerful functions: legislation, budgeting, and oversight; It also holds power to give consideration on the appointment of ambassadors, to select all justices of the Supreme Court and 3-justice of the Constitutional Court.
- ❑ DPD: Council of Regional-Provincial Representatives with membership entirely elected by the people from multi-member district (i.e. provincial) electoral system.
- ❑ DPD has powers to, e.g.: (1). Initiate bills on center-region relationship; (2). Provide consideration to DPR on national budget items of taxation, education and religion; (3). Send consideration in overseeing the executive, especially with regard to the policy implementation on center-region relation, administration of economic resources, state budget, taxation, education and religion.
- ❑ DPD has no decision making power: Asymmetric and soft bicameralism.

Legislation

- ❑ A bill may be proposed by President, DPR or DPD;
- ❑ Strikingly enough, however, the executive and the legislature merge in legislation since any law must be deliberated and consented by both the DPR and the President. It is a parliamentary-type of legislation.
- ❑ President has no veto power, although he may defer the promulgation of any agreed bill for at most 30 days. Any agreed bill becomes law subsequently.
- ❑ National legislation may be reviewed by the Constitutional Court and declared unconstitutional, therefore becomes null and void (or having no legal efficacy). Democracy is being checked by the judiciary based on the doctrine of constitutional supremacy.

Judiciary

- ❑ There is independent judiciary with dual-structure, consisting of a Supreme Court (*Mahkamah Agung*) and a Constitutional Court (*Mahkamah Konstitusi*);
- ❑ SC justices are selected by DPR from short-listed candidates having been selected by the Judicial Commission (*Komisi Yudisial*). JC members are appointed by President with the approval of the DPR.
- ❑ CC's 9-justice are selected by President, DPR and MA (three from each state organs);
- ❑ SC is the court of justice with four jurisdictions (i.e. general, administrative, religious, and military jurisdictions). SC is also granted the power to review legislations below statutes;
- ❑ CC is the court of (constitutional) law with final and binding decision having powers of: judicial review of legislation, resolving disputes between state organs (intergovernmental affairs), deciding electoral disputes, hearing the claim for the dissolution of political parties, and issue a ruling on presidential impeachment charge brought by DPR;
- ❑ A judicial commission (*Komisi Yudisial*) is mandated to guard and implement the honor, dignity and conduct of judges. The commission deals with ethical issues. It should become an institutional checks on the judiciary.

Presidential executive

- ❑ President is both chief executive and head of state;
- ❑ Presidency is a single chief executive: President and Vice President are elected in a single election ticket;
- ❑ President and VP are directly elected by the people through two-round FPTP election system;
- ❑ President holds his office for a fixed term of 5-year, and can be re-elected for another term. This helps stabilize his/her administration;
- ❑ President and VP may only be removed from office by MPR, based on impeachment articles and procedure initiated by the DPR. It involves the Constitutional Court to decide the validity of the charge. Parliamentary vote of no-confidence no longer becomes constitutional ground for presidential removal;

Center-region relation: A unitary state with political decentralization

- ❑ Indonesia is a unitary state with asymmetric center-region relationship, in the sense that the Constitution allows special arrangement between center and regions.
- ❑ Central government holds power over the entire nation, but regions are granted autonomy as provided in the Constitution and the implementing laws: e.g. The Constitution mandates the election of local councils and local executives; the Law on Local Government 2004 grants regional autonomies except on foreign policy, defense and security issues, the judicial system, monetary and fiscal policies, and religious affairs.
- ❑ Regions are established by law and subject to national legislations, hold no original powers, do not give consent to nor initiate constitutional amendment. Such characteristics do not qualify regions as states in federal system.

Human rights protection

- ❑ Duties of state (28I(4) UUD 1945): to protect, respect, enforce and fulfill human rights.
- ❑ Main ideas of right: dignity, freedom, equality, solidarity.
- ❑ 28I(1) UUD 1945: *non-derogable rights*.
- ❑ 28J(2) UUD 1945: limitation of rights.
- ❑ 28J(1) UUD 1945: reciprocal principle to respect the rights of others;
- ❑ Gross violations of human rights (genocide and crimes against humanity) are tried by HR Court: current abuses by 'regular' HR Court (Jakarta Pusat, Surabaya, Medan, Makasar) past abuses (prior to HR Law of 2000) are tried by *Ad hoc* HR Court (established by President on DPR recommendation).