

Constitution & Decentralized Government System in France

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Abstract

France is a republican country and uses a semi-presidential unitary government system with democracy which is very inherent in the country. The semi-presidential government system is a combination of the presidential government system and the parliamentary government system, in this case there are two executive leaders, each of whom has their own role. The executive leaders are the President of France who serves as head of state and the prime minister who serves as head of government. The French government system is semi-presidential, the French executive is led by a President who is assisted by a Prime Minister, the French Government is responsible to Parliament based on the provisions of Articles 49 and 50 of the French Constitution. However, the French Parliament consists of the National Assembly and Senate, where the National Assembly has the power to dissolve the cabinet so that the majority determines the choice of the Government, in contrast to Indonesia where Ministers cannot be dismissed by Parliament. The decentralization policy in France is based on a law of the French parliament known as the Gaston Defferre Law of 1982. Concept Autonomous government in France itself is divided into four categories, namely institutional, legal, financial and human resources. In the French Government, the Central Government does not intervene at all when problems arise between the Regional Government and other Regional Governments. The Central Government can act as a mediator but not as a decision-making body, because based on Article 72 of the French Constitution, problems relating to territorial matters are resolved through associations between related parties based on the authority to establish laws.

Keywords: Constitution, Decentralized, Government System, France

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1. Introduction

In the past, the form of the French state was a monarchy. However, currently France has changed the form of its country to a Republic. France's democratic tradition has been very strong for a long time, as a state rule for every citizen, France implemented the fifth republican constitution which was ratified by referendum on September 28 1958. France is a republican country and uses a semi-presidential unitary government system with democracy which is very inherent in the country. The semi-presidential government system is a combination of the presidential government system and the parliamentary government system, in this case there are two executive leaders, each of whom has their own role. The executive leaders are the President of France who serves as head of state and the prime minister who serves as head of government.

In a unitary state, the responsibility for carrying out governmental tasks basically remains in the hands of the central government. However, in several countries in the world applying the principle of decentralized unity. There are certain tasks must be carried out by the regions to manage their own affairs, this situation creates a reciprocal relationship of authority and supervision between the Central and Regional Governments (Ni'matul Huda, 2009).

The French Revolution in 1789 played a very important role in the future of the local government system in France. The highly centralized administration and state structure did not only create government inefficiency, also low public participation changed the local government system that was driven by the French Revolution established a new local government structure in France in December 1789 (Elsan Yudistira, 2020).

France has used several different constitutions throughout its history. The first constitution was created in 1791 with a unicameral parliament elected for a one-year term; then the constitution in 1875 with a bicameral system where the monarchy for 75 years after the French First Republic fell in the coup of Napoleon Bonaparte which abolished parliament. The French constitution was once known for its four main institutions, namely the Conseil d'Etat, the Tribunat, the Legislative Corps, and the Senate which were not directly elected; and the current French Constitution of 1958 emphasizes that "France is an

undivided, secular, democratic country and is a Socialist Republic which guarantees equality of all races and religions, as well as all beliefs organized according to a decentralized system. The statute must provide equal access to women and men to professional and social positions and responsibilities”.

Since the 1st World War until now, France has become a destination country for immigrants, which has led to the formation of a pattern of pluralism in France today. Metropolitan France is divided into 96 Departments and 22 Regions, while other regions have special status and administrative systems. France as a mediating force in international relations has 65 million members. Likewise, Indonesia is a developing country with a population of 273 million people consisting of more than 1,340 ethnic groups.

For example, the situation of pluralism in Indonesia has triggered the implementation of asymmetric decentralization for various reasons such as: conflict and demands for separatism; grounds for the nation's capital; historical and cultural reasons; border problems and centralized economic development problems (Dilla Janu Istanti, 2021). However, it is different in France, where there have never been demands for special autonomy or asymmetric decentralization, because representatives of the separatist movement are given positions in politics and participation in a council called the Council of Corsica. So, referring to this background, the author is interested in studying and analyzing the decentralized government system in France.

2. Analysis and Discussion

Every country in the world has a constitution as the legal basis for running the government. In general, the constitution and the state are two institutions that cannot be separated from one another. Constitution has a function to organize power so that it cannot be used forcibly and arbitrarily by the government, which means that all powers granted by the constitution to the government are regulated in the constitution which aims to provide welfare to the community (Rumiarta, Astariyani, & Amaral, 2022).

An idea of constitutionalism in this case the Constitution in a country is not only a written regulatory document that includes rules that reflect the division of power, in this

case between the division of executive power, legislative power and judicial power, but in the idea of constitutionalism, it participates in interpreting The constitution is seen as an institution that has a special function, namely determining, controlling and limiting power (the division of executive power, legislative power and judicial power) on the one hand by balancing power between the executive, legislative and judicial. In addition, the constitution participates in guaranteeing the human rights of its citizens and the political rights of its citizens. The constitution can be seen as a manifestation of the highest law that must be obeyed by the state and government officials, the constitution has a function to organize power so that it cannot be used forcibly and arbitrarily by the government (Rumiarta, Astariyani, & Amaral, 2022).

France is a republican country and uses a semi-presidential unitary government system with democracy which is very inherent in the country. The semi-presidential government system is a combination of the presidential government system and the parliamentary government system, in this case there are two executive leaders, each of whom has their own role. The executive leaders are the President of France who serves as head of state and the prime minister who serves as head of government.

The legislative institution is controlled by a bicameral parliament or two-chamber parliament, which consists of the national assembly and the senate. Because France is a democratic country, the president is elected directly by the French people who have reached adulthood. A president's term is only 5 years. Meanwhile, the prime minister will be chosen directly by the president as the leader of the executive branch. Meanwhile, legislative institutions, namely the national assembly and senate, have different terms of office. Where, the national assembly which will represent local constituents has a term of office for 5 years with the task and authority to determine the options chosen by the government and dissolve the cabinet.

The Senate in France is elected by an electoral college and has a term of office of 6 years. The two institutions in the legislature have different authorities and levels of power from each other, of which the National Assembly is the final decider. Whereas the judicial institution is held by the Administrative Court. This administrative court will handle various

kinds of issues related to government regulations or disputes between public institutions. That there is also a General Court which handles various civil and criminal cases of French citizens. Meanwhile, the Civil Court and Criminal Court handle cases between individuals. Because there are two executive leaders, this also makes the French government system known as dual executive. The government system used by France is certainly different from the government systems of other countries, especially those on the European continent.

Article 72 of the French Constitution states "The territorial communities of the Republic are Communes, Departments, Regions, Communities of Special Status and Overseas Territorial Communities which are further regulated in article 74. Other territorial communities created, if necessary to replace one or more communities must be created with the law." In article 74 of the French Constitution, the Institutional Law provides self-government to territorial communities determined by law after consultation with the People's Consultative Assembly.

The French government system is semi-presidential, the French executive is led by a President who is assisted by a Prime Minister, the French Government is responsible to Parliament based on the provisions of Articles 49 and 50 of the French Constitution. However, the French Parliament consists of the National Assembly and Senate, where the National Assembly has the power to dissolve the cabinet so that the majority determines the choice of the Government, in contrast to Indonesia where Ministers cannot be dismissed by Parliament.

The rule of law is not only subject to the rule of law, but also includes ethical (moral) values, good norms in this case contained in the law or as a civilization that lives in society for the public interest which has an impact on society. There is equality before the law, in this case everyone regardless of their position and class in society is subject to the same law. Likewise, state functionaries are subject to the same laws as those that apply to ordinary people. Law which is a series of regulations and or laws and regulations that give birth to state institutions and or government agencies that have their respective authorities granted by the laws and regulations, where such authority and power cannot be used outside

the legal corridor. This is because it must be subject to the principle of equality before the law (Rumiarta, 2022).

In a unitary state, the responsibility for carrying out governmental tasks basically remains in the hands of the central government. However, in several countries in the world applying the principle of decentralized unity. There are certain tasks must be carried out by the regions to manage their own affairs, this situation creates a reciprocal relationship of authority and supervision between the Central and Regional Governments (Ni'matul Huda, 2009). The French Revolution in 1789 played a very important role in the future of the local government system in France. The highly centralized administration and state structure did not only create government inefficiency, also low public participation changed the local government system that was driven by the French Revolution established a new local government structure in France in December 1789 (Elsan Yudistira, 2020).

An idea of constitutionalism in this case the Constitution in a country is not only a written regulatory document that includes rules that reflect the division of power, in this case between the division of executive power, legislative power and judicial power, but in the idea of constitutionalism, it participates in interpreting The constitution is seen as an institution that has a special function, namely determining, controlling and limiting power (the division of executive power, legislative power and judicial power) on the one hand by balancing power between the executive, legislative and judicial. In addition, the constitution participates in guaranteeing the human rights of its citizens and the political rights of its citizens. The constitution can be seen as a manifestation of the highest law that must be obeyed by the state and government officials, the constitution has a function to organize power so that it cannot be used forcibly and arbitrarily by the government (Rumiarta, Astariyani, & Amaral, 2022). A constitution definitely regulates the presidential system in a country, the executive leaders are the President of France who serves as head of state and the prime minister who serves as head of government. The legislative institution is controlled by a bicameral parliament or two-chamber parliament, which consists of the national assembly and the senate. Because France is a democratic country, the president is elected directly by the French people who have reached adulthood.

In the context of the state, centralization and decentralization are intertwined in a reality. There is no country that fully uses the principle of centralization nor decentralization in administering its government. Several authorities usually become the authority of the Central Government in a centralized matter, such as foreign authority, defense authority, and monetary authority. Although practically, there is also the principle of deconcentration as a refinement of centralization or vice versa. Amrah Muslimin believes that the main principles in the implementation of regional autonomy includes:

- a. The principle of decentralization in (Hanif Nurcholis, 2007) means the transfer of political and administrative authority from the top of the organizational hierarchy (central government) to the organizational levels below it (local government). This handover aims to prevent the concentration of power, finance and as a democratization the government, also to involve the people who are responsible for the administration of governance in the regions. According to Agus Salim Andi in (Ganjong, 2007) the principles of decentralization such as: Decentralization as the transfer of authority and power from the center government to the regions or local government; Decentralization as delegation of power and authority; Decentralization as division, deployment, deployment, and granting of power and authority; and Decentralization as a means of dividing and forming administrative regions.
- b. The principle of deconcentration, namely the delegation of authority from the government to autonomous regions as representatives of the central government within the context of the Unitary State, and the institution that delegates authority can give orders to officials who have been delegated this authority regarding making decisions.
- c. The co-administration principle (*Medebewind*), namely the participation of local governments to carry out government affairs with wider and higher authority in the area.

The meeting point between centralization and decentralization in governance can be studied in various aspects, including: aspects of the distribution of authority, aspects of central intervention in the regions, aspects of regional involvement at the central level, and aspects of

the distribution of financial resources (Rira Nuradhawati, 2019).

The decentralization policy in France is based on a law of the French parliament known as the Gaston Deferred Law of 1982. Prior to that law, the autonomy of French cities and departments was exercised on a limited basis based on laws passed in 1871 and 1884. Concept Autonomous government in France itself is divided into four categories, namely institutional, legal, financial and human resources.

In the French Government, the new decentralized regional government is regulated in article 1 of the French Constitution of 1958, which was later amended in the Decentralization Law in 1980. Article 72 paragraph (2) of the French Constitution states that regions, departments and communes are not based on hierarchy. or supervision of each other, but rather the Central Government is responsible for each administrative region for national interests, administrative supervision and compliance with the law. Strengths Financial sources of local government in France include: fiscal funds; direct and indirect taxes; distribution from the Central Government; from loans or debts; services by local governments such as water and public transport. Article 72 of the French Constitution states that "...No territorial community shall exercise power over another..." that each Regional Government has its own authority and does not conflict.

In the French Government, the Central Government does not intervene at all when problems arise between the Regional Government and other Regional Governments. The Central Government can act as a mediator but not as a decision-making body, because based on Article 72 of the French Constitution, problems relating to territorial matters are resolved through associations between related parties based on the authority to establish laws. Hollande, President of France in 2014 declared a state of emergency from 14 November 2015 to 26 July 2016 in France which gave the police the authority to carry out searches without a warrant if there was a high probability of public behavior that could endanger public safety. Police are also given permission to access and copy digital data found on search sites and can impose penalties such as house guarding or mandatory reporting.

This shows that although based on the constitution, regional government in France is carried out freely, in reality this is not the case. There are very strict regulations regarding law

enforcement and state protection as stated in article 21 of the French Constitution that the Prime Minister directs the Government's actions and is responsible for protecting the state and ensuring the implementation of laws.

According to F.M Poupeau, there is a significant gap between government rhetoric and institutional reality in France, even though the constitution mentions the principle of decentralization, its implementation is still through a strong centralized model, especially in an institutional framework where local government authority is actually very controlled (F.M Poupeau, 2020).

Achmad Ali revealed that legal theory cannot be separated from the environment of his time. Therefore, even though you want to express a thought universally, you should not separate these theories from the context in which they appear (Charles Lungkang, 2023). The theory of democracy according to Henry B. Mayo states that a democratic political system is a public policy made by the majority, which is subject to effective popular control carried out on the basis of political equality. A democratic political system is a system that shows a wise attitude through a majority of representatives balanced by active and effective oversight based on the principle of political equality and its implementation with guarantees of political freedom (Lis Firanti, 2023).

The benefits of decentralization in practice are not as clear as in theory of fiscal federalism, and there are serious drawbacks that must be considered in designing decentralization programs. Analysis is needed to determine whether decentralization should be carried out in general or not, in which sectors or in what areas decentralization should be carried out. What is important is to regulate harmonization between the central and regional or regional governments. If designed and implemented well, decentralization can significantly improve public sector efficiency. Decentralization efforts are like medicines, but only if the medicine is prescribed for the disease in question, at the right time and in the right dose, can it have a beneficial impact; but in the wrong situation, it can be dangerous (Jorge Martinez, 2016).

There are several things that can be adopted in the French decentralized system for the Indonesian government, namely that in the Indonesian decentralized system, it is necessary to

improve the defense and security system as well as conflict management so that conflict does not escalate and disrupt national stability. Apart from that, there is a need to strengthen independent institutions as supervisors of the implementation of regional government so that they can guarantee the implementation of regional government governance can be carried out well. For French decentralization, it is necessary to pay attention to the mechanisms of relations between regions, so that it is impossible for regions not to interact with each other, especially regarding negative externalities in development activities.

3. Conclusion

The executive leaders are the President of France who serves as head of state and the prime minister who serves as head of government. The French government system is semi-presidential, the French executive is led by a President who is assisted by a Prime Minister, the French Government is responsible to Parliament based on the provisions of Articles 49 and 50 of the French Constitution. However, the French Parliament consists of the National Assembly and Senate, where the National Assembly has the power to dissolve the cabinet so that the majority determines the choice of the Government, in contrast to Indonesia where Ministers cannot be dismissed by Parliament.

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