



Reconstrues Legislation: The Effectiveness of Presidential Veto in Government System un Indonesia Based on the State of The Republic of Indonesia 1945 Constitution

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Abstract: *In the Indonesian Government System, the president is the supreme authority of the government under the 1945 Constitution of the State of the Republic of Indonesia. After 4 (four) amendments to the 1945 Constitution, the presidential power experienced a shift in function and role as a result of the magnitude of the flow of political interests, so that almost all the power of the president on the authority of legislation in the 1945 Constitution of the 1945 Constitution largely lacked a permanent legal power and formal juridical. We know that the substance of the authority of presidential legislation if based on the presidential system of government does not exist and is not given real space.*

Consequently, the president as the mandate of the people's sovereignty must be able to control the system of government even though the fact that there is dominance of the legislative institution to the presidential institution together with the cabinet that is the authority of presidential legislation in the constitution of the state 1945 Constitution has no law forces so that the wheel of development does not run normally -target is planned. The hope is that our country's constitution must be able to guarantee the principle of balance of authority and mutual supervision that governs the legislation of the president against the product of the law. Writing methodology based on the literature review contained in books, papers, newspapers, scientific articles, journals, and legislation as the object under study. The results of the study and analysis conclude: (1) The Veto of the President is not effective when reviewed in the constitutional document of the 1945 Constitution of the Republic of Indonesia; (2) The inconsistency of the Presidential Government System of Indonesia with the contents of the articles of the 1945 Constitution of the Republic of Indonesia; (3) it is recommended that the fifth amendment of the 1945 Constitution of the Republic of Indonesia and the revision of Law Number 12 Year 2011 on the Establishment of Legislation to be followed up by MPR RI and the President; (4) The Presidential Regulation in Lieu of Law, according to the authors must be absolutely given to the President without the intervention of the House of Representatives

because the President as Head of State and has the Highest Government Authority under the 1945 Constitution between State Institutions.

Keyword: *Presidential Veto; Presidential Governance System; 1945 Constitution of the Republic of Indonesia; principle checks and balances*

INTRODUCTION

According to Carl J. Friedrich in his book *Constitutional Government and Democracy*, constitutionalism implies that governance organized.¹ Therefore, the issues that are considered important and become the spirit in every constitution are the regulation of the supervision or limitation on the power of government.² The enactment of constitutionalism in the constitution, at least need to adopt several things: (1) Separation of Power System or Distribution of Power accompanied by checks and balances; (2) an independent and independent Judicial Power System, primarily empowering administrative courts; (3) Recognition of civil and political rights of citizens, particularly in relation to elections and elections; (4) Restrictions on the period of public office in the state; (5) Providing constitutional complaint authority to the Constitutional Court.

Before further discussing what and how the PRESIDENT VETO RIGHTS are in this paper, we must have the same perspectives and answers as to the plan for the affirmation of the presidential government system in our country.

The question is, is the serious and consistent institution of our power (PARLIAMENT, PRESIDENT, and STATE LEGAL INSTITUTION) return the substance of the PRESIDENTIAL GOVERNMENT SYSTEM in Indonesia? This question must be answered by the 3 (trio actor) of the country in control of this nation. Alternatively, the legislative rights of the House of Representatives as the holder of legislative power in Indonesia. Consequently, all the products of legislation are related to the decision and there is the intervention of the president and his cabinet. That is, immediately make a revision or total amendment to the 1945 Constitution of the Republic of Indonesia and the products of the Act of the substantial involvement of the president in the legislation. (assuming, only to the

¹ M. Laica Marzuki, "*Konstitusi dan Konstitusionalisme*", *Jurnal Konstitusi*, Vol 7, No. 4, 2010, p. 4.

² Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, Jakarta: Sinar Grafika, 2010. p. 18.

1945 Constitution of the Republic of Indonesia and the product of the Act). The second answer is that if the trio of state actors are inconsistent and serious, then collective awareness is required to consider the equal rights and obligations of good citizens, meaning that we return to the President and the House of Representatives together are elected by the 1945 Constitution of the Republic of Indonesia and on all the products of legislation in our country. The assumption, that the purpose of this paper is related to the PRESIDENT VETO RIGHTS in the 1945 Constitution of the Republic of Indonesia.

The 1945 Constitution of the Republic of Indonesia (UUD NRI) is still far from the spirit of constitutionalism itself, although in its journey has changed four times, the first in 1999, the second of 2000, the third of 2001, and the fourth change in 2002. Even the most unfortunate is in the practice of state administration the enactment of the 1945 Constitution of the Republic of Indonesia precisely brought the state of Indonesia into political authoritarianism and ignored the principles of the rule of law.³

With the result of that change, it gives a reduced impact of the presidential system adopted by the state of Indonesia. Legislative heavy can be seen from several articles in the 1945 Constitution of the Republic of Indonesia which indicates the power of the House is too dominant, among others in Article 11 paragraph (1) and (2), Article 13, Article 14 paragraph (2), Article 20 paragraph (1), and Article 20 paragraph (5).

In other contexts, the 1945 Constitution also provides the legislative authority to the President as mandated by Article 20 Paragraph (2) which reads "Every draft law is discussed by DPR and President for mutual agreement". This is certainly not relevant to the presidential system. Although it cannot be denied that the presidential system in the 1945 Constitution of the Republic of Indonesia is purer, in exercising its authority, the Constitution does not specify when the President is positioned as Head of State and when it is positioned as Head of Government. The Constitution only specifies the position of President as Head of Government (Article 4 paragraph 1), does not mention the position of President as Head of State. Furthermore, the position of the President as Head of State is mandated by several constitutional rights regulated in the 1945 Constitution of the Republic of Indonesia:

³ Majelis Permusyawaratan Rakyat (2004). *Buku I: Naskah Akademik Kajian Komprehensif Komisi Konstitusi tentang Perubahan Undang-undang Dasar Negara Republik Indonesia Tahun 1945*, Jakarta: MPR RI, 2004, p.12.

1. President as Head of State holds the highest authority over the Army, Navy, and Air Force (Article 10 paragraph (1)).
2. President as Head of State with the approval of the People's Legislative Assembly declares war, making peace, and agreements with other countries (Article 11 paragraph (1))
3. President as Head of State in making other international agreements that have broad and fundamental consequences for the life of the people related to the financial burden of the state, and/or require the amendment or the formation of the law shall be the approval of the People's Legislative Assembly (Article 11 paragraph (2)).
4. President as Head of State declares a state of hazard whose terms and consequences are established by law (Article 12).
5. President as Head of State grants pardons, amnesty, abolition, and rehabilitation with due consideration of the Supreme Court (Article 14 paragraphs 1 and 2).
6. President as Head of State gives a title, service mark, and other honor signs regulated by law (Article 15).

The above description explains that the Indonesian Constitution provides the mandate to make laws or legislation to the two institutions, namely the authority of the legislation of the executive body regulated in Article 5 and Article 20 paragraph (2) of the 1945 Constitution of 1945, and the legislative authority of the legislative body is regulated in Article 20 paragraph (1) and Article 20A Paragraph (1) of the 1945 Constitution of the Republic of Indonesia. The legislative authority of the article provides certainty that no product of the Law is born in Indonesia without the involvement of the two institutions.

The following are the legislative authorities which are the authority of the President regulated in the 1945 Constitution of the Republic of Indonesia.

1. President is entitled to submit a bill to the People's Legislative Assembly (First Amendment Article 5 paragraph (1))
2. President establishes a government regulation to enforce legislation properly (Article 5 paragraph (2)).
3. In the case of crucial matters of force, the President shall be entitled to stipulate a substitute government regulation (Perppu). (Article 22 paragraph (1)).

However, the authority of both state institutions (president and parliament), if we examine more deeply in the articles of the 1945 Constitution of the Republic of Indonesia, it is clearly identified and firmly stated that our constitution on 4 (four) amendments gives unequal authority to both institutions. The legislative authority of the president as the holder of the highest governmental power in our country is not legally binding and the authority of the presidential legislation is only "embedded" stamped (stamp seal of attestation) on every product of the Constitution of the State of the Republic of Indonesia Year 1945. The question arises, presidential (veto) president against the authority of legislation in the 1945 Constitution of the Republic of Indonesia?

The author of the House of Representatives is the author of the House of Representatives. This is the right to express rejection or disagreement with a Draft Law (Bill) and or on the matter of a Draft Law.⁴ In principle, the constitutional amendment to the Reformation Era (1999-2002) gave rise to a new norm that the president had been granted the right to use "a kind of veto" to declare a rejection of the bill discussed in the House court. Of course, the president's "veto" must be based on the philosophical, juridical and sociological considerations, which the president possesses, for it is ultimately responsible for the implementation of the law as a law-applying institution. If the president considers that the draft law to be approved into law may pose a danger and cause difficulties in its implementation including state security issues, the president can either refuse or disagree. The concept of the 1945 Constitution of the Republic of Indonesia, the full accountability of the president. Given the importance of this, institutionally, "responsibility" should not be delegated to anyone.

This "veto" is always a debate in Indonesian state administration practice with the views and considerations, because the veto is often viewed from the political side. On this basis, this paper is interested in discussing the rearrangement of legislation related to Presidential Veto in Government Construction in Indonesia Based on the State of the Republic of Indonesia 1945 Constitution.

Based on the basic ideas above, this paper tries to elaborate into several questions as follows:

⁴ Quoted from <http://www.KamusBahasaIndonesia.org>, accessed on October 10, 2017, at 21.33 WITA.

1. Is it necessary to rearrange the legislation on the effectiveness of the President's Veto Rights in Governmental System in Indonesia based on the 1945 Constitution of the Republic of Indonesia?
2. How does the President Veto influence the government through the principle of checks and balances?

METHOD

The methodology used in this paper is to elaborate sources of data support based on observations, literature review contained in books, papers, newspapers, scientific articles, journals, and legislation such as (draft of the 1945 Constitution of the Republic of Indonesia and the Law Number 12 Year 2011) as the object studied, so the authors are interested and make the title "The Effectiveness of President Veto Rights in Governmental System in Indonesia Based on the 1945 Constitution of the Republic of Indonesia".

ANALYSIS AND DISCUSSION

Veto

The first amendment process until the fourth of the 1945 Constitution of the Republic of Indonesia has given birth to a new norm and a new mechanism in the formation of laws. If examined in academic jurisdiction, the final formulation in Article 5 and Article 20 of the 1945 Constitution of the Republic of Indonesia, after the amendment, whether consciously or unambiguously the formulation of the articles consisting of 5 (five) verses "materially and juridically" gives "veto" to the president. Simply put, "Veto" comes from the Latin word which means I forbid or I refuse. This is consistent with the Great Indonesian Dictionary which means that the word "veto" is the constitutional right of the president/ruler/government holder to prevent, declare, reject, or annul the decision, annul the absolute. While vetoing has the meaning of veto power to cancel/refuse decision. While the veto is the right to annul the decisions, decrees, draft regulations and draft laws or resolutions.⁵

The state of Indonesia's veto is the right to expressly refuse or disagree with any Draft Act (RUU) or on the matter of a Draft Law. The existence of a veto becomes a powerful weapon possessed by the president when it does not agree to a Draft Law (Draft) proposed

⁵ Quoted from <http://www.KamusBahasaIndonesia.org>, accessed on October 10, 2017 at 21.15 WITA.

by the House of Representatives. Furthermore, Patrialis Akbar mentioned that there is no veto in the Indonesian state administration system, but that there is only the President's Constitutional Right.⁶

Presidential Government System

The direct legitimacy of the people sometimes raises the sectoral ego of the legislature against the executive because Indonesia does not adhere to the theory of *trias politica* purely in the constitution and is not affirmed the system of government used.

As said by Jimly Asshiddiqie:

"The Indonesian system of government is intended as a presidential system. Both in explanation and in the general sense. However, there is overlapping germination and provision between the idealized Presidency system and the elements of the parliamentary system."⁷

According to Jimly Asshiddiqie in his book mentions that the presidential government system has nine characters as follows: (1) There is a clear separation of powers between the branch of executive and legislative power; (2) The President is a sole executive. The executive power of the president is not divided and there is only the president and vice president. (3) The head of government is at the same time the head of state or otherwise the head of state is the head of government: (4) the President appoints ministers as petty or as responsible subordinates to him; (5) Members of the People's Legislative Assembly shall not occupy executive positions and vice versa; (6) The President cannot dissolve or force parliament; (7) If the parliamentary system applies the principle of parliamentary supremacy, then in principle presidential principle applies supremacy of the constitution. Therefore, the executive government is accountable to the constitution; (8) The executive is directly responsible to the sovereign; (9) The power is spread centrally as in a parliamentary system centered on parliament.⁸ Logically, the application of presidential government system in Indonesia as far as possible can actualize nine character of presidential government system above.

⁶ Sri Wiyanti, "Adakah Hak Veto Presiden dalam Sistem Ketatanegaraan?", Merdeka.com. <https://www.merdeka.com/politik/adakah-hak-veto-presiden-dalam-sistem-ketatanegaraan.html>, accessed on October 10, 2017 at 21.33 WITA

⁷ Jimly Asshiddiqie, *Op.Cit.*, p. 170.

⁸ *Ibid*, p. 173.

The reality that occurs, based on the character traits of the first there is no clear separation of powers between the branches of executive and legislative power.

There is a clear separation between executive and legislative powers, in the presidential government system. With a separate relationship pattern of presidential government system there are at least four basic advantages: firstly, directly elected, the power of the president becomes more legitimate because of the direct mandate of the electorate. While in the parliamentary system of Prime Minister in lift through appointment. Both separations between state institutions are primarily between executive power holders and legislative power holders. With such separation between state institutions can supervise other institutions to prevent the accumulation and abuse of power. Three with a central position in the ranks of the president's executive can take a decisive strategic policy quickly and appropriately. Four with a fixed term of office the position of the president is much more stable than the substituted prime minister.⁹

Effectiveness of the President's Veto Rights in the Governance System in Indonesia Based on the 1945 Constitution of the Republic of Indonesia

The process of legislation according to the formulation of the 1945 Constitution of 1945 result of amendment is done by two institutions together, namely DPR and President. Article 20 Paragraph (1) of the 1945 Constitution states that "the People's Legislative Assembly has the power to form Law." Article 5 Paragraph (1) states that "the President has the right to submit a bill to the House of Representatives." And Article 20 Paragraph 2) states that "Every Draft Law is discussed by the House of Representatives and the President for mutual consent".

Through the three Articles, it can be implicitly implied that both the President and the House of Representatives basically have the right to reject a draft law that is not in line with expectations. This right is then familiarly known as the "veto" in the legislation process. This is evident from the phrase "get the joint approval" in Article 20 paragraph (2) of the 1945 Constitution. The purpose of Article 20 paragraph (2) is, the House of Representatives in proposing the bill to be discussed together must get presidential approval and vice president in proposing the bill to be discussed together must get approval from the House. This means that both have the right to veto to reject/not accept

⁹ Jimly Asshiddiqie, *Hukum Tata Negara Darurat*, Jakarta: Sinar Grafika, 2007, p. 52-54.

the bill. Furthermore, in article 20 paragraph (4) the president passes a draft law that has been mutually agreed to become law. The meaning of this article gives space to the president not to pass the bill into law. What if this condition happens? in this article there is a presidential veto to reject a draft law.

The "Veto Presidential Rights" is no longer valid because in Article 20 Paragraph (5) of the 1945 Constitution of the Republic of Indonesia, which reads that in the case of a mutually agreed bill the president has not been approved by 30 is lawful and must be enacted. In response, if the Presidential veto is placed only in the process of ratification of the draft law, of course the right becomes an existing thing but as if nothing. Why, because, the conception of "endorsement" as contained in Article 20 paragraph (5) of the 1945 Constitution of the Republic of Indonesia is only administrative.¹⁰ That is, without any approval from the President any draft law will remain a law after the time limit which has been determined (30 days).

Has the President's Veto Rights been used in Indonesia?

To note that the presidential veto has been used in the state administration system in Indonesia. Evidently there are several laws that are clearly fixed in the legislature even without the president's approval and the law is still valid in Indonesia, such as:

1. Constitution No. 32 Year 2002 on Broadcasting, there has been considerable resistance by most broadcasters.
2. Constitution 25 of 2002 on Riau Islands, there has been pro and contra between the people of Riau itself.
3. Constitution No. 18 of 2003 on Profession Advocates, there has been a very complicated debate in which sharia scholars are allowed to become Advocates.
4. Constitution No. 17 Year 2003 on State Finance, there has been a national planning agency with the Ministry of Finance.
5. Election Bill (Law No 22/2014 on the Election of Governors, Regents and Mayors), which has been approved in the plenary session of the House of Representatives. Although the president refuses to sign and endorse it, the legislation product will remain in effect. Finally, it was approved on September 26, 2014 and ratified in early October 2014. At the same time, the President

¹⁰ Hanta Yuda, *Presidensialisme Setengah Hati*, Jakarta: PT Gramedia Pustaka Utama, 2010, p. 259.

made a substitute government regulation (government regulation in lieu of law) to revoke the law. Again, however, the fate of the government regulation in lieu of law depends on the approval of the House of Representatives. If the House of Representatives does not approve it, then the government regulation in lieu of law must be revoked, in accordance with Article 22 paragraph (2) and (3) of the 1945 Constitution of the Republic of Indonesia

6. Another case as a bad precedent, namely when discussing Free Trade Zone Free Trade Zone (FTZ) Batam. President Megawati Soekarnoputri was not pleased with the formulation of several articles in the House's initiative bill. Tail, Minister of Law and Human Rights Yusril Ihza Mahendra and several ministers withdrew from discussions with the House. "If the House of Representatives agrees, but the president does not, the bill cannot be passed into law," Yusril said at the time.¹¹
7. The veto of the president has been used in the days of President Sukarno and Suharto and it is effective. For example, the July 5 presidential decree, broadcasting law, hazard law, both laws were rejected by the president and proven to be unenforceable.

The above case exemplifies the impasse of interrupted communication between the executive and the legislature in the formation of the law, consequently the President's veto is like a toothless tiger, has no force or any implication. Therefore, to avoid such cases, the constitutional right (veto) of the president's rejection should be placed as appropriate.

For us to reflect together, there are several laws promulgated without the approval and endorsement of the President, how is this when viewed from the science of legislation?

Judging from the science of legislation, in fact we can not only see from Article 20 paragraph (5) because in fact here is something that does not sync between Article 5 paragraph (1) and Article 20 of the 1945 Constitution of the Republic of Indonesia. Why? Prior to the amendment, Article 5 said the President held the power of forming the law with the approval of Parliament. But now article 5 paragraph (1) President "entitled" to

¹¹ Republika, "Jurus Veto untuk Presiden Baru", Republika, <https://www.republika.co.id/berita/koran/teraju/14/10/14/ndfotp-jurus-veto-untuk-presiden-baru>, accessed on Wednesday, 15 October 2014, 14:00 WITA.

submit the bill. So, the President is not mandatory, just entitled. It means that if the president does not want any law, the president does not propose the bill. In the first and second amendments the authority was delegated to the Parliament. If we look at Article 20 paragraph (1) the House holds the power to form Law. Means that must form the Act is the House. But in subsequent verses, Article 20 paragraph (2) of each bill is discussed by the Parliament and the President for mutual consent. Logically, if the proposed bill is the House of Representatives, why should be approved also by the president. this is not consistent name. Except on the contrary, the bill is proposed by the president (executive), it is only discussed and approved jointly by the House and the President.

Then, again biased after Article 20 paragraph (4) the President passes a bill that has been approved together to become the Act. Means that to become the Act because of the approval of the President and the endorsement is realized with the signature of the authorized institution/official. So, here then we become confused and vague interpret the substance, which became the legislative body of the President or the House of Representatives? Since Article 20 Paragraph (4) is clear, the right to legalize to become a Law is the President. Furthermore, if we relate to Article 20 paragraph (5), then here is the contradiction that the President who must pass this law is then given the authority not to legalize. Because it is written in paragraph (5), in the case of a bill that has been approved together is not authorized by the President within 30 days since the bill is approved, the bill is lawful and must be invited.

The legal language should not provide multiple interpretations, as it will lead to different understandings and actions. Moreover, this article is written in the Constitution of the Republic of Indonesia Year 1945 as the constitutional basis of the state. As the word mandatory in paragraph (5), means that if there are no sanctions. But, what sanctions? If there are additional subsequent verses that affirm sanctions, it is permissible. That is, the phrase "The bill is legitimately into law and must be enacted". The sentence should be "and enacted", the word must be omitted which means it must be enacted and must be done by the president not as a liability which means there are sanctions in it.

Thus, the President may use the authority, Article 20 Paragraph (4) does say that the president must pass a bill to become a law, but paragraph (5) the president is also obliged to ratify the bill even if the president refuses to approve the bill. Article 20 paragraph (5) is an underdeveloped verse.

In legal language, "**Promulgation**" is placing a law that has been approved by the President in a state sheet. Jimly Asshiddiqie said that, "the enactment of a law that is not signed by the president is a law enacted by an unofficial authority (onbevoegheid)".¹²

Then, in Article 85 of Law Number 12 Year 2011 on the establishment of legislation that must be promulgated is the Minister of Justice and Human Rights. If so, what is the position of the minister against the president? The President has clearly rejected the (veto) right to enact, the time of his minister dare to enact, the answer is because in the order of the other laws, if so that can govern the minister there are two namely, the president and the law. So, if the verse behind actually disregards the previous verse. It means that the president is only authorized to give the seal/signature of validation only (seal holders), it's going to be weird but real. But it must be remembered that within the organization and management there is also law. Provision is organization and management law says, "Authority can be delegated, but responsibility cannot be delegated."

Therefore, the language and sentence contained in the Bill and the law must be clear and measurable and well understood by all the people because it is general and binding (legitimate and enacted).

To note, in the legislation system adopted in Indonesia after the amendment of the 1945 Constitution of the Republic of Indonesia Year 1945 the president's opportunity to reject the draft law can only be done at the stage of deliberation and/or at least in the phrase of collective agreement to the draft law. So, if the president uses a veto at the time of mutual agreement between the government (the minister assigned by the president) and the DPR it can be said to be too late because the presidential veto becomes worthless (see Article 20 paragraph (5) of the 1945 Constitution of the Republic of Indonesia). Then, in this article when the president does not authorize the draft of the law into law, it is certain that the president still does not violate Indonesian law or constitution. The implication is that the president cannot implement the law so that the consequences of substance and the meaning of the law have no meaning because it is imposed and may even create an institutional and even personal conflict of interest between the legislature and the executive. Under these circumstances, the question arises; ***how is the effectiveness of the presidential veto or constitutional right to the Indonesian legislation?***

¹² Jimly Asshiddiqie, *Perihal Undang-Undang di Indonesia*, Jakarta: Rajawali Press, 2006, p. 305.

The veto is said to be effective when, the president's veto (rejection) when it is used is absolutely applicable and not enforced (revoked/removed). But the current veto in Indonesia has proved ineffective because of what the president's veto remains, although there will be or no material review through judicial review by the Constitutional Court. This situation seems to be confirmed by the president with his will and the House of Representatives with his will. Indonesia as a law state, it is clear that the articles of the 1945 Constitution of the Republic of Indonesia in 1945 related to the "veto" (constitutional rights) of the President and the House of Representatives need to be reviewed for improvement so as not to cause errors in legal interpretation and implementation so that the principle of checks and balances against state institutions can be effectively implemented.

Here are some articles in the 1945 Constitution of the Republic of Indonesia and Law Number 12 Year 2011 on the Establishment of Legislation Regulation that explains the legislative authority of the DPR and the President for a review (revision/deletion) to meet the principles of checks and balances in Indonesia.

The authority of the Presidential legislation regulated in the 1945 Constitution of the State of the Republic of Indonesia is contained in Article 22 Paragraph (1) "In the case of a compelling inclination, the President shall be entitled to enact a law enforcement regulation (government regulation in lieu of law)". The legal juridical nature of this government regulation in lieu of law is equivalent/equal to the law.

In addition, the authority of presidential legislation in Law No. 12 Year 2011 on the Establishment of the Laws and Regulations in Article 1 Paragraph (4), Article 11, Article 23 Paragraph (2), Article 43 Paragraph (1), Article 49, Article 50, Article 51, Article 52, Article 53, Article 65 paragraph (1), Article 68 paragraph (2 and 3), Article 69 paragraph (1 point c) and paragraph (3), Article 71, Article 72, Article 73, Article 82 point a, and special Article 85 relating to ministerial authority of LAW and HAM as an authorized official in the product of legislation in Indonesia. Thus only with some legislative products (legislation) that should be the authority of the president as head of state and head of government gets the House of Representatives intervention on the implementation. Among them are the 1945 Constitution Article 11 paragraph (1), Article 13 paragraph (2) and (3), Article 14 paragraph (2), Article 15, Article 23 paragraph (2) and (3), Article 23e paragraph (2)) and (3), Article 23f paragraph (1), Article 24a paragraph (3), Article 24b paragraph (3), Article 24c paragraph (2) and (3).

Related to the President's "Veto", here are 5 (five) proposals for improvement, either amendment (Amendment in the 1945 Constitution of the Republic of Indonesia) or draft a new Law, or revise Law No. 12 of 2011 on Legal Establishment - Additions and/or other laws so that they are then formulated into articles in the idea of a re-amendment.

First; autonomy and absolute, specifically the authority of the Presidential legislation regulated in the 1945 Constitution of the State of the Republic of Indonesia is contained in Article 22 paragraph (1) "In the case of the pressing inclination, the President shall have the right to enact legislative regulation (government regulation in lieu of law)". The legal juridical nature of this government regulation in lieu of law is equivalent/equal to the law. It is very ineffective and does not respect even the inhuman rights of the presidential (veto) right of the president if the Parliament is granted the right to revoke the Draft Law of the President in Lieu of Law. **It may be revoked** if the charge of the government regulation in lieu of law is more to fulfill the political interests of officials/personal/group, political party, and/or state institution/body/commission (potential for corruption collusion nepotism), and **should not be revoked**, provided that the charges in the legislation concern the interests of the people or the life of the people fundamentally, the security of the state, human rights, politics and international relations, the constitutional rights of the judiciary (The Constitutional Assembly, Judicial Commission, Supreme Court, etc.) because the judicial power must be independent and absolutely not intersect with the interests of the House and the President and all it is certainly based on suggestions and considerations of the House of Rational and objective to be the basis of thinking decision-making president of government regulation in in lieu of law equivalent Act constitutional. **Second;** The strengthening of the presidential system, this proposal does not intend to return Indonesia to an authoritarian regime by granting more authority to the President, but to balance the power of the President as the Executive and the House as the Legislature. So that no longer occur the phenomenon of legislative over authority and executive over authority, some people also call it legislative heavy and executive heavy. The authority of the legislative body in forming and discussing the legislation of its absolute authority. This is in line with the characteristics of the presidential system which states that the President is not a part of parliament and is reinforced by the Trias Politica theory which states that the branches of powers, executive, legislative and judicative must be separated from each other, both on duty (function) equipment (organs) that organize it. Thus, eliminating the function of presidential

legislation is the right choice in order to strengthen the presidential government system in Indonesia. However, in order to have a check and ballistic mechanism between the President and the House of Representatives related to the legislative function, the President is granted a veto over the draft law approved by the House of Representatives.

Third; The President is granted a veto in the passage of the law. This idea departs from the anxiety of Article 20 paragraph 5 of the 1945 Constitution of the Republic of Indonesia which stipulates that "In the case of a jointly approved draft law not approved by the President within thirty days after the draft law is approved, the draft law valid to become law and must be enacted ". The sound of the article provides the understanding that the President has no alternative but to approve the bill proposed by the Parliament. Quoting what was conveyed by Patrialis Akbar, several articles in the 1945 Constitution of the Republic of Indonesia (Article 20 paragraph (1), In Article 5 paragraph (1), and Article 20 paragraph (2) can be interpreted that:¹³

1. The Legislative Power of the People's Legislative Assembly does not completely downgrade the legislative authority of the President, since the President is still given the right to file a bill and discuss together a draft law.
2. Both the House and the President have the right of veto, namely in the form of refusing to discuss and approval of the bill in the House is always represented by its aides or appointed ministries/institutions. The President's order may also be a refusal to discuss a bill. But for the House of Representatives whose fraction comes from the ruling party, it will certainly be a problem in itself because it has to compromise and even vote in deciding the rejection of discussion with a bill.
3. The Veto is not a forbidden and even possible in a democratic country pursued through the democratic procedure itself.

For further details, the definition of presidential veto in this idea should be interpreted as a right not only placed on the process of validation of a mere administrative nature, but it is absolute to be revisited because behind the rejection of the President legalized a bill into law there is a legal consequence binding for the legislature. That is, the draft law should be reviewed again by the legislature to get approval again in the House of Representatives. Of course, it can be done by reinforcing the articles of the 1945

¹³ Patrialis Akbar, *Hubungan Lembaga KePresidenan Dengan Dewan Perwakilan Rakyat Dan Veto Presiden*. Jakarta: Total Media, 2013, p. 201.

Constitution and/or Law Number 12 Year 2011 on the Establishment of Legislation related to the mechanism of the revision of a bill that was rejected by the president. Then, in order to prevent the President from over-capacity in applying his veto rights, the veto may be rejected by the House of Representatives on certain conditions, such as the support of a majority of the House of Representatives by around 2/3 of the total number of the House of Representatives members present at the plenary meeting and attended by at least 2/3 of the total members of the House of Representatives. Some other ideas that still pertain to this, **first** in the veto, the President shall include the reasons or considerations of his objection clearly and objectively to the Parliament; and **second**, Presidents shall be given no later than 30 days in reviewing the results of the Bill by the People's Legislative Assembly. Thus, it is clear that the grant of a veto to the President to affirm the separation of power between the legislature and the executive.

From some of the proposed changes to Article 20 of the 1945 Constitution of the Republic of Indonesian, try to convert it into the following statutory languages: only in accordance with the laws and regulations according to its order, then the regulations of the law (UU), in this discussion do not recommend made changes. (UUD NRI Year 1945 and Law No.12 Year 2011 on the Formation of Legislation.

Complete can be seen in the table below:

| Of the 1945 Constitution of the Republic of Indonesia | | |
|---|--|---|
| No | Previous | Amendment |
| 1 | Specifically in Article 5 paragraph (1):"The President is entitled to submit the Bill to the House of Representatives" | If consistent, article 5 paragraph (1) is deleted, the president is only limited to stipulate the regulation of the successor of the Law and the government regulations. (presidential veto is absolute) If inconsistent, Article 5 paragraph (1) is not deleted. |
| 2 | Article 20 paragraph (2):Each Draft Law is discussed by the legislature and the President for mutual consent. | No amendments with additional articles: Paragraph (3): The draft law submitted by parliament does not require the approval and endorsement of the president. (legislation right of the people's legislature)Paragraph (4):The bill proposed by the president must be approved by the parliament and the president (principle of check and balances) |
| 3 | Article 20 Paragraph (3): If the bill does not come under mutual agreement, the bill should not be brought up again in the parliamentary session of that period. | Article 20 paragraph (3): If the bill does not get parliamentary approval, the bill cannot be submitted again in the parliamentary session of that period. |
| 4 | Article 20 paragraph (4): The President passed a draft law that has been jointly approved to become law. | Article 20 Paragraph (4): change of sentence: The President as head of government shall pass a bill approved by the House of Representatives no later than thirty days to be enacted. |
| 5 | Article 20 Paragraph (5): | Article 20 paragraph (5): |

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| | In the event that a jointly agreed bill is not approved by the President within thirty days after the draft law is approved, the draft law shall be lawful and shall be promulgated. | <i>If within thirty days at the latest the President does not pass the bill and is not returned to the People's Legislative Assembly, the draft law is legitimate and enacted</i> (already qualified material) |
| 6 | | Additional: Article 20 paragraph (6): If at the latest within thirty days the President does not approve the bill and is returned to the House of Representatives with the grounds of his objection, then the people's legislature shall review the draft law again. |
| 7 | | Additional: Article 20 paragraph (7): The bill returned to the House of Representatives is discussed within thirty days from the time it is received by the People's Legislative Assembly to be reviewed and approved by at least two-thirds of the House of Representatives votes for the approval of the President. |
| 8 | | Additional: Article 20 paragraph (8): as referred to in Article 20 paragraph (7), the re-discussion of the draft law shall be conducted once in a plenary session, and if it is not approved by at least 2/3 of the votes of members of the People's Legislative Assembly, the draft law shall be revoked. |
| 9 | Article 4 paragraph (1): "The President of the Republic of Indonesia holds the power of government according to the Constitution" | Article 4 paragraph (1): "The President holds the power as Head of Government and Head of State according to the Constitution". |
| 10 | Special Article 22 paragraph (1): "In the case of a pressing incident, the president shall be entitled to file a government regulation in lieu of the shrimp" (government regulation in lieu of law) | Article 22 paragraph (1): "In the case of a pressing incident, the president shall stipulate a government regulation in lieu of the law" |
| 11 | Article 22 paragraph (2): "The Government Regulation must be approved by the People's Legislative Assembly in the following hearing" Paragraph (3): "If it does not get approval, then the government regulation should be revoked" | The options are: Article 22 paragraph (2), The government regulation must be approved by the legislature, paragraph (3), deleted/revoked. (principle of supervision and balance) Paragraph (3) is revised: if it is not approved by at least two-thirds of the members' votes and the representatives of the people and not attended by 50 + 1 members of parliament in a plenary session of parliament, then the government regulation will be revoked. |

(source: processed in 2017)

Fourth; The 1945 Constitution of the Republic of Indonesia does not expressly state when the President exercises his authority as Head of State and when the President exercises his authority as head of government. Of the 1945 Constitution of the Republic of Indonesia, the fourth amendment only referred to the President as Head of Government as stated in Article 4 paragraph (1): "The President of the Republic of Indonesia holds the power of the government according to the Constitution".

Fifth; The President in his or her authority as Head of State can directly appoint ambassadors and consuls. That is, in other articles the People's Legislative Assembly is enough to give advice and consideration only, not on the authority to decide/approve the officials of state/public officials who become the authority of the president.

CONCLUSION

This paper concludes: (1) The Veto of the President is not effective when reviewed in the constitutional document of the 1945 Indonesian Constitution; (2) There is inconsistent in the Presidential Government System of Indonesia with the content of the articles of the 1945 Constitution of the State of the Republic of Indonesia; (3) it is recommended that some amendments be made in the 1945 Constitution of the State of the Republic of Indonesia and the law number 12 of 2001 to be followed up by the Consultative Assembly of Indonesia (ex-officio members of Parliament) and the President; (4) The Presidential Regulation in Lieu of Law (Perppu), according to the author must be absolutely given to the President without the intervention of the People's Representative Council because the President is the Head of State and has the Supreme Administrative power under the 1945 Constitution of the Republic of Indonesia (substance of PRESIDENT VETO RIGHTS) the full constitutional constitution of the Act as a basis for considering the principles of checks and balances between state institutions.

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