

Comparison Of Presidential Institutions Between Indonesia and South Korea

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Abstract

Comparison means comparing to find similarities and differences in the government system between the Republic of Indonesia and the Republic of Korea, and the government system in question is the presidential institution. The aim of this study is to compare the similarities and differences between the Republic of Indonesia and the Republic of Korea. The research method used is the comparative method, namely testing the differences between two or more groups which is done by comparing different variables (research objects). The results of this research explain that the presidential institutions in the Republic of Indonesia and the Republic of South Korea basically have similarities both in the function of the President as Head of State and Head of Government and in filling the position of President. The only difference is in the representative who accompanies the President, in Indonesia he is known as the Vice President, in South Korea he is known as the Prime Minister, but they have different functions, duties and authorities. Regarding filling positions, they have one thing in common, namely that they

are chosen through general elections. The termination of the President's office is similar through the impeachment mechanism, but the processes and institutions involved in the impeachment process are different.

Keywords

Comparison, Presidential Institution, Republic of Indonesia, Republic Of Korea, Presidential System.

Introduction

Comparison means comparing to find similarities between two or more concepts, but also at the same time finding differences.¹ The purpose of the comparison in this paper is to compare to find similarities and differences in the government systems between the Republic of Indonesia and the Republic of Korea (South Korea).² The government system in question is the presidential institution, because countries in the world have a government system in their constitutions. The importance of government systems and constitutions for the existence of these countries, including the countries in this paper's study, namely Indonesia and South Korea, which have government systems in their constitutions. The government system is a framework containing state apparatus which has certain duties and authorities contained in the constitution to become a noble juridical guide in achieving statehood for both Indonesia and South Korea.

A government system which is a state framework with state organs that have certain duties and authorities. The state apparatus referred to in this study is the presidential institution³. The presidential institution in Indonesia is an institution in a country that adheres to a presidential government system led by a president and vice president. The presidential institution is a tool of the main state institution (*Die Staatsorgane*) (Main State's Organ) not as an Auxiliary State's Institution or Auxiliary State's Organ as a supporting state institution or supporting

¹ Muhammad Zul Thahrim, "Prestasi Belajar Mahasiswa Kelas B Makassar Dan Kelas D Parepare Prodi Pendidikan Sndratasik Fakultas Seni Dan Desain Universitas Negeri Makassar Pada Mata Kuliah Praktek Musik Tradisional Sulsel (KOMPARASI)" (Universitas Negeri Makassar, 2020), <http://eprints.unm.ac.id/id/eprint/17714>.

² Ariawan Gunadi & Ibra Fulezni Amri, "Komparasi Sistem Pemerintahan Dan Konstitusi Inggris, Republik Rakyat China (RRC) Dan Indonesia," *Jurnal Serina Sosial Humaniora* 1, no. 1 (2023): 41–49, <https://doi.org/10.24912/jssh.v1i1.23975>.

³ Miguel Carreras, "Presidential Institutions and Electoral Participation in Concurrent Elections in Latin America," *Sage Journal* 66, no. 3 (2017): 1–30, <https://doi.org/10.1177/0032321717723502>.

state organ ⁴. As a presidential institution with the status of main state's organ, its legal regulations are regulated in the Constitution. The presidential institution functions as an executive/government institution in a division of powers, because there are other state institutions besides the presidential institution. The presidential institution is one of the highest state institutions or constitutional organs which, when viewed from the perspective of its officials, is transformed into the position of President accompanied by the Vice President.

A presidential government system with a presidential institution held by the President and Vice President is elected by the people for a certain term of office according to the constitution. The President and Vice President in Indonesia are elected directly by the people with the principle of popular sovereignty which characterizes a state based on law. According to Maria Farida Indriati, the President and Vice President according to the 1945 Constitution are elected directly by the people in accordance with Article 6A of the 1945 Constitution, so the position of this institution is stronger ⁵. The 1945 Constitution provides strong provisions regarding the position and position of the presidential institution that the President is accompanied by the Vice President as head of state and head of government. Indonesia adheres to a presidential system which is confirmed in Article 1 Paragraph (1) and Article 4 Paragraph (1) of the 1945 Constitution, which essentially forms the form of the Indonesian State, namely the Unitary State of the Republic of Indonesia (NKRI). The Presidential System means that the person in control and responsible for the running of the state government is the President who is accompanied by the Vice President and assisted by ministers, so that in carrying out his duties, the President is assisted by ministers who are appointed and directly responsible to the President.

The president is a symbol of leadership whose dignity must be maintained in order to maintain the sovereignty of the people. A country is strong if it is led by a strong President and Vice President, so its achievement or performance needs to be a fundamental goal in every aspect of the presidential institution. The President and Vice President hold full authority over the governmental powers contained in the 1945 Constitution.

⁴ Muhammad Yusrizal Adi Syaputra, "Koalisi Partai Politik Di Kabinet: Antara Penguatan Lembaga Kepresidenan Atau Politik Balas Budi," *Jurnal Magister Hukum Udayana* 9, no. 1 (2020): 111–31, <https://doi.org/10.24843/JMHU.2020.v09.i01.p08>.

⁵ Maria Farida Indrati, *Ilmu Perundang-Undangan (1): Jenis, Fungsi, Dan Materi Muatan* (Yogyakarta: Kanisius, 2007).

Next is South Korea, which is also a country that adheres to a presidential system of government. South Korea is also known as the Republic of Korea, which has the original name in *Hangul* 대한민국 (*Daehan Minguk*). South Korea is a country located in the East Asia region in the southern part of the Korean peninsula, which directly borders North Korea ⁶. South Korea is a unitary state like Indonesia, and South Korea also has the same government system, namely the Presidential System. The Republic of Korea is led by a President who is elected through general elections every five years but can only serve for one term. In carrying out his duties, the President of South Korea is assisted by the Prime Minister. The selection of the Prime Minister is carried out by appointment by the President with the approval of the National Assembly.

Indonesia and South Korea both adhere to a presidential system, so with this comparison there are similarities and differences which form the basis of research on the presidential system of government. The presentation in the research background compares the presidential institutions in the Republic of Indonesia and the Republic of Korea, looking at the implementation of the powers of the presidential institutions in the two countries. Thus, the problem formulation as the aim of this study is to compare the similarities and differences between the presidential institutions of the Republic of Indonesia and the Republic of Korea.

Methods

The research method used is the comparative method, namely research to find out or test the differences between two or more groups which is carried out by comparing different variables (research objects) ⁷ and finding cause and effect relationships. The variables compared are varied, ranging from government, figures, ideology, development of a country ⁸. The aim of this research is to compare the similarities and differences between the two facts studied, so that two or more concepts will be discovered with the aim of drawing a conclusion. Two facts comparing government systems using the concept of the presidential

⁶ Koran Cultural Center, "Tentang Korea," <https://id.korean-culture.org/id/1025/korea/672>, 2023, <https://id.korean-culture.org/id/1025/korea/672>.

⁷ Theresia Loviannauli & Saptono Nugroho, "Penelitian Komparatif Mengenai Pengelolaan Sampah Di Daya Tarik Wisata Pantai Candikusuma Jembarana Dan Pantai Kuta Badung," *Jurnal Destinasi Pariwisata* 9, no. 2 (2021): 379–89.

⁸ Yusuf Abdhul, "Penelitian Komparatif: Pengertian, Jenis Dan Contoh," <https://deepublishstore.com/blog/penelitian-komparatif/>, 2023.

institution between the Republic of Indonesia and the Republic of Korea. This comparison method is non-hypothetical in nature with standard determination carried out based on a strong legal basis with phenomena reaching good standards. The data collected includes primary legal data, secondary legal data and tertiary legal data.

Results And Discussion

1. The existence of the President and Vice President as State Institutions in the Presidential Government System

The presidential institution only exists and is known in a country government system that adheres to a presidential system. According to theory and practice, the presidential organ consists of the president and vice president ⁹. In Indonesia, the presidential system is a system of government whose position is as an executive and is not responsible to parliament. The President and Vice President are the highest institutions administering state power. This presidential system of government is related to the form of the state. The form of the Indonesian state is contained in Article 1 paragraph (1) of the 1945 Constitution, namely "The State of Indonesia is a Unitary State in the form of a Republic", meaning the Unitary State of the Republic of Indonesia (NKRI).

The same thing was also done by the South Korean state in implementing government based on the South Korean Constitution (The Constitution of the Republic of Korea; 대한민국 헌법 [*Daehanminggug Heonbeob*]) as a result of the 1987 amendment ¹⁰. This constitution consists of 130 articles and 6 additional regulations divided into 10 chapters. The South Korean Constitution completely regulates the functions, positions, duties and authority of each state institution, including the presidential institution. Based on the constitution of the Republic of Korea in Chapter I: General Provisions Article 1 number (1): The Republic of Korea shall be a democratic republic, that the country of South Korea is a Unitary State in the form of a Democratic Republic ^{11, 12}. The form of state that Indonesia and South Korea have is

⁹ Nyoman Mas Aryani & Bagus Hermanto, "Rekontruksi Kejelasan Kedudukan Wakil Presiden Dalam Kerangka Penguatan Dan Penegasan Sistem Presidensiil Indonesia," *Jurnal Legislasi Indonesia* 15, no. 2 (2018): 91–101.

¹⁰ Andi Safriani, "Komparasi Konstitusi Negara Modern Antara Indonesia Dan Korea Selatan," *Mazhabuna: Jurnal Perbandingan Mazhab* 1, no. 2 (2019): 200–215, <https://doi.org/10.24252/mh.v1i2.11647>.

¹¹ Safriani.

¹² Safriani.

a Unitary State, the difference is that South Korea adheres to a Democratic Republic system.

According to the 1945 Constitution, the President has the position of head of government and head of state, which does not recognize the separation of powers between the head of state and the head of government. The President and Vice President are elected directly by the people in accordance with Article 6A of the 1945 Constitution, namely to show that the position of the presidential institution is stronger. The term of office of the President and Vice President in holding office is five years and thereafter they can be re-elected in the same position for one term only (Article 7 of the 1945 Constitution)¹³. The presidential institution in South Korea is run by a President who is elected based on the results of the general election for a term of five years with one term and cannot be re-elected thereafter¹⁴. Therefore, a President who has previously served cannot re-nominate himself in the next general election. The President in South Korea is assisted by the Prime Minister who is appointed by the president with the approval of the National Assembly¹⁵. Government power is exercised by the President as head of state and the prime minister as head of government assisted by the State Council.¹⁶ South Korea uses an impure presidential system because it is mixed with a parliamentary system, because there is parliamentary influence in its constitutional system. Executive power belongs to the presidential institution led by the President accompanied by the Prime Minister¹⁷. Legislative power is held by the National Assembly which has the position of parliament, but the President and Prime Minister are not fully responsible to parliament¹⁸.

¹³ Siti Ulfah Juang Intan Pratiwi, Neneng Salama, "Pembatasan Masa Jabatan Presiden Di Indonesia," *JURNAL RECHTEN: Riset Hukum Dan Hak Asasi Manusia* 3, no. 1 (2021): 18–26, <https://doi.org/10.52005/rechten.v3i1.23>.

¹⁴ Safriani, "Komparasi Konstitusi Negara Modern Antara Indonesia Dan Korea Selatan."

¹⁵ Sung Deuk Hahm & Uk Heo, "The First Female President in South Korea: Park Geun-Hye's Leadership and South Korean Democracy," *Journal of Asian and African Studies* 53, no. 5 (2018): 1–17, <https://doi.org/10.1177/0021909617722376>.

¹⁶ Fatih Ulasan and Dougro Lee, "South Korea," in *The Palgrave Handbook of Comparative Public Administration*, ed. Israel Nyaburi Nyadera Murat Önder and Md. Nazmul Islam (Tallahassee: Florida State University, 2022), 507–36, <https://doi.org/10.1007/978-981-19-1208-5>.

¹⁷ Ki-young Shin, "Gender, Election Campaigns, and the First Female President of South Korea," *Gender and Political Leadership* 21, no. 2 (2018): 71–86.

¹⁸ Jörg Michael Dostal, "South Korea: The Lasting Pitfalls of the 'Imperial Presidency,'" *The Political Quarterly* 94, no. 1 (2023): 57–68, <https://doi.org/10.1111/1467-923X.13232>.

Regarding the structure of the presidential institution, in Indonesia the presidential institution consists of the President and Vice President assisted by cabinet ministers, while in South Korea the presidential institution consists of the President and Prime Minister assisted by cabinet ministers. The difference is, South Korea does not have a Vice President, and instead the position of Vice President is replaced by the Prime Minister. The Prime Minister is not the same as the Prime Minister in countries that adopt a parliamentary system which separates the functions of the Head of State from the Head of Government. The position of the Prime Minister in South Korea is as Vice President, so that according to the structure of the presidential institution, he still functions as an assistant to the President and companion to the president, the same as the Vice President in Indonesia.

Determining the Vice President in Indonesia is elected together as a pair with the Presidential candidate during the General Election. This is different in South Korea, the determination of the Prime Minister is carried out after the President is elected as a result of the election, then the President appoints the Prime Minister with consideration from the National Assembly, and the responsibility is to the President, not to the National Assembly. Apart from being companions and assistants to the President, the Vice President of the Republic of Indonesia and the Prime Minister of South Korea have the same duties, namely representing the President in a state both at home and abroad or replacing the President if the President dies, and also for other reasons regulated in Constitution.

In Indonesia, the Vice President is tasked with carrying out some of the government's duties and preparing the cabinet's work agenda, setting priorities for government activities, the implementation of which is accountable to the President. In South Korea, the Prime Minister has a clearer function of regulating the performance of his cabinet, for example the Prime Minister serves as head of the cabinet and has a coordinating function for his ministry. So, there is an emphasis that the position of ministries in South Korea is responsible to the President in coordination with the Prime Minister. Thus, in South Korea the position of the Prime Minister is not purely as head of government but as an assistant to the President ¹⁹.

The Vice President in Indonesia and the Prime Minister in South Korea are also closely related to the ranks of ministers below them. So, there are similarities in the structure of the presidential institution and

¹⁹ Safriani, "Komparasi Konstitusi Negara Modern Antara Indonesia Dan Korea Selatan."

also the ranks of the cabinet ministries below it which can be seen in the selection of Ministers in Indonesia carried out jointly by the President and Vice President. Article 17 paragraph (2) of the 1945 Constitution states that Ministers are appointed and dismissed by the President. The Republic of South Korea also applies the same thing in selecting its ministers as assistants to the President and Prime Minister.²⁰ Based on Article 94, the President appoints his ministers based on proposals from the Prime Minister, and the Prime Minister is tasked with supervising the ministers and managing the coordination of government policies under the direction of the President. The President and Prime Minister are assisted by the State Council whose members are appointed by the President based on recommendations from the Prime Minister. The State Council has the right to lead and supervise administrative ministers, negotiate important domestic affairs, and represent the government in the National Assembly, The State Council is responsible only to the President²¹.

Structurally, Cabinet Ministers in both Indonesia and South Korea have the same position, namely subordinate to the President as assistants to the President, both in the President's function as Head of State and Head of Government. In relation to the main functions as Head of State, President and Vice President of Indonesia in protocol, administrative and secretarial terms, it is supported by the Ministry of State Secretariat and the Presidential Staff Office (KSP) as well as the Cabinet Secretariat (Setkab) in managing the Ministerial Cabinet²². In South Korea, in carrying out his duties, the President of South Korea has institutions that have the same duties and functions, the President of South Korea is supported by the Office of the President (청와대 [*Hangul: Cheong Wa Dae*])²³ as the Presidential Secretariat and also the Presidential Staff Office²⁴.

²⁰ Prime Minister's Office, "Executive Branch," https://web.archive.org/web/20121106104403/http://eng.pmo.go.kr/pmo_eng/?sub_num=281, 2023, https://web.archive.org/web/20121106104403/http://eng.pmo.go.kr/pmo_eng/?sub_num=281.

²¹ Safriani, "Komparasi Konstitusi Negara Modern Antara Indonesia Dan Korea Selatan."

²² Christin Nathania Liu, Hendrik Pondaag, and Karel Yossi Umboh, "Kedudukan Kementerian Negara Dalam Sistem Pemerintahan Negara Republik Indonesia," *Lex Privatum* 10, no. 5 (2022): 1–17, <https://ejournal.unsrat.ac.id/v3/index.php/lexprivatum/article/view/42825>.

²³ Prime Minister of Republic of Korea, "Introduction of the Prime Minister," <http://www.opm.go.kr/opm/prime/past-oversea.do>, 2020.

²⁴ Young-Im Lee, "ATrailblazer or a Barrier? Dynastic Politics and Symbolic Representation of the First Female President of South Korea, Park Geun-Hye,"

In Indonesia, in assisting the President's duties and functions in both state and government affairs, the Cabinet Ministers are coordinated by the Coordinating Minister, where the President conveys his directions to the Coordinating Minister and then the Coordinating Minister together with the Ministers under his coordination carry out the President's directions in implementing a Policy. In South Korea, the position of all ministers in the cabinet is equal, there is no Coordinating Ministry that oversees other ministries. The coordination function is carried out by the Prime Minister through his office, namely the Prime Minister's Secretariat, which also serves as the Office for Government Policy Coordination ²⁵. So, the coordination function in Indonesia is carried out by several Coordinating Ministers, but in South Korea it is held by the Prime Minister.

2. Filling the Positions of the Presidential Institution

Filling positions is an important element, especially in the constitutional system, because filling positions is placed as the core meaning of constitutional law which has a function as an office ²⁶. This is because without officials filling positions, the functions of positions in a country cannot be carried out, so that positions are state jobs that are governmental in nature ²⁷. The president is a position that shows the duties and functions as well as the authority of the state and government, and the state is an office organization. The position of president is permanent and requires someone to carry it out continuously. If the position of president is not filled with someone as an individual who represents the position, the state will not exist, because the function of the office is not moving in carrying out its government ²⁸. Therefore, constitutional law studies consider it important to fill the positions of president and vice president.

In Indonesia, constitutionally the regulations regarding the filling (appointment and dismissal) of the leadership of the presidential

Politics & Gender 20, no. 12 (2022): 1–25, <https://doi.org/10.1017/S1743923X22000538>.

²⁵ Prime Minister's Office, "Introduction to the Prime Minister's Office," <http://www.opm.go.kr/opm/office/profile02.do>, 2020.

²⁶ Syafri Hariansah dan Anna Erliyana, "Mekanisme Pengisian Jabatan Kekosongan Jabatan Presiden Dan Wakil Presiden; Studi Perbandingan Dengan Amerika Serikat, Brazil Dan Perancis," *Pakuan Law Review* 4, no. 2 (2018): 332–58, <https://doi.org/10.33751/palar.v4i2.886>.

²⁷ Christina M. Kinane, *Control Without Confirmation: The Politics of Vacancies in Presidential Appointments* (Michigan: The University of Michigan, 2019).

²⁸ Muhamad Aljebra Alikhan Rauf & Rudini Hasyim Rado, "Menakar Peluang Masa Jabatan Presiden 3 Periode Dalam Konfigurasi Politik Hukum," *Jurnal Al-Adalah: Jurnal Hukum Dan Politik Islam* 7, no. 1 (2022): 32–50.

institution are regulated in the 1945 Constitution. The President as the holder of executive power in the presidential institution is elected through general elections and for a term of office of five years, and after that he can be re-elected for only one period ²⁹. Regulations regarding general elections to elect the President and Vice President are contained in Article 6A of the 1945 Constitution, while regulations for the term of office of the President are contained in Article 7 of the 1945 Constitution. Regarding the dismissal of the President during his term of office, it is regulated in Article 7A of the 1945 Constitution, namely through an impeachment mechanism. This arrangement is due to the need for the President and Vice President to exercise their powers in managing the country and government ³⁰.

The same thing also happened in South Korea, the South Korean presidential institution began in 1948 when Syngman Rhee was elected as the first president chosen by the National Assembly based on the most votes ³¹. The position of president is filled through a general election, because government power is held by the President who is elected through a general election and serves for five years and can only lead for one term. So, the general elections in South Korea which are held at the national level are the elections for the President and members of the National Assembly ³² In Indonesia, the President and Vice President are directly elected, but in South Korea, the President is not paired with the Prime Minister, so the President in South Korea does not have a Vice President. In carrying out his duties, the President is assisted by the Prime Minister, not as Vice President. The selection of the Prime Minister is carried out by appointment by the President with the approval of the National Assembly.

Thus, both Indonesia and South Korea each have the characteristics of a government system that is run in accordance with the constitution. To run the government system and to achieve the

²⁹ Dudung Abdullah, "Implementasi Konsep Kedaulatan Rakyat Setelah Perubahan UUD 1945 Dalam Pengisian Jabatan Presiden," *Jurnal Hukum Positum* 3, no. 2 (2018): 142–55, <https://doi.org/10.35706/positum.v3i2.2898>.

³⁰ Rahmat Teguh Santoso Gobel, "Re-Conceptualizing the Presidential Threshold in Concurrent Election," *Jambura Law Review* 1, no. 1 (2019): 94–119, <https://doi.org/10.33756/jalrev.v1i1.1987>.

³¹ Sultoni Fikri Idzhathi Fitri Nabilah, Ika Sistia Wulan Sari, Tio Fernida Siregar, "Perbandingan Pemilihan Umum Presiden Di Indonesia Dengan Korea Selatan," *Legalitas: Jurnal Hukum* 14, no. 1 (2022): 78–86, <http://dx.doi.org/10.33087/legalitas.v14i1.309>.

³² Universitas Stekom, "Pemilihan Umum Di Korea Selatan," https://p2k.stekom.ac.id/ensiklopedia/Pemilihan_umum_di_Korea_Selatan, 2023.

state's goal, namely a democratic state, general elections are held ³³. General elections, especially presidential elections, are a benchmark for a democratic government system that can be seen in the general election system of each country. The historical and sociological aspects of holding elections in both Indonesia and South Korea mean that the government in a presidential institution has the meaning of a democratic presidential institution. The Constitution of the Republic of Korea also stipulates that these principles must be followed in presidential elections. In general, direct elections are democratic because they relate directly to the will of the people compared to indirect elections ³⁴. The presidential election in Indonesia uses a "two round presidential election" system, while South Korea uses a mixed election system (Hybrid system) which combines both district and proportional election systems (parallel system).

Election organizers in Indonesia are regulated in the 1945 Constitution and there are three election organizing institutions, namely the General Election Commission (KPU), the Election Supervisory Body (Bawaslu) and the Election Organizer Honorary Council (DKPP). The three election organizers have their respective duties and authorities which are regulated in law, while the General Election Commission (KPU) is the main election organizer institution ³⁵. In South Korea, general elections are held by the National Election Commission (NEC) ³⁶. The National Election Commission (NEC) itself is an independent body tasked with organizing and supervising general elections in South Korea as regulated in The Constitution of the Republic of Korea; 대한민국 헌법 [*Hangul: Daehanmingug Heonbeob*], especially Article 114.

In Indonesia, the conditions for candidacy for the Indonesian president must be proposed by a political party or a combination of

³³ Sun Fatayati, "Relevansi Asas-Asas Pemilu Sebagai Upaya Mewujudkan Pemilu Yang Demokratis Dan Berintegritas," *Tribakti: Jurnal Pemikiran Keislaman* 28, no. 1 (2018): 147–65, <https://doi.org/10.33367/tribakti.v28i1.472>.

³⁴ Faris Al-Fadhat & Jin-Wook Choi, "Insights From The 2022 South Korean Presidential Election: Polarisation, Fractured Politics, Inequality, and Constraints on Power," *Journal of Contemporary Asia* 53, no. 4 (2023): 724–36, <https://doi.org/10.1080/00472336.2023.2164937>.

³⁵ Sri Warjiyati, "The Arrangement of the Structure and the Authority General Election Commission, the General Election Supervisory Body and The Board Honor Carrier of the Election in the Pursuit of Democratic Elections in Indonesia," *Jurnal Aristo (Social, Politic, Humaniora)* 08, no. 1 (2020): 24–37, <https://doi.org/10.24269/ars.v8i1.2403>.

³⁶ Hoyong Jung, "Examining Politicians' Wealth Accumulation in South Korea," *Asian Survey* 60, no. 2 (2020): 290–322, <https://doi.org/10.1525/as.2020.60.2.290>.

several political parties. Applications for candidates for President and Vice President can only be submitted by political parties or combinations of political parties participating in the general election in accordance with Article 6A paragraph (2) of the 1945 Constitution ³⁷. This is because Indonesia adheres to a multi-party system, so to fulfill these requirements, the candidate pairs for President and Vice President are proposed by political parties or a combination of political parties. Conditions for presidential candidacy in South Korea can be proposed through political parties and also through independents (single-member constituencies/SMCs) ³⁸.

Filling the position of president is also related to the dismissal of the president during his term of office. Termination of office before the end of the term of office could be due to resignation, leaving the world and being impeached. In Indonesia, regarding the dismissal of the President due to resignation or death, the mechanism is that the Vice President will replace the position of the President who resigns or dies until his term of office ends ³⁹. In South Korea, if the President resigns or dies, an election will be held for the next president, because in South Korea there is no Vice President.

It is different if the dismissal of the President is carried out through impeachment ⁴⁰, the impeachment mechanism in Indonesia and in South Korea is different, that the impeachment process in Indonesia is only directed at the President or Vice President as regulated in Articles 7A and 7B of the 1945 Constitution. So far, impeachment is constitutionally regulated. is firmly stated in the 1945 Constitution, so that the President cannot simply be overthrown or dismissed during his term of office for political reasons. The impeachment provisions regulated in Articles 7A and 7B of the 1945 Constitution involve three institutions, namely the People's Representative Council, the People's Consultative Assembly and the Constitutional Court ⁴¹, and the final

³⁷ Ahmad Siboy, "Implikasi Pola Koalisi Partai Politik Terhadap Dinamika Penyelenggaraan Pemilihan Presiden Indonesia," *Perspektif Hukum* 21, no. 1 (2021): 36–58.

³⁸ Carreras, "Presidential Institutions and Electoral Participation in Concurrent Elections in Latin America."

³⁹ Erliyana, "Mekanisme Pengisian Jabatan Kekosongan Jabatan Presiden Dan Wakil Presiden; Studi Perbandingan Dengan Amerika Serikat, Brazil Dan Perancis."

⁴⁰ Frida Aprilia, "Mekanisme Dan Lembaga Pemakzulan Presiden Di Indonesia Dan Korea Selatan" (Universitas Islam Negeri Syarif Hidayatullah Jakarta, 2018).

⁴¹ Wayan Arthanaya I Gede Ngurah Bayu Krisna, Gusti Bagus Suryawan, "Mekanisme Impeachment Presiden Dalam Sistem Ketatanegaraan Indonesia," *Jurnal Konstruksi Hukum* 1, no. 2 (2020): 296–99, <https://doi.org/10.22225/jkh.2.1.2567.296-299>.

decision to dismiss the president in Indonesia is in the People's Consultative Assembly. Constitutionally, impeachment cannot be carried out by the People's Consultative Assembly alone but also involves a court institution, namely the Constitutional Court. However, the impeachment process in Indonesia still has a greater political element than its legal element. The reasons for dismissal of the President and/or Vice President in Indonesia are regulated in Article 7A of the 1945 Constitution, so that the President can be dismissed during his term of office if he is proven to have committed a legal violation in the form of treason against the state, corruption, bribery, other serious criminal acts, or disgraceful acts or if proven to no longer meet the requirements as President and/or Vice President.

South Korea also recognizes impeachment⁴², and impeachment can be carried out against the President, Prime Minister, members of the State Council, Constitutional Court Judges and members of the Presidential Election Commission. The impeachment mechanism in South Korea begins with the National Assembly's proposal to the Constitutional Court to dismiss the President. The President can be immediately dismissed by the Constitutional Court without having to be returned to the legislative body. This is related to the chamber system in South Korea which only uses one chamber (unicameral), namely the National Assembly and the government system that the President in the presidential system in South Korea only serves as head of state so that the legislative institution does not have a close relationship with the President, instead it is related to government led by the prime minister. This means that the legislative body does not have much power to decide on the dismissal of the President⁴³. The impeachment mechanism in South Korea is regulated in Article 63 and Article 111 of the South Korean Constitution which shows that the impeachment mechanism is carried out by involving two institutions, namely parliament and a court institution, namely the Constitutional Court. The final decision on whether or not a president in South Korea will be dismissed is made at the Constitutional Court so it is considered to have fulfilled the legal process. The impeachment mechanism in South Korea only involves two institutions, namely the National Assembly and the Constitutional Court⁴⁴. In the presidential system in South Korea, parliament cannot overthrow the President during his term of office, so

⁴² Jonathan Fermin-Robbins, "The Impeachment of South Korean President Park Geun-Hye," *Carnegie Council for Ethics in International Affairs* 5, no. 10 (2018): 1–7.

⁴³ Aprilia, "Mekanisme Dan Lembaga Pemakzulan Presiden Di Indonesia Dan Korea Selatan."

⁴⁴ Heo, "The First Female President in South Korea: Park Geun-Hye's Leadership and South Korean Democracy."

there is another mechanism that is a legal place for the parliament (National Assembly) to dismiss the President during his term of office, namely through the Constitutional Court which is used in South Korea. The reason for the President's dismissal was only stated as violations of the constitution and law. The constitution in South Korea does not explain in detail the reasons for the dismissal, this is different from in Indonesia which explains in detail in the constitution the reasons for the dismissal of the President. Thus, the dismissal of the president, both in the presidential system in Indonesia and the presidential system in South Korea, have similarities, namely involving a court institution, namely the Constitutional Court.

3. Powers and Authorities of the Presidential Institution

Studying the power and authority of government in a presidential institution, it is also necessary to explain the two characteristics inherent in the presidential institution in Indonesia. The characteristics in question are: *first*. The President is the chief executive who leads the cabinet, all of whom are appointed and responsible to the President. Apart from being head of government, he is also head of state with a term of office determined by the 1945 Constitution. *Second*, the President is not elected by the legislative body, but is elected by the people through general elections ⁴⁵. The characteristics of the presidential system in South Korea, the chief executive is led by the President and the president is elected by the people. The president is the head of government and head of state as well as commander-in-chief of the South Korean armed forces, and the president does not have the power to dissolve the National Assembly ⁴⁶. The president cannot be overthrown by the legislature, nor can the president dissolve parliament. In South Korea, the president and prime minister share responsibilities and rights in government. The president appoints the prime minister who will form the cabinet. The prime minister is constitutionally accountable to parliament, but cannot be fired by parliament. Parliament also cannot hold the president accountable ⁴⁷.

These characteristics explain that in Indonesia the President and Vice President have broad powers and functions. The President as the

⁴⁵ Hermanto, "Rekonstruksi Kejelasan Kedudukan Wakil Presiden Dalam Kerangka Penguatan Dan Penegasan Sistem Presidensiil Indonesia."

⁴⁶ Arif Rachmanto, "Comparing Presidential System Implementation in South Korea, Philippines, and Indonesia," *Wacana Hukum: Jurnal Fakultas Hukum Universitas Slamet Riyadi* 29, no. 1 (2023): 37–48, <https://doi.org/10.33061/wh.v29i1.9242>.

⁴⁷ Muslimin Budiman, "Kekuasaan Presiden Dalam Sistem Pemerintahan Presidensiil," *Al Islah: Jurnal Ilmiah Hukum* 19, no. 1 (2017): 29–47.

holder of executive power carries out executive functions as well as legislative functions. The president has the same prerogative rights as the president has the authority to declare a state of emergency, appoint ambassadors and consuls, give decorations, honors and so on. This is considering the position of the President as head of state and head of government. The President has the right to submit draft laws to the House of Representatives and establish government regulations to implement the laws properly. This statement shows that the constitution provides enormous constitutional space for the President to participate in exercising legislative powers in addition to carrying out his duties as an executive institution⁴⁸. The President has the right to enact government regulations in lieu of laws in cases of compelling urgency, which must be approved by the DPR in the following session and if approval is not obtained then the government regulations must be revoked. Furthermore, regarding the president holding supreme power over the Army, Navy and Air Force, this means that the President is the supreme leader over all armed forces, because the President is the holder of government power according to the 1945 Constitution⁴⁹. Likewise, the next power and authority of the President is that the President, with the approval of the DPR, declares war, makes peace and makes agreements with other countries. Classification according to the material of the agreement in order to create legal certainty and uniformity in the form of ratification of international agreements by law⁵⁰. The existence of executive and legislative powers as well as judicial powers concentrated in the President is proof of the strength of the President's position. Thus, the presidential system adopted by Indonesia ideally provides broad powers for the president to carry out his executive duties⁵¹.

⁴⁸ Farida Azzahra, "Rekonstruksi Kewenangan Presiden Dalam Pembentukan Undang-Undang Sebagai Upaya Penguatan Sistem Presidensial Indonesia," *Jurnal Legislasi Indonesia* 18, no. 2 (2021): 153–67, <https://doi.org/10.54629/jli.v18i2.719>.

⁴⁹ Evi Purnamawati, "Kewenangan Presiden Dalam Membentuk Unit Kerja Presiden," *Solusi* 18, no. 1 (2020): 64–77.

⁵⁰ Delfina Gusman & Zimtya Zora, "Amandemen Terhadap Pasal 11 Undang - Undang Dasar 1945 Berkaitan Dengan Ratifikasi Perjanjian Internasional (Perspektif Hukum Internasional Dan Hukum Tata Negara)," *UIR Law Review* 5, no. 1 (2021): 76–88, [https://doi.org/10.25299/uirlrev.2021.vol5\(1\).6997](https://doi.org/10.25299/uirlrev.2021.vol5(1).6997).

⁵¹ Abdul Rahman Kanang, "Diskursus Pembatasan Kekuasaan Presiden Dalam Sistem Presidensial Menurut Uud 1945," *Al Danlah: Jurnal Hukum Pidana Dan Ketatanegaraan* 7, no. 1 (2018): 163–77, <https://doi.org/10.24252/ad.v7i1.5902>.

In South Korea, the presidential system in the form of a Republic is a Unitary State,⁵² with the functions, duties and authorities of the President and Prime Minister all regulated in the Constitution of the Republic of Korea; 대한민국 헌법 [*Hangul: Daehanmingug Heonbeob*]). The President of South Korea has the authority as stipulated in The Constitution of the Republic of Korea, including having the function of Head of State and representing the country in international relations⁵³ Government power resides in the executive agency headed by the President. Thus, the President has the position of Head of Government and Head of State. Apart from the President as head of government, and head of state, and also as supreme commander of the armed forces as regulated in the constitution and laws⁵⁴. The president is also given the power to declare war to defend and safeguard the country with all the power he has, especially military power as supreme commander. The president can also declare the government in a state of emergency.

The President of South Korea is responsible and serves as the guardian of independence, sovereignty and continuity of the country and the constitution. The President has the duty to seriously strive for peaceful unity of the homeland⁵⁵. The President can also propose laws to the National Assembly, but the President does not have the power to dissolve the National Assembly. Furthermore, the President has the authority to issue important policies related to diplomacy, national security, unification (with North Korea)⁵⁶, and other matters of interest related to national goals for a referendum if deemed necessary. In relation to international diplomacy, the President has the authority to draft and ratify agreements; acknowledge, accept or dismiss diplomatic envoys; declare war and make peace.

The President's authority in the field of defense and state security is to issue presidential decrees taking into account the matters entrusted

⁵² Tracy S. Wang, "Society of Asian Academic Surgeons Presidential Address: A Is for American. Asian. Ally," *Journal of Surgical Research* 27, no. 7 (2022): 1–11, <https://doi.org/10.1016/j.jss.2022.02.052>.

⁵³ Young Ho Kim, "Bureaucratic Politics in South Korean Foreign Policy-Making," in *Domestic Constraints on South Korean Foreign Policy* (New York: the Council on Foreign Relations, 2018), 20–37.

⁵⁴ Peter Banseok Kwon, "Building Bombs, Building a Nation: The State, Chaeböl, and the Militarized Industrialization of South Korea, 1973–1979," *The Journal of Asian Studies* 79, no. 1 (2020): 51–75, <https://doi.org/10.1017/S0021911819000652>.

⁵⁵ Hyang-Joo Lee, "Monopolizing Authority: The Construction of Presidential Power in South Korea," *Korean Studies* 46 (2022): 195–226, <https://doi.org/10.1353/ks.2022.0008>.

⁵⁶ Jiyeon Kim, "Public Opinion and Presidential Power in South Korea," *Council on Foreign Relations*, 2018, 38–55.

to him by law with the scope to enforce the law⁵⁷. The President has the authority to issue necessary policies related to finance and the economy or other policies required by law in situations of domestic crisis, foreign threats, natural disasters, and poor financial or economic crisis⁵⁸. Such authority can also carry out military action to maintain public security and the movement of military forces in times of war, armed conflict or other national emergencies. The President has the authority to declare military emergency based on the conditions described in the constitution and laws⁵⁹.

The president also has the authority to appoint and dismiss public officials based on circumstances described in the constitution and laws⁶⁰. The President has the right to grant amnesty, replacement and restoration of rights based on the circumstances described in the law⁶¹. The President has the authority to bestow decorations or other awards based on the circumstances described in the law⁶². Thus, the authority assigned to the President is executive duties which must be carried out based on laws made by the National Assembly (legislature). Apart from that, the influence of the legislature on executive power is emphasized by the regulation that the President must come or send in writing his policy plans to the National Assembly. Thus, the President is not under the authority of parliament, but there must be coordination regarding policies issued by the President as head of the executive which must be submitted to the legislature either for approval or simply notification.

Regarding the Prime Minister as vice President in the presidential system in South Korea whose authority is regulated in The Constitution of the Republic of Korea; 대한민국 헌법[*Hangul: Daehanmingug Heonbeob*] which is under the President⁶³. The authority of the Prime Minister of South Korea is in Sub-section 1 Prime Minister and Member

⁵⁷ Oriana Skylar Mastro & Sungmin Cho, "How South Korea Can Contribute to the Defense of Taiwan," *The Washington Quarterly* 45, no. 3 (2022): 109–29, <https://doi.org/10.1080/0163660X.2022.2126586>.

⁵⁸ Sang-Chul Park, "Industrial Policy and Regional Development: A Diachronic Comparison of Japanese and South Korean Economic Strategies," in *Handbook of Global Economic Policy*, ed. Stuart S. Nagel (Illinois, United States: University of Illinois, 2019), 111–30.

⁵⁹ Baek Yun Chul, "A Study on Martial Law History in Korea," *Military History Institute* 66, no. 1 (2008): 195–224, <https://doi.org/10.29212/mh.2008..66.195>.

⁶⁰ And Hyejin Kang, Min Han Kim and Byong-Seob Kim, *Political Appointments in South Korea, Political Patronage in Asian*, 2023.

⁶¹ You-Jeong Jeong & Osamu Niikura, "Life Imprisonment in South Korea: Life Imprisonment Law and Practice in the Shadow of the Death Penalty," *Life Imprisonment in Asia* 1, no. 12 (2022): 279–301.

⁶² IDEA, "Constitutional History of Republic of Korea," 2018.

⁶³ Kim, "Bureaucratic Politics in South Korean Foreign Policy-Making."

of State Council ⁶⁴ The main function of the Prime Minister is as an assistant to the President. The Prime Minister's authority will assist the President and direct the Cabinet of Ministers under the President's orders. The Prime Minister is tasked with providing recommendations to the President in determining the members of the State Council, then the Prime Minister also serves as Deputy Chair of the State Council accompanying the President ⁶⁵, who serves as Chair. In addition, the Prime Minister has the authority to provide recommendations to the President to dismiss members of the State Council. The State Council itself, when interpreted, is a high-level government institution which is a combination of Cabinet Ministers and the Presidential Advisory Council ⁶⁶.

The Prime Minister is also authorized by virtue of the powers granted by law to issue policies on matters within his jurisdiction. Likewise, in preparing the Ministerial Cabinet, the Prime Minister is tasked with providing recommendations to the President in appointing Cabinet Ministers. The Prime Minister is tasked with supervising ministers and managing the coordination of government policies under the direction of the President. The President and Prime Minister are assisted by the State Council whose members are appointed by the President based on recommendations from the Prime Minister. The State Council has the right to lead and supervise administrative ministers, negotiate important domestic affairs, and represent the government in the National Assembly ⁶⁷. The State Council is responsible only to the President. The next task for a Prime Minister is that if there is a vacancy in the President or the President is unable to carry out his duties, the Prime Minister is tasked with replacing him as Acting President ⁶⁸ Here there is a division of duties and authority between the President and the Prime Minister which is clear in the constitution, unlike in Indonesia, the authority of the Vice President according to the 1945 Constitution is not clearly regulated.

⁶⁴ Office, "Introduction to the Prime Minister's Office."

⁶⁵ Arthur Nguyen and Nil Özçaglar-Toulouse, "Nation Branding as a Market-Shaping Strategy: A Study on South Korean Products in Vietnam," *Journal of Business Research* 12, no. 2 (2021): 131–44, <https://doi.org/10.1016/j.jbusres.2020.08.029>.

⁶⁶ Office, "Introduction to the Prime Minister's Office."

⁶⁷ Ministry of Unification, "About MOU," https://www.unikorea.go.kr/eng_unikorea/about/aboutmou/infomation/, 2021.

⁶⁸ Prime Minister of Republic of Korea, "Introduction of the Prime Minister," <http://www.opm.go.kr/opm/prime/past-oversea.do>, diakses, 2021.

Conclusion

Formulating the problem by comparing the similarities and differences between the Republic of Indonesia and the Republic of Korea's presidential institutions can be concluded that, the Presidential Institutions in the Republic of Indonesia and the Republic of South Korea basically have similarities in both the President's function as Head of State and Head of Government. The only difference is in the representative who accompanies the President, in Indonesia the President's companion is the Vice President, in South Korea the President is accompanied by the Prime Minister. Although this is the same as the President's main assistant and assistant, they have different functions, duties and authorities. Likewise, in filling the positions of President and Deputy between the Republic of Indonesia and the Republic of Korea, there are similarities, but there are also differences between the two countries. Filling the position of President between Indonesia and South Korea is carried out in the same way by a general election mechanism chosen directly by the people, even though the organizing institutions and election systems are different, due to differences in the party systems adopted by the two countries. In terms of dismissing the President during his term of office, there are similarities, namely the existence of an impeachment institution, but in the impeachment process there are differences between the two. Regarding the division of authority between the President and his Deputy (Prime Minister) in South Korea, it is clearly regulated in the constitution, but the division of authority between the President and Vice President in Indonesia is not regulated in detail in the 1945 Constitution.

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