ANALYSIS OF THE DISPUTE RESOLUTION MECHANISM OF THE TRIUMVIRATE MINISTER AS THE EXECUTOR OF PRESIDENTIAL DUTIES IN INDONESIA

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Abstract

The 1945 Constitution regulates the position of triumvirate ministers, including the Minister of Home Affairs, Minister of Foreign Affairs, and Minister of Defense, collectively empowered to replace the president and vice president in case of a vacancy. The exercise of this authority increases the likelihood of disputes among the three ministers while performing presidential duties in Indonesia. The conflicting implications of the triumvirate minister position and its assumed powers stem from the diverse backgrounds of the three different institutions. Therefore, a clear mechanism is necessary for resolving conflicts among triumvirate ministers. This study employs normative legal research methods with a statutory law approach, utilizing primary legal material and secondary legal materials such as books and journals. The findings reveal that the dispute resolution mechanism for triumvirate ministries is fundamentally within the purview of the Constitutional Court, as affirmed by the Constitution. However, a lack of detailed derivative regulations has led to a blur in norms related to the interpretation of state institutions outlined in the Constitution. This gap arises due to the absence of regulations that provide a comprehensive explanation of these state institutions.

Keywords: *Dispute Settlement Mechanism, President, Triumvirate Minister*

1. INTRODUCTION

Indonesia stands as a sovereign nation underpinned by the rule of law, wherein the conduct of national life and governance must consistently reflect the principles of a legal state grounded in constitutional supremacy. The realization of constitutional supremacy, as a foundational tenet of the state, is contingent upon a systematic framework that consistently affords protection and guarantees the constitutional rights of every citizen. In the capacity of a legal state, it becomes imperative for the nation to actively engage in providing legal certainty, a condition that can only be attained through the continuous scrutiny and rectification of gaps, ambiguities, and conflicts inherent in the plethora of existing legal regulations (Santika, 2021).

The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), beyond reiterating the concept of a legal state, unequivocally establishes the presidential system of governance. As articulated by Sri Soemantri, distinctive features of the presidential system in the UUD NRI 1945 encompass the direct election of the President and Vice President by the populace in a unified ticket and the President's exemption from accountability to the People's Consultative Assembly (MPR) as it no longer serves as the executor of the people's sovereignty. In consonance, Arendt Lijphart delineates three criteria defining a presidential system, namely: (1) executive power vested in an individual rather than a collective entity; (2) the direct election of the executive by the people; and (3) a fixed term immune to revocation or annulment through parliamentary procedures (Yani, 2018).

Within the framework of a presidential system, the President assumes the dual role of head of state and head of government in executing state functions. Acknowledging the impracticality of the President's direct involvement in day-to-day governance affairs, the president relies on state organs that align with executive functions. Thus, the Ministerial role becomes instrumental as the technical executor of governance (Adiwilaga et al., 2018).

The Ministerial position, within Indonesia's constitutional system, assumes a distinctly political character. Politically, Ministers are appointed and dismissed by the President, wielding political authority. The significance of Ministers within Indonesia's constitutional framework is underscored by the 1945 Constitution, which allocates regulations pertaining to State Ministers to a discrete chapter outside Chapter III dedicated to the Powers of State Governance. Article 17 of Chapter V on State Ministries delineates key provisions, including the President's collaboration with State Ministers, the presidential authority to appoint and dismiss Ministers, each Minister's oversight of specific governmental affairs, and the legislative regulation of the establishment, alteration, and dissolution of State Ministries.

The constitutional framework in Indonesia recognizes the presence of three ministerial positions collectively known as the Minister Triumvirate or Triumvirate Ministers. Triumvirate is interpreted to signify a trinity, a triad, or the collective authority held by three individuals. In the practical realm of Indonesian politics, both connotations are employed to elucidate the concept of triumvirate. These three ministerial roles are occupied by the Minister of Home Affairs, Minister of Foreign Affairs, and Minister of Defense. The statutory positioning of these ministers, or the Minister Triumvirate, is delineated in Article 8, paragraph 3 of the 1945 Constitution. This article stipulates that in the event of the simultaneous cessation of the President and Vice President due to demise, resignation, dismissal, or an inability to fulfill their duties, the responsibilities of the presidency are collectively shouldered by the Minister of Foreign Affairs, Minister of Home Affairs, and Minister of Defense. Subsequently, within thirty days, the People's Consultative Assembly (MPR) convenes to elect the President and Vice President from two pairs of candidates proposed by political parties or coalitions. These candidates must have secured the highest and second-highest votes in the preceding general election until the completion of their term (Tutik, 2020).

The provision concerning the role of the Minister Triumvirate as temporary successors for 30 days introduces a novel challenge within Indonesia's constitutional landscape. During this period, the pivotal duties of the presidency, encompassing both the head of state and head of government roles, are delegated to the Minister Triumvirate. Should a dispute arise, particularly in matters of decision-making, considerations, or the allocation of authority among the Minister Triumvirate comprising the Minister of Home Affairs, Minister of Foreign Affairs, and Minister of Defense, an issue surfaces concerning the procedural mechanisms for dispute resolution. Moreover, questions emerge regarding the designated authority responsible for adjudicating or resolving disputes among the Minister Triumvirate. Diverging from previous research, exemplified by studies such as "The Constitutional Position of the Minister Triumvirate as the Executor of Presidential Duties in the Presidential System of Government in Indonesia" by Titik Triwulan Tutik in the Journal of Islamic Law and Legislation 'Al-Daulah', this study distinguishes itself by not only addressing the constitutional aspects of the Minister

Triumvirate but also delving into the mechanisms for dispute resolution within this tripartite ministerial structure.

Examining the aforementioned issues provides a foundational premise for this article. Key questions revolve around the constitutional standing of triumvirate ministers within the Indonesian framework and the existing mechanisms for resolving disputes among triumvirate ministers when undertaking presidential responsibilities during vacancies. This article endeavors to scrutinize the positioning of triumvirate ministers within the Indonesian constitutional apparatus, assess the dispute resolution mechanisms concerning triumvirate ministers in the execution of presidential duties, and, more broadly, contribute to the refinement of Indonesia's legal and constitutional framework through a comprehensive examination of the articulated issues. The analysis presented herein aims to enhance scholarly understanding and discourse surrounding the intricate interplay of constitutional roles and dispute resolution mechanisms within the Indonesian political landscape.

2. RESEARCH METHODS

The chosen methodological foundation is the juridical-normative approach, which inherently involves a textual examination of the law through legislative regulations. Within this framework, the conceptualization of legal principles is guided by established norms and guidelines that govern human interactions (Muhammad Syahrum, 2022). The adoption of a statutory approach in this writing signifies an examination of various regulations and an exploration of all facets related to the specific issue under discussion. This method facilitates a comprehensive analysis of legal texts and principles, enabling a nuanced understanding of the legal landscape surrounding the subject matter.

In constructing this article, the author draws upon a diverse array of data sources. Primary sources include national regulations, forming the legal bedrock for the analysis. Additionally, secondary sources such as juridical reviews, scholarly opinions, legal journals, and research findings contribute valuable insights, enriching the discussion. Furthermore, tertiary sources like legal dictionaries are incorporated, enhancing the precision and clarity of the legal terminology used throughout the writing (Ali, 2021). This methodological approach ensures a well-rounded exploration of the subject matter, combining a rigorous analysis of legal texts with insights from scholarly perspectives and empirical research.

3. RESULTS AND DISCUSSION

3.1. The Position of the Minister Triumvirate in the Indonesian Constitutional System

Triumvirate is a term derived from Latin, meaning three men in a dominating political regime, each referred to as a member of the triumvirate. According to the Indonesian Dictionary, Triumvirate signifies a governance or authority held collectively by three individuals as a unified entity. In its formation, a triumvirate can be established through both formal and informal mechanisms, where the individuals involved hold an equal position on paper, although practical equality among the three is seldom realized. Triumvirate also describes a term applicable to a country with three different leaders, each labeling themselves as a singular leader (Sudrajat, 2022).

In the context of the Indonesian constitutional system, the position of the Minister Triumvirate exists within the framework of Indonesian legislation and has been implemented in the history of the political leadership transition in Indonesia. Constitutionally, the position of the Minister Triumvirate is emphasized in Article 8, paragraph (3) of the 1945 Constitution, stating that "If the President and Vice President pass away, resign, are dismissed, or are unable to perform their duties simultaneously within their term, the duties of the presidency are assumed jointly by the Minister of Foreign Affairs, Minister of Home Affairs, and Minister of Defense. No later than thirty days thereafter, the People's Consultative Assembly (MPR) holds a session to elect the President and Vice President from two pairs of candidates proposed by political parties or coalitions of political parties whose candidates for President and Vice President received the highest and second-highest votes in the previous general election until the end of their term (Hudi, 2018).

The implementation of the triumvirate concept first emerged during the transition period from the old order to the new order in 1966. This is reflected through the politically effective March 11th order (*Supersemar*). The concept of *Supersemar* illustrates the need for collective leadership in the form of cooperation to gain public support domestically and internationally. During this period, the collective leadership fell under the responsibility of Soeharto, who held the mandate conveyed by *Supersemar* to restore order and national security stability. Additionally, Sri Sultan Hamengku Buwono IX played a transitional role in solving rehabilitation issues and national economic stability. The third figure, Adam Malik, was tasked with restoring international trust (Taum, 2020).

The term triumvirate in the Indonesian constitutional system is further emphasized in MPR Decree No. VII/MPR/1973 concerning the Incapacity of the President and Vice President. In this MPR Decree, it is stipulated that when the President and Vice President are permanently and evidently incapacitated, the Minister of Home Affairs, Minister of Foreign Affairs, and Minister of Defense-Security collectively assume the Temporary Acting Presidential Position. The three ministers collectively execute the presidential duties until the President and Vice President are definitively determined by the MPR to replace the previous president and vice president. The People's Consultative Assembly must convene a special session no later than one month after the President and Vice President are permanently incapacitated to elect and appoint the President and Vice President. This means that the triumvirate holds authority for a maximum of 30 days, counting from the permanent incapacitation of the President and Vice President.

The mention of the triumvirate ministers normatively emerges in the People's Consultative Assembly Decree Number VII/MPR/1973 concerning the Incapacity of the President and/or Vice President of the Republic of Indonesia. Based on Article 5 of the Decree, it stipulates provisions regarding the permanent incapacity of the President and/or Vice President as follows:

a. In the event of the President and Vice President being permanently incapacitated, the People's Consultative Assembly, no later than one month after their permanent incapacity, shall convene a Special Session to elect and appoint a President and Vice President whose term will end in accordance with the remaining term of the replaced President and Vice President.
b. Since the President and Vice President are permanently incapacitated, the Ministers holding the positions of the Minister of Home Affairs, Minister of Foreign Affairs, and Minister of Defense-Security collectively perform the

Temporary Acting Presidential Position, and the regulation of their work is determined by the respective Ministers.

c. The Temporary Acting Presidential Position carries out the daily duties of the President until the President and Vice President elected by the Assembly assume their roles.

Constitutionally, through Article 8, paragraph (3) of the 1945 Constitution, the triumvirate ministers are intended so that in the event the President and Vice President pass away, resign, are dismissed, or are unable to perform their duties simultaneously, there is a constitutional solution specified in the 1945 Constitution. This solution entails the Minister of Foreign Affairs, Minister of Home Affairs, and Minister of Defense jointly assuming the duties of the presidency. With this provision, it is expected that prolonged constitutional crises will not arise. Additionally, Article 8, paragraph (3) underscores that the holders of these three ministerial positions have a constitutional status distinct from other ministers. If there is a simultaneous vacancy in the positions of President and/or Vice President, they collectively receive constitutional authority to act as the acting President according to the 1945 Constitution (Sulardi & Esfandiari, 2020).

In essence, in the scenarios outlined in the 1945 Constitution, these three ministers obtain equal constitutional authority to act as the acting President according to the constitution. Elaborating on the provisions of the 1945 Constitution, the holders of these three ministerial positions hold a crucial status, surpassing the authority held by Coordinating Ministers, who are considered more senior in the cabinet or internal presidential structural system. These triumvirate ministers, individually and collectively, have a critically important status in the constitutional system because, normatively, they are constitutional subjects who derive direct power from the 1945 Constitution, serving as the executors of the presidential duties when the specified conditions are met.

3.2. Mechanism for Resolving Disputes among Triumvirate Ministers in Fulfilling Presidential Duties Vacancy

The existence of the Triumvirate Ministers, comprising the Minister of Foreign Affairs, Minister of Home Affairs, and Minister of Defense, each institutionally endowed with predetermined tasks and authorities, gives rise to significant differences in their characteristics, ranging from their core functions to the diverse backgrounds of the ministers. This opens up a broad possibility for disputes, issues, or disagreements among these Triumvirate ministers. These differences in characteristics can manifest as a competition for the superiority of authority among each minister.

Another issue may arise between the Triumvirate Ministers as a unit and other institutional subjects of the State. Theoretically, on paper, disputes may arise among the three of them and non-Triumvirate Ministers, who are usually considered as senior officials or institutions, such as the coordinating minister in their respective fields, responsible for coordinating the three Triumvirate ministers. Additionally, there is the possibility of political competition between independent or combined political parties, attempting to position the serving Triumvirate ministers as a political accommodation to support one of them as a permanent replacement for the president or vice president. In the event of such possibilities, it becomes a significant challenge for the country to maintain its political stability within the 30-day period, as stipulated in Article 8, paragraph (3) of the 1945 Constitution (Madjid, 2022).

Disputes and/or conflicts among Triumvirate ministers from a constitutional perspective fall under the full authority of the Constitutional Court to mediate and provide solutions in maintaining political balance in Indonesia. This is related to the authority granted to the Constitutional Court by the 1945 Constitution, which, in cases of disputes among Triumvirate ministers, places the resolution authority in the hands of the Constitutional Court. Article 24C of the 1945 Constitution states that "The Constitutional Court has the authority to adjudicate at the first and final level, and its decisions are final, to examine laws against the Constitution, settle disputes over the authority of state institutions whose authority is granted by the Constitution, decide the dissolution of political parties, and decide disputes over the results of general elections"(Nuridahwati, 2020). The Constitutional Court Law Number 24 of 2003 and its amendments do not explicitly elaborate or explain what is meant by state institutions whose authority is granted by the Constitution. Similarly, in Article 24C of the 1945 Constitution, as the constitutional basis for the Constitutional Court, there is no formulation related to what the term "state institution" actually means (Siahaan, 2022). The absence of meaning in the phrase "authority granted by the Constitution" creates confusion and multiple interpretations in analyzing whether the authority is explicit or implicit. Based on this, vulnerabilities arise, giving rise to normative ambiguity that poses a legal problem within the legal system in Indonesia.

Article 10, paragraph (1) b, and Article 65 of the Constitutional Court Law contain *subjectum litis* and *objectum litis* requirements, both of which, in practice, are applied by the Constitutional Court cumulatively and absolutely, not as options. Therefore, even if the *subjectum litis* has been fulfilled but the *objectum litis* has not, the petition is always deemed "inadmissible." Furthermore, regarding disputes over authority among state institutions granted only by law, this becomes crucial because disputes over authority in carrying out the functions of such state institutions are likely to occur (Alfarisi, 2020).

Constitution, as the authority held by the Constitutional Court (MK), is crucial, especially to rectify the boundaries and division of tasks and authority among these relevant state institutions through MK's final decisions (Kosariza et al., 2020). This will address the problem of overlapping authority between state institutions. However, in reality, there are still legal issues related to the ambiguity of norms in measuring state institutions granted by the Constitution in resolving disputes over authority among state institutions in the Constitutional Court. The lack of legal clarity regarding which state institution can submit a petition poses a legal challenge in Indonesia that needs to be promptly addressed, considering that the mechanism of replacing presidential duties by the triumvirate ministers may lead to conflicts between state institutions. Nevertheless, it can be interpreted that state institutions whose authority is granted by the Constitution are bodies or institutions clearly regulated in the 1945 Constitution. However, it is important to reconsider and redefine the scope of institutions whose authority is granted by the Constitution, as there is still an ambiguity in defining these state institutions.

4. CONCLUSION

The normative position of the Triumvirate Ministers in Indonesia is regulated in the 1945 Constitution through Article 8, paragraph (3), which states that if there is a vacancy in the positions of the President and Vice President, the execution of presidential duties is carried out collectively by the Minister of Foreign Affairs, the Minister of Home

Affairs, and the Minister of Defense. Historically, during the transition from the old order to the new order in Indonesia, the execution of presidential duties by the triumvirate ministers occurred through the March 11th order and was further regulated by the Decree of the People's Consultative Assembly Number VII/MPR/1973 regarding the Conditions of the President and/or Vice President of the Republic of Indonesia being Impeded. In the implementation of presidential duties by the three triumvirate ministers, conflicts among them are likely to arise, given the competition for superiority and political elements that influence the execution of presidential duties by the triumvirate ministers for 30 days.

The mechanism for resolving disputes if conflicts arise among the triumvirate ministers lies in the hands of the Constitutional Court, which constitutionally has the authority to settle disputes between state institutions whose authority is granted by the Constitution. However, this poses a legal problem due to the lack of specific criteria or further explanations regarding what is referred to as state institutions in the Constitution. This lack of clarity may hinder the dispute resolution process for institutions that can be categorized as petitioners, limiting the Constitutional Court's discretion in accepting cases of disputes between state institutions. Therefore, it may be necessary to formulate normative regulations that provide clear criteria for interpreting state institutions in the Constitution.

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