

Effective and Efficient Cabinet as One of the Efforts to Prevent Corruption

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Abstract

Corruption never seems to disappear in Indonesia, because almost every day there is news in various print and electronic media regarding public officials, legislative members and even law enforcers who are caught in corrupt practices. Therefore, more massive efforts are needed to prevent and eradicate corruption. This writing uses the Normative Juridical Research method which examines legal rules and principles in answering legal problems that occur using a Conceptual Approach to draw conclusions about the problems studied. We should all be aware that the moment of the General Election (Pemilu) is a very important moment considering the fact that 78 years of Indonesian independence is certainly a moment that must be interpreted deeply, the moment of forming an effective and efficient Cabinet is one of the determining factors for the success of the entire 5 Year government agenda. future and realizing the ideals of the Indonesian nation that have always been echoed, including realizing a government that is clean and free from corruption. Because the disease of corruption that has grown and taken root in this country is caused by many factors, one of which can be caused by the relationship between various systems that are related to corrupt cultural patterns in various functions of power in this country, for example co-optation and strong political intervention. This writing concludes that one of the important points in fixing various corruption problems is by repairing damage to the function and structure of government in this country. Forming an effective and efficient Cabinet in Government can be one of the keys to preventing Corruption.

Keywords: Cabinet, Effective, Prevention, Corruption

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1. Introduction

Indonesia will again hold its 5th Annual Democratic Party in February 2024. The Democratic Party which is implemented in General Elections (abbreviated as Election) is said to be an important mechanism in a country that adheres to a Representative Democracy system (Defretes & Kleden, 2023). The 2024 election is the second simultaneous election after being decided by the Constitutional Court in decision Number 14/PUU-XI/2013 on January 23 2014 which stated that the implementation of the Presidential Election and the simultaneous election of members of representative institutions was not in line with the constitutional principles which require that there be efficiency in government administration and citizens' rights to choose intelligently. (Rounding, t.t.)

Later, after the election and after the President and Vice President-elect are appointed, the public spotlight will again focus on the formation of the cabinet which will be carried out by the President-Vice-President-elect, even though the formation and filling of Cabinet members is actually the prerogative of a President in the Presidential concept because ministers are assistants. the president who in fact is chosen based on good criteria according to the president. However, if we look at the facts that have occurred so far, it turns out that forming an effective and efficient Cabinet is very difficult to do because it really depends on the political nuances (Political Will) and the good will of the President-elect.

As according to Fery Amsari, who is a Lecturer and Researcher from the Center for Constitutional Studies (Pusako) of Andalas University in the ILC broadcast #ILCRebutanSeat Edition, the distribution of cabinet seats is not necessarily just Its Not Just Position or division of seats, but the important thing in it is what what is transitioned is related to good things that can be continued as well as problematic things that are then corrected. (Ilyas, 2019) This should be an important point that the elected President and Vice President of Indonesia need to pay attention to in the future, because in the context of the Cabinet Format, the ministers will be the extension of the president in implementing every policy made, including policies to eradicate corruption in this country. .

The thick structure of each cabinet in the President's era, for example President SBY and President Jokowi's Working Cabinet, is an illustration of the politics of retribution that is always carried out, this is because the elected President and Vice President cannot deny the role of supporting political parties and various groups, including winning volunteers. Elected President and Vice President. The President seems to be shackled by the politics of retribution

and seems unable to escape the fat format of his cabinet regardless of the efficiency and effectiveness of his Cabinet.

2. Analysis and Discussion

Formatting an effective and efficient cabinet to prevent corruption in Indonesia.

The term corruption comes from one word in Latin, namely *corruptio* or *corruptus*, which was copied into various languages, for example in English it became *corruption* or *corruption*, in French it became *Corruption* and in Dutch it was copied into the term *corruptie* (*korruptie*) (Andi, 1991, p. 7) It seems that the word corruption in Indonesian was born from Dutch. *Corruptie*, which is also translated as *Corruptiën* in Dutch, means corrupt acts, bribery. Literally, this term means all kinds of bad actions, as Andi Hamzah said, rottenness, ugliness, depravity, dishonesty, bribery, immorality, deviation from purity, words or utterances that are insulting or slanderous. (S, 1999, p. 128)

In a broad sense, corruption is the abuse of official position or power for one's own personal gain. In this connection, corruption does not only mean abuse of power or authority which results in loss of state finances and assets, but also every policy and action which causes depreciation of public values. (National Law Commission, 2013, p. 1)

In Indonesia, the movement to eradicate criminal acts of corruption, for example, has been underway since the 1998 Reformation. Various efforts to prevent and eradicate criminal acts of corruption have also been carried out. (National Law Commission, 2013, p. 2). In legal substance, with the enactment of various laws and regulations and the ratification of international conventions related to corruption. Even in institutional (structural) terms, implementing and supporting institutions have also been established in the context of eradicating criminal acts of corruption in Indonesia, for example by establishing the Corruption Eradication Commission (KPK), the Financial Audit Agency (BPK), the Financial Transaction Reports and Analysis Center (PPATK), as well as the establishment of a special court for corruption crimes. Not to mention, various internal government oversight institutions have been formed which in fact aim to prevent corruption in this country. Empirical facts from research results in many countries and theoretical support by social scientists show that corruption has a negative effect on the sense of social justice and social equality.

Corruption causes sharp differences between social groups and individuals in terms of income, prestige, power and so on. (Setiadi, 2018) Criminal acts of corruption have occurred widely, and are also considered to have become an acute disease which not only harms state finances, but has also transformed into a form of violation of the social and economic rights of the community, undermining democracy, destroying rules and regulations. legal order. This encourages not only people in Indonesia but also the international community to collaborate in eradicating corruption. The commitment of the international community in efforts to eradicate corruption is also supported by various major world financing institutions, such as the World Bank, ADB, IMF, and also other international organizations such as the OECD and APEC. Even the UN in its General Assembly on 16 December 1996 stated a declaration to eradicate corruption in the document United Nation Declaration Against Corruption and Bribery in International Commercial Transactions which was published as UN resolution Number A/RES/51/59, 28 January 1997. (A.S, 2002 , p. 34)

The spirit of anti-corruption also continues, as reflected in the "Declaration of the 8th International Conference Against Corruption" which was held in Lima, Peru, on September 11 1997 and was attended by community representatives from 93 countries in the world. The conference believes that to fight corruption, cooperation between society, the business world and the government is needed (UNAC Endorsement, t.t.) For example, the existence of the Corruption Eradication Committee (KPK) in Indonesia as one of the corruption eradication institutions. Among the various other important points in the conference declaration is that the meaning obtained is that all government administration must be carried out transparently and accountably; and must guarantee the independence, integrity and depoliticization of the justice system as an important part of the rule of law which will be the foundation of all effective efforts to eradicate corruption.

It is even said that it is difficult to deny that the level of corruption in Indonesia has reached an "acute" stage. Corruption has penetrated all state institutions, including the executive, legislative and judiciary, systemically. This can be seen from the Indonesian Corruption Perception Index (IPK) in 2022, which fell four points to reach a score of 34, which is said to be the same as Indonesia's GPA in 2014. Indonesia is also ranked 110th out of 180 countries in the world that have been surveyed regarding their Corruption Perception Index. (Sulistyo, 2023).

A government structure such as a cabinet that is built against a background of corruption will become a corrupt structure and will be destroyed when the corruption is eliminated. One of the main factors and actors that plays a role in realizing clean government and good governance is an effective and efficient government cabinet. Considering the negative impact of corruption, of course appropriate steps are needed to eradicate this crime through integrated cooperation between law enforcement and community support, because criminal sanctions alone have proven inadequate in reducing the number of cases of corrupt behavior. (Putra & Linda, 2022).

If examined further, the title above means that an effective and efficient Cabinet format is an important factor in minimizing the occurrence of Corruption in Indonesia, even though it is common knowledge that the problem of Corruption not only occurs and exists in government circles, but also It has spread to various other functions of state power and corruption has even spread to judicial institutions which in fact are institutions that decide justice as part of law enforcement itself.

Regarding the Cabinet format, in general, in a presidential government system like Indonesia, the appointment and dismissal of ministers is the president's constitutional authority with the general standard of the president electing ministers and ministers being responsible to the president (the president appoints heads of departments who are his subordinates). There are variations in the practices that occur in countries that practice a presidential system of government. Quoting the opinions of Scott Mainwaring and Matthew Soberg Shugart, Djayadi Hanan put forward a number of variations on filling the cabinet in a presidential government system where the President determines the names of ministers without needing approval or inauguration; the president determines the names of cabinet ministers and submits them to confirmation or appointment by the assembly; the president determines the prime minister, then the prime minister determines the cabinet members; and the president cannot name ministers except on the recommendation of the assembly. Meanwhile, the variants in dismissing or dissolving the cabinet are: if the president wishes, he can dissolve the cabinet ministers; limited power to dissolve the cabinet; the president can dissolve the cabinet if the assembly accepts alternative ministers or cabinet; and the cabinet or ministers could be censored or dismissed by the assembly. (Saldi, 2019, p. 253)

In a presidential system of government, there is a clear separation of power between the Executive, Legislative and Judicial institutions, so that one should not be able to influence

each other. Ministers are not responsible to the Legislature, but are responsible to the President who elects and appoints them, so that these ministers can be dismissed by the president without the approval of the legislative body. (Octovina, 2018)

In contrast to the history of parliamentary systems, presidential systems were not built through a slow and long evolutionary process. Historically, the birth of the presidential system of government cannot be separated from the struggle of the United States to oppose and break away from British colonialism. As well as a brief history of the formation of the United States constitution. Regarding efforts to break away from the British colony, Moh. Kusnardi and Harmaily Ibrahim in Saldi Isra stated that the background of the United States adopting a presidential system was the people's hatred of the government of King George 111 so that they did not want a monarchic form of state and to realize their independence from British influence, they preferred to follow in Montesquieu's footsteps by holding a separation. power, so that there is no possibility that one power will exceed the power of another, because in Trias Politica there is a check and balance system. (Saldi, 2019, p. 251)

Based on the expert opinions stated above, there are three main characteristics of the presidential government system. First, the president has a dual function, namely as head of state and also head of government as stipulated in Article 4 of the 1945 Constitution. Second, although it is difficult to differentiate clearly, as head of state, the president can be said to be a symbol a country which under certain conditions can overcome the position of all institutions or institutions in the country. Meanwhile, in executive power, as head of government (chief of executive), the three Presidents are the sole and highest holders of power. The president not only chooses cabinet members, but also plays an important role in decision making within the cabinet. (Saldi, 2019, p. 252)

One of the serious problems in practice in the presidential system of government adopted by Indonesia after the amendments to the 1945 Constitution through the direct presidential election mechanism is that there is often commotion between the ministers who serve as assistants to the president. This can be seen in the example of 2015, where the President had disagreements with his ministers, leading to the issue of a Cabinet reshuffle. (Luqman Rimadi, 2015). It was further said that in his position as the holder of the highest power in the government, the president seemed to 'accept' the commotion. In fact, if we look back, especially after the direct election regime, commotion between presidential aides has become a recurring event. Therefore, relations between presidential aides are easily trapped in a new disease of

division in the executive ranks (divided executive). Not only between aides, sometimes divisions also occur with the president and vice president.

Open recruitment / open bidding mechanism in cabinet formation in Indonesia.

If we look at the comparison between government systems, we can see that the presidential system is compared to the parliamentary system of government which does not clearly separate the executive and the legislature. The presidential system of government is built on a strict separation between the president and the legislative body. In simple language, a presidential system of government is a system of government where the executive branch exists and exercises separate authority from the legislature (a system of government where the executive branch exists and presidents (hence the term) separate from the legislature. (Saldi, 2019, p. 252).

Contextually, the Reformation era in constitutional and political life followed the end of the New Order era on May 21 1998, marked by the overthrow of Soeharto and the seat of the Presidency of the Republic of Indonesia and was replaced by President BJ. Habibie. A multi-party system has essentially been implemented in the past in Indonesia. However, when the state in its constitution began to strengthen executive power by implementing a presidential system in the 1945 Constitution, on the other hand, it opened up opportunities for the growth of multi-parties. Of course, this reality is contradictory to the Presidential system where the President is supposed to be Powerful. (Erfandi, 2014, p. 100).

As assumed by Juan Linz, the presidential system is actually a risky choice because it has the potential to produce conflict between the executive and legislature on the one hand, and cause democratic instability on the other. (Fatwa, 2009, p. ixiii) As stated by Scott Mainwaring, he said that the combination of a presidential system and a multi-party system is not only a difficult combination but also has the potential to result in a dead end in the relationship between the Executive and the legislature. (Lijpart, t.t., p. 117).

Theoretically, the separation of powers between the legislature and the executive will encourage the creation of a Check and Balances mechanism. However, on the other hand, it can encourage the formation of a divided government (divided government) when the President and DPR are controlled by different political parties. As long as it is positioned that the equal position of the President and the DPR has the potential to produce what is called dual democratic legitimacy which threatens the sustainability of the presidential system itself. (Subekti, 2007, p. 101).

Although constitutionally based on Article 17 of the 1945 Constitution, paragraph 2, which states "Ministers are appointed and dismissed by the President" because the appointment of ministers is actually the President's prerogative. (Husaini, 2023) Constitutionally, the power of the Indonesian President is very strong in determining ministers because it is directly mandated by the Constitution, but since the changes to the 1945 Constitution, especially with the adoption of multiparty presidentialism, the president's authority has begun to be reduced by the building of a coalition of political parties that supports the president, because once again the president being elected is definitely shackled because of the unavoidable politics of retribution, even recently Megawati Soekarno Putri, who incidentally is the General Chairperson of the Democratic Party of Struggle (PDIP), one of the political parties supporting President Vice President Jokowi, for example, asked that the number of ministers from her party must go to the president the most. selected. This is certainly unethical in the sense that the president's authority has been indirectly reduced to format an effective and efficient Cabinet which will be even more difficult to do. (Asmara, 2019).

The president's authority to fill or determine ministers (cabinet) in this case inevitably or is forced to compromise with political realities and empirical expanses proves that the president must compromise in forming the cabinet with the political parties supporting the government coalition. Looking at the experience in forming a cabinet during the era of President SBY, for example, the mechanism for determining state ministers who will enter the Cabinet always involves political parties supporting the government coalition. Even though he only asked for a number of names from the supporting political parties and determining the final position was in SBY's hands. In this case, a President no longer has complete authority in determining state ministers as stipulated in Article 17 of the 1945 Constitution or it could be said that this prerogative is no longer intact. Even during President Joko Widodo's administration, for ministerial candidates who came from political parties supporting the government coalition, the role of the general chairman of the political party was more dominant in determining ministerial candidates.

In response to this, why will the president elected in 2024 not try to reformat the composition of the Cabinet like the Zaken Cabinet, namely a cabinet filled with professional people in each field of expertise. This model of cabinet appeared between mid-1957 to 1959. (Nggilu & Wantu, 2020) As was once proposed by the Steering Committee of the Pancasila

Ideology Development Agency (BPIP) when at that time it proposed that President Joko Widodo (Jokowi) create a Zaken Cabinet if re-elected in period 2019-2024. (Permana, 2019). However, the pattern or mechanism that can be used to format the Cabinet is to follow the Open Bidding mechanism, namely the process of openly filling high-level leadership positions within government agencies. (Putri et al., 2022) This mechanism has been put into practice when filling structural positions in the bureaucracy. The Open Bidding mechanism is one option if the president-elect wants his ministers to be staffed by professionals and have adequate capacity in their fields regardless of the background of each ministerial candidate, whether from millennials or from their own political parties. Candidates from among the supporting political parties themselves, like it or not, have an open bidding mechanism, which is an important factor that political parties must pay attention to in determining which ministerial candidates will be proposed, bearing in mind that this kind of open recruitment will of course mean that political parties will choose qualified candidates.

The elected President in Indonesia could later create a mechanism that is in line with his authority to format his Cabinet, such as the mechanism in Open Bidding for structural positions in the bureaucracy where assessments are based on the desired systems and procedures and the organizational structure needed to determine the levels and types of positions is created. , duties and authority as well as the number and qualifications of human resources (HR) required taking into account workload. Not only the number of human resources that need to be determined but also the quality and what skills of the human resources are needed are factors that must be considered in the Cabinet format.

In the Open Bidding, the president should also involve various parties, either through mechanisms, for example by forming a Pansel which will later be formed like the Pansel in the election of the KPK chief, in this case the president can involve various groups within the Pansel, especially parties who are related to Corruption, for example anti-corruption activists. corruption or various competent groups to be able to select and provide recommendations regarding the track record of each ministerial candidate so that through this mechanism the President can more easily decide to choose his ministerial candidate, in terms of the political burden of retribution the burden on the president will be reduced considering that the selection process is also involved. determines the selection of ministers in his cabinet and this means that the president is not wrong in making decisions regarding future ministerial candidates.

Another thing that can be done in formatting his Cabinet is that the president must involve the Corruption Eradication Commission and PPATK whose task is to detect the flow of funds through financial transactions through the accounts of each candidate to fill the position of Minister in Jokowi's Cabinet in the future, and later play a role in always supervising related transactions. the finances of the ministers and what is no less important is that this must be done periodically, for example every 6 months or once a year, so that cases such as ministers who are caught in corruption do not happen again and it is hoped that the selected ministers are individuals who really have the capacity and individuals who are free from Corruption.

Indonesia could learn from other countries such as China by bringing the same strong spirit to eradicate corruption. This communist country is very brave in ensnaring corruptors indiscriminately, a condition that is inversely proportional in Indonesia because sometimes the adage that the law is sharp downwards and blunt upwards is true. For China, corruption is a state enemy that must be eradicated from its roots. The culture of eradicating corruption began long before this country even became independent. Every government regime always views corruption as a strategic issue that must be implemented systematically and totally. Similar to Indonesia, China also stipulates the death penalty for corruptors as stated in the provisions of the Chinese Criminal Law. This was established during the regime of the first president and founder of the People's Republic of China, Mao Tse Tung or commonly known as Mao Zedong. Even Zhu Rongji's phenomenal words at that time were "Give me a thousand coffins. I will use ninety-nine to bury the corrupt and one for me if I commit a criminal act of corruption.

The formation of an effective and efficient Cabinet is certainly in line with the nation's ideals since Indonesia was founded and became independent, to be able to realize social justice for all Indonesian people without corruption, of course, for example, President Jokowi, who is also considered to have provided the basis for supporting the eradication of Corruption, is wrong. the other is through bureaucratic reform which has been rolled out by the government through Presidential Decree Number 81 of 2010 concerning the Grand Design of Bureaucratic Reform from 2010 to 2025 and Permenpan RB Number 20 of 2010 concerning the Road Map for Bureaucratic Reform from 2010 to 2014.

Even though in fact it has not been fully able to improve culture in the bureaucracy, especially suppressing bureaucratic behavior which tends to be corrupt, improvements are starting to be seen, for example in terms of recruitment of civil servants which is carried out in a more professional and competency-based manner, as is now starting to be done transparently

by The government, through an open system and through technology that minimizes the occurrence of cheating, for example the CAT system in the CPNS recruitment exam process. Even in terms of job promotions which are also carried out openly (Open Bidding) and competitively through a merit system (Merit System).

3. Conclusion

We should all be aware that the moment of the General Election (Pemilu) is a very important moment considering the fact that 78 years of Indonesian independence is certainly a moment that must be interpreted deeply, the moment of forming an effective and efficient Cabinet is one of the determining factors for the success of the entire 5 Year government agenda. future and realizing the ideals of the Indonesian nation that have always been echoed, including realizing a government that is clean and free from corruption. Because the disease of corruption that has grown and taken root in this country is caused by many factors, one of which can be caused by the relationship between various systems that are related to corrupt cultural patterns in various functions of power in this country, for example co-optation and strong political intervention.

In many cases of corruption, political pressure is one of the sources causing corruption. In connection with several things that have been described above, the president-elect in 2024 will need to re-schedule urgent things to be done, not only in terms of improving infrastructure, but one other important thing that should continue to be prioritized is the eradication of Corruption through the realization of internal structures. One of the ways of good governance is through an effective and efficient Cabinet whose main target is the realization of government administration that is professional, has legal certainty, is transparent, participatory, accountable, has credibility, is clean and is free from corruption.

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