

Reconstruction of Restrictions on the President's Power in Determining the Posture of Ministries in the Indonesian Government System

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Abstract

This research is a critique of the 2024 State Ministry Law which gives the President the freedom to form Ministries according to his needs.. Based on this law, the President, Prabowo Subianto, formed a Cabinet consisting of 48 Ministries. For this reason, it is urgent to immediately enact a Presidential Agency Law to limit the President's power in determining the posture of ministries so that their functions do not overlap, do not reflect cabinet affairs, and prevent corruption. Through the Presidential Agency Law, it is hoped that the President will not use Ministerial positions as political barter and "share power" with political parties, coalitions and volunteers in General Elections. This research is normative research with statutory, historical, comparative and conceptual approaches. In this study it was concluded: 1). Cabinet dynamics in Indonesia after the enactment of the 2008 Law on State Ministries, namely, the Indonesia Bersatu; The Kerja Cabinet; and The Indonesia Maju Cabinet has Cabinet members, 34 Ministry; and Merah Putih Cabinet, The number of Cabinet members is 48 Ministries in accordance with the 2024 State Ministry Law which gives the President the freedom to form Ministries according to his needs. 2).Design a Reconstruction of Restrictions on the President's Power in Determining the Posture of Ministries in the Indonesian Government System, namely: First, Establishing the Presidential Agency Law.

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Second, the Law on Presidential Agency must regulate the maximum number of 24 Ministries. Third, the amalgamation of Institutions within the President's circle to become an integral part of the Ministry of State Secretary. Fourth, the abolition of the Coordinating Ministry Institution. Fifth, Elimination of the Position of Vice Minister.

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1. Introduction

Indonesian Constitutional Design Based on the 1945 Constitution of the Republic of Indonesia (1945 Constitution), the President is directly elected by the people,¹ politically strengthen the presidential system of government² in Indonesia the position of the President does not depend on the People's Consultative Assembly (Parlement),³ the President has a definite term of office,⁴ and the President can no longer be dismissed by the People's Consultative Assembly for political reasons.⁵ The dismissal of the President must be legal and certain,⁶ through the difficult impeachment procedure⁷ even involving the judiciary,⁸ the Constitutional Court (MK).⁹ The characteristics of a presidential government system are visible in Articles 4 and 17 of the 1945 Constitution. Article 4 of 1945 Constitution said "*The President of the Republic*

¹ Mark Elliott and Robert Thomas, "Parliamentary Scrutiny of Central Government," in *Public Law* (Oxford University Press, 2020), <https://doi.org/10.1093/he/9780198836742.003.0011>.

² Mohammad Syaiful Aris, "Opportunities and Challenges in the Implementation of Plurality-Majority (District) Electoral System for Strengthening the Indonesian Presidential System," *Jurnal Yuridika* 37, no. 3 (2022): 567, <https://doi.org/10.20473/ydk.v37i3.37604>.

³ Dragoljub Popovic, "Parliamentary Government," in *Constitutional History of Serbia* (Brill, 2021), <https://doi.org/10.30965/9783657791026>.

⁴ Omololu Fagbadebo, "From Parliamentary to Presidentialism: Different Governing Systems and Practice with Similar Outcomes," in *Impeachment in the Nigerian Presidential System: Challenges, Successes and the Way Forward* (Springer Nature Singapore Pte Ltd, 2020), https://doi.org/10.1007/978-981-15-6041-5_8.

⁵ Nurwita Ismail, "Impeachment In The State System," *Substantive Justice International Journal of Law* 1, no. 1 (2018): 46–55, <https://doi.org/10.33096/substantivejustice.v1i1.8>.

⁶ Hanif Fudin, "Legal Justice In Presidential Impeachment Practice Between Indonesia And The United States Of America," *Jurnal Hukum Dan Peradilan* 9, no. 3 (2020): 465–504, <https://doi.org/10.25216/jhp.9.3.2020.465-504>.

⁷ Hanif Fudin, "Legal Justice In Presidential Impeachment Practice Between Indonesia And The United States Of America."

⁸ Ghunarsa Sujatnika et.al, "Impeachment and Its Problem: The Study from Constitutional Law vs Criminal Law Perspective in Indonesia," *Revista de Investigações Constitucionais* 11, no. 1 (2024): 1–22, <https://doi.org/10.5380/rinc.v11i1.87862>.

⁹ Luthfi Widagdo Eddyono, "Independence of Indonesian Constitutional Court In Norms and Practices," *Constitutional Review* 3, no. 1 (2017): 72–97, <https://doi.org/10.31078/consrev314>.

of Indonesia holds the power of government according to the Constitution".¹⁰ The construction of the 1945 Constitution makes Indonesia adhere to a purely presidential system in which the President is the head of state as¹¹ well as the head of government in a unified and inseparable manner.¹² Different from the parliamentary system in which the positions of head of state and head of government are distinguished.¹³

The consequence of this Presidential system is the centralization of power in the hands of the President,¹⁴ and the President has the prerogative¹⁵ in appointing and dismissing officials or heads of state institutions who are in and responsible to the President, for example in the case of the President appointing Ministers¹⁶ that assist the government in carrying out governmental functions as regulated in Article 17 of the 1945 Constitution.¹⁷ Ministers are assistants to the President in certain government affairs dealing with special matters.¹⁸

The President has the freedom to appoint all his aides who are actually political appointees.¹⁹ In political science the ultimate goal of a person or a political party is to win the General Election and occupy the position of President,²⁰ and therefore whoever

¹⁰ Mahesa Rannie et.al, "Does the Reform of the Parliamentary and Presidential Threshold Strengthen the Presidential System in Indonesia?," *Sriwijaya Law Review* 8, no. 1 (2024): 133-51, <https://doi.org/10.28946/slrev.vol8.iss1.3157.pp133-151>.

¹¹ Albert Venn Dicey, *Introduction to The Study of The Law of The Constitution* (Liberty Classic, 1982).

¹² Keith Dowding and Patrick Dumont (Ed), *The Selection of Ministers in Europe: Hiring and Firing* (Routledge, 2009), <https://doi.org/10.4324/9780203886908>.

¹³ Henning Bergmann et.al, "Party-System Polarisation, Legislative Institutions and Cabinet Survival in 28 Parliamentary Democracies, 1945-2019," in *Parliaments and Government Termination* (Routledge, 2023), <https://doi.org/10.4324/9781003397168-8>.

¹⁴ Octavio Amorim Neto, "The Presidential Calculus Executive Policy Making and Cabinet Formation in The Americas," *Comparative Political Studies* 39, no. 4 (2006): 416, <https://doi.org/10.1177/0010414005282381>.

¹⁵ Juan J Linz, "The Perils of Presidentialism," *Journal of Democracy* 1, no. 1 (1990): 61.

¹⁶ Matthew G Shugart and John M Carey, *President and Assemblies: Constitutional Design and Electoral Dynamics* (Dartmouth College Publishing, 1992).

¹⁷ Charles Simabura et.al, "Ministerial Authority in Formulating Regulations Related to Presidential Lawmaking Doctrine," *Constitutional Review* 9, no. 2 (2023): 297-326, <https://doi.org/10.31078/consrev924.297-326>.

¹⁸ Horst P Ehmke, "Delegata Potestas Non Potest Delegari a Maxim of American Constitutional Law," *Cornell Law Review* 47, no. 1 (1961): 50-60.

¹⁹ Jun Makita, "Development of Legislative Supporting Agencies (LSAs) from a Perspective of Difference between Presidential and Parliamentary Systems," *SSRN*, 2022, 1-18, <https://doi.org/10.2139/ssrn.4057911>.

²⁰ Achmad Zuhdi et al., "Presidential Partisanship in Indonesian Elections: A Legal and Ethical Analysis," *Jurnal IUS Kajian Hukum Dan Keadilan* 13, no. 1 (2025): 168-86, <https://doi.org/10.29303/ius.v13i1.1635>; Muhammad Rinaldy Bima and John Tumba Jacob, "The Age

serves as President must run the government according to his promises and for this the President is assisted by ministers who are very likely people the President trusts.²¹ It is naive to say that the President has no political agenda but as far as possible all programs and all assistants he appoints must carry out their duties as mandated by the constitution.²² The sign is the constitution itself. However, even though the President has prerogative rights, there are still restrictions for the President to designate his "assistants" because in Article 22 Paragraph (2) of Law Number 39 of 2008 about State Ministries there are conditions for a President to choose the ministers,²³ so that the President cannot choose his cabinet members carelessly. And most importantly, the President also has guidelines regarding the limits of ministers who can be appointed and included in the Cabinet,²⁴ remember in mind that Article 15 of the Law on State Ministries reads: "The total number of Ministries as referred to in Article 12, Article 13, and Article 14 is at most 34 (thirty four)".

After the promulgation of the 2008 Ministry of State Law, the first user of this Law was the Indonesia Bersatu Cabinet (2004-2009) with President Susilo Bambang Yudhoyono (SBY), the Cabinet consisted of 34 Ministers. It was in the era of the Indonesia Bersatu Cabinet that the State Ministries Law was promulgated. In the Indonesia Bersatu Cabinet II (2009-2014) with President SBY, the number of ministries remained 34. However, the format of the Cabinet is getting fatter with

Threshold for Presidential Nominations in the Perspective of Dignified Justice Theory: Why Is There a Mahkamah Keluarga Issue?," *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 3 (2023): 403–22, <https://doi.org/10.29303/ius.v11i3.1301>.

²¹ Youjun Shin and Nino Kokashvili, "How Political Ideology of Government Affects Health System Efficiency. Evidence from Parliamentary Democracies," *International Journal of Public Policy* 15, no. 5 (2020): 380, <https://doi.org/10.1504/IJPP.2020.10036309>.

²² Argelina Cheibub Figueiredo and Fernando Limongi, "Presidential Power, Legislative Organization and the Party Behavior in Brazil," *Comparative Politics* 32, no. 2 (2000): 167, <https://doi.org/10.2307/422395>.

²³ a. Indonesian citizens; b. fear God Almighty; c. loyal to Pancasila as the foundation of the state, the 1945 Constitution of the Republic of Indonesia, and the ideals of the proclamation of independence; d. physically and mentally healthy; e. have good integrity and personality; and f. never been sentenced to prison based on a court decision that has permanent legal force for committing a crime punishable by imprisonment for 5 (five) years or more. Look Joysua Eben Tomben et.al, "Pengangkatan Dan Pemberhentian Menteri Berdasarkan Undang-Undang Nomor 39 Tahun 2008 Tentang Kementerian Negara," *Jurnal Lex Administratum* IX, no. 3 (2021): 166.

²⁴ Rajeev K Goel and Michael A Nelson, "Presidential Versus Parliamentary Systems: Where Do Female Entrepreneurs Thrive?," *Social Science Quarterly* 101, no. 5 (2020): 1773–88, <https://doi.org/10.1111/ssqu.12851>.

President SBY appointing several "Vice Ministers" to patch up the performance of ministers from political parties whose performance is considered to be poor or unable to achieve cabinet targets.²⁵

In the Kerja Cabinet (2014-2019) and the Advanced Indonesia Cabinet (2019-2024) led by President Joko Widodo (Jokowi) there were 34 Ministers. The posture of the Ministry of State in the era of President Jokowi is that several Ministries of Religion were merged, the names of the Ministry of State were changed, separated, and there is also President Jokowi establishing a new Ministry of State.

In the 2024-2029 Presidential and Vice Presidential Cabinet, Prabowo Subianto and Gibran Rakabuming Raka named their Merah Putih Cabinet, the aim of forming this cabinet is an effective and efficient Cabinet, and a zaken cabinet (expert cabinet). Although many people doubt this aim because of the President's intention to embrace political opponents in the elections and minimize the "Opposition" in his Government.²⁶ As a consequence of this "embracing politics", the posture of the Ministry of State has increased to 48 Ministry of State, from the original 34 Ministry of State.²⁷ This is a consequence of Article 15 of Law Number 61 of 2024 concerning Amendments to Law Number 39 of 2008 concerning the Ministry of State which revokes Article 15 of Law No. 39 of 2008 which provides freedom ("blank cheque") to form the Ministry of State according to the President's needs. Article 15 of Law Number 61 of 2024 reads: "The total number of Ministries established as intended in Article 12, Article 13 and Article 14 is determined in accordance with the needs of government administration by the President." This number of 48 is considered "fat" by experts in constitutional law and political science and is thought to only share power.

According to Ismail Suny, a logical consequence if the President organizes a State Ministries will definitely have legal consequences, one of which is the budget problem.

²⁵ Yusron Munawir, "Problematik Pelaksanaan Hak Prerogatif Presiden Dalam Perombakan Kabinet Indonesia Bersatu II" (Universitas Islam Indonesia, 2013).

²⁶ Hidayat Salam, "Tanpa Oposisi, Relasi Eksekutif-Legislatif Pemerintahan Prabowo Bisa Berjalan Mulus", Kompas, Accessed May 7, 2024, <https://www.kompas.id/baca/polhuk/2024/04/26/tanpa-oposisi-relasi-eksekutif-legislatif-pada-pemerintahan-prabowo-akan-berjalan-mulus>.

²⁷ Humas, Presiden Prabowo Subianto Umumkan Susunan Kabinet Merah-Putih, di Istana Merdeka, Jakarta, Accessed May 7, 2024, <https://setkab.go.id/presiden-prabowo-subianto-umumkan-susunan-kabinet-merah-putih-di-istana-merdeka-jakarta/>.

For this reason, it is better that there are not too many cabinet members, and the President must only hold State Ministries in important sectors.²⁸ Ismail Suny's opinion was strengthened by Arbi Sanit who stated the urgency of creating a system so that the President does not appoint Ministers for practical political interests, and the party that supports it,²⁹ so that too many Ministers can be prevented. The number of Kemeneg must be determined, and limited by law. So, every time the President changes, he cannot make changes to the Ministry of State at will, let alone accommodate parties who have contributed to winning the election.³⁰ For this reason, ideal cabinet restructuring is the topic that the author wants to examine in this paper. In this article, the Author will also provide the Concept of Limiting Presidential Power in the Formation, Change, and Dissolution of the State Ministry, not only on the posture of the Ministry. However, also on the limitation through the nomenclature of the ministry.

Before discussing further about Reconstruction of Restrictions on the President's Power in Determining the Posture of Ministries in the Indonesian Government System, the author feels it is necessary to conduct a literature review so that this research guarantees originality,³¹ and avoid elements of plagiarism.³² The author found three studies that discussed Presidential power, cabinet and ministries.

First, a Journal article entitled: "The Indonesian President's Prerogative Rights in the Appointment of Ministers After the Amendment to the 1945 Constitution" written by Isnawati, et.al. The results of this research state that the combined multiparty system has implications for the ineffective use of presidential prerogatives. Thus, it is necessary to reconstruct the ministerial appointment model. Appointments are no

²⁸ DPR RI, *Risalah Rapat Dengar Pendapat Umum Dengan Pakar Hukum Tata Negara, Tanggal 25 Januari 2006* (Bidang Arsip, dan Museum DPR RI, 2006).

²⁹ DPR RI, *Risalah Rapat Dengar Pendapat Umum Dengan Pakar Ilmu Politik, Tanggal 25 Januari 2006* (Bidang Arsip, dan Museum DPR RI, 2006).

³⁰ DPR RI, *Risalah Rapat Dengar Pendapat Umum Dengan Paguyuban Mantan Anggota DPA RI, Tanggal 8 Februari 2006* (Bidang Arsip, dan Museum DPR RI, 2006).

³¹ PPS FH UII, *Buku Pedoman Penulisan Tugas Akhir (Tesis) Magister Ilmu Hukum* (PPS FH UII, 2010).

³² Eddy Damian, *Hukum Hak Cipta* (Alumni, 2009).

longer the absolute authority of the president. The president must involve other institutions that represent the people as a form of checks and balances.³³

Second, a journal article entitled: "Consistency of the Presidential System in Indonesia" written by Kuswanto. The results of this research illustrate that the constitutionality of the presidential system in Indonesia contributes to the lack of constitutional regulation, specifically in explaining the relationship between the executive (president) and the legislature, including efforts at the level of legislative efforts which have a significant impact on weakening the President's power in the executive realm.³⁴

Third, a journal article entitled: "Renewal of State Ministries in Indonesia," written by Quratta Ayuni and Charles Simabura. The results of this research suggest limiting the minister's authority in forming regulations.³⁵ In this case, one way out is to return the position of delegated regulation of laws to the President, not ministerial regulations.³⁶ Of these three studies, they do not discuss the Limitation of the President's Power in Determining the Posture of State Ministries through the Presidential Agency Law. Based on this, this research can be scientifically justified by relying on the rules, and academic ethics that a researcher must have.³⁷

2. Problem Statement

By looking at the problem regarding the regulation of Cabinet Structure in the Law on State Ministries above, the author is interested in writing and researching this issue with the problem formulation: (1). What is the posture of State Ministries after the promulgation of the Law on State Ministries?; and (2). How is the Reconstruction of

³³ Isnawati et.al, "The Indonesian President's Prerogative Rights in the Appointment of Ministers After the Amendment to the 1945 Constitution," *Padjadjaran Jurnal Ilmu Hukum (Journal of Law) (PJIH)* 10, no. 2 (2023): 245–72, <https://doi.org/10.22304/pjih.v10n2.a6>.

³⁴ Kuswanto, "Consistency of the Presidential System in Indonesia," *Sriwijaya Law Review* 2, no. 2 (2018): 170–82, <https://doi.org/10.28946/slrev.Vol2.Iss2.67.pp170-182>.

³⁵ Quratta Ayuni dan Charles Simabura, "Pembaharuan Kementerian Negara Di Indonesia," *Nagari Law Review* 7, no. 2 (2023): 279–92, <https://doi.org/10.25077/nalrev.v.7.i.2.p.279-292.2023>.

³⁶ Putra Perdana Ahmad Saifulloh et.al, "Legal Standing Komisi Pemberantasan Korupsi Sebagai Pemohon Pembubaran Partai Politik Di Mahkamah Konstitusi," *Jurnal Konstitusi* 20, no. 2 (2023): 318–39, <https://doi.org/10.31078/jk2028>.

³⁷ A.F. Elly Erawaty, *Pedoman Penulisan Esai Akademik Bagi Mahasiswa Ilmu Hukum* (PT. Refika Aditama, 2012).

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3. Methods

This research employed normative legal research, also known as the doctrinal research method.³⁸ Normative legal research is a method for analyzing and discussing legal issues using a legal framework based on statute regulation and concepts and principles in law science.³⁹ There were three methods used namely statutory regulatory, historical, and conceptual methods.⁴⁰ The data in this research was obtained qualitatively and presented using a descriptive-analytical method focusing on the legal basis.⁴¹ Existing data and facts were also described and then analyzed based on the theory used. Analysis was carried out by examining and classifying the data collected based on the problem being analyzed.⁴²

4. State Ministries Posture Practices after the Promulgation of the State Ministries Law

4.1. Posture of State Ministries in Indonesia Bersatu II Cabinet (2009-2014)

The Law on State Ministries is a law passed by President SBY on 6 November 2008. In the 2009 Presidential and Vice-Presidential Elections, SBY won the political contest. On October 20, 2009, SBY and Boediono were appointed by the People's Consultative Assembly as President and Vice President for the 2009-2014 period. On October 21, 2009, President SBY formed a Cabinet with Presidential Decree Number 84/P of 2009, this Cabinet was called the Kabinet Indonesia Bersatu II (KIB II). On November 6, 2009,

³⁸ Amancik et.al, "Choices of Law for Democratic Regional Head Election Dispute Resolution Institutions in Indonesia," *Jambura Law Review* 6, no. 2 (2024): 304–38, <https://doi.org/10.33756/jlr.v6i2.24792>.

³⁹ Helmy Boemiya, "Changes To The Regional Medium-Term Development Plan During The Covid-19 Pandemic Period In The Legal Perspective Of Regional Government," *Trunojoyo Law Review (TLR)* 5, no. 1 (2023): 66–84, <https://doi.org/10.21107/tlr.v5i1.21053>.

⁴⁰ Muwaffiq Jufri et.al, "State Power Limitations on Religion for The Fulfillment of The Constitutional Rights of Indigenous Religion Believers in Indonesia," *Journal of Indonesian Constitutional Law* 1, no. 3 (2024): 195–213, <https://doi.org/10.71239/jicl.v1i3.23>.

⁴¹ Bambang Sumantri et.al, "Fulfillment of the Constitutional Rights for Persons with Intellectual Disabilities in General Elections," *Journal of Indonesian Constitutional Law* 1, no. 3 (2024): 176–89, <https://doi.org/10.71239/jicl.v1i3.28>.

⁴² Eugenia Brandao Da Silva et.al, "A Model Of Election Supervision Based On Village Judicial Institutions; A Review Of Legal Anthropology In Madura," *Trunojoyo Law Review (TLR)* 6, no. 1 (2024): 95–117, <https://doi.org/10.21107/tlr.v6i1.23230>.

the President issued Presidential Regulation Number 47 of 2009 concerning the Establishment and Organization of State Ministries which is a follow-up to the Law on State Ministries. At the beginning of the formation of the Cabinet, the composition of KIB II numbered 34 Ministers. Cabinet Based on Presidential Decree Number 84/P of 2009:

Table 1. *List of Ministers Members of the KIB II Cabinet*

No.	Ministers Members of The Cabinet
1.	Minister of Politics, Law, and Security
2.	Coordinating Minister of Economy
3.	Coordinating Minister of People's Welfare
4.	Minister of State Secretary
5.	Minister of Home Affairs
6	Minister of Foreign Affairs
7	Minister of Defence
8	Minister of Law and Human Rights
9	Minister of Finance
10	Minister Energy and Mineral Resources (Menteri ESDM)
11	Minister of Industry
12	Minister of Trade
13	Minister of Agriculture
14	Minister of Forestry
15	Minister of Transportation
16	Minister of Maritime Affairs and Fisheries
17	Minister of Manpower and Transmigration
18	Minister of Public Works
19	Minister of Health
20	Minister of National Education ⁴³
21	Minister of Social Affairs
22	Minister of Religion
23	Minister of Culture and Tourism ⁴⁴
24	Minister of Communication and Information
25	Minister of Research and Technology
26	Minister of State for Cooperatives and Small and Medium Enterprises
27	Minister of Environment
28	Minister of State for Women's Empowerment and Child Protection
29	Minister of State for Administrative Reform and Bureaucratic Reform
30	Minister of State for Development of Disadvantaged Regions

⁴³ In Presidential Decree Number 59/P of 2011 the name of the Minister of National Education (Mendinas) was changed to the Minister of Education and Culture (Mendikbud).

⁴⁴ In Presidential Decree Number 59/P of 2011 the name of the Minister of Culture and Tourism was changed to the Minister of Tourism and Creative Economy (Menparekraf).

31	Minister of National Development Planning/Head of the National Development Planning Agency
32	Minister of BUMN
33	Minister of Public Housing
34	Minister of Youth and Sports

Source: Presidential Decree Number 84/P of 2009 and Presidential Decree Number 59/P of 2011

Bearing in mind the ministers from the proposed political parties still dominate the cabinet. In order to improve the performance of the cabinet, of course, professionalism and working relationships between ministers in the cabinet are needed. It is difficult for professionalism to grow in the ministry if the minister is held by non-experts. The domination of ministers in KIB II includes many coalitions political parties, so that whenever there is political commotion between parties it is certain that the working relationship of ministers in the cabinet is not harmonious. In order to realize "the right man, in the right place" in his Cabinet President SBY finally added 18 Vice Ministers in 17 State Ministries. The addition of 18 Vice ministers in 17 State Ministries made the cabinet composition fatter, which was done by SBY, thus increasing the burden on the government's budget for vice ministers. He added that vice ministers actually added to the burden on the state budget, because they had to disburse funds to pay for financial rights and other facilities for vice ministers who were given the same level as structural Eselon I.A positions. In fact, it is still not clearly regulated in the law regarding the position, duties and powers of vice ministers.⁴⁵

The appointment of a vice minister proves that a minister really needs a professional figure who can help them, especially ministers from among politicians. The president had doubts about the ability of his ministers, so he appointed a professional vice minister whose aim was to carry out the ministry's performance, behind that it was also to image the minister for the upcoming elections. Here are Vice ministers in Kerja Cabinet II: Vice Minister of Health; Vice Minister of Tourism and Creative Economy; Vice Minister of Foreign Affairs; Vice Minister of Culture and Education in Education Field and also in Cultural Field; Vice Minister of State Owned Enterprises; Viceminister of trade; Vice minister of finance; vice minister; Vice Minister of State Civil Apparatus

⁴⁵ Presidential Regulation Number 76 of 2011 concerning the Formation and Organization of State Ministries.

Empowerment and Bureaucratic Reform; Vice Minister of Law and Human Rights; Vice minister of energy and mineral resources; Vice Minister of Religion; Vice Minister of Defense; Deputy Minister of Industry; Vice Minister of Transportation; Vice minister of National Development Planning; and Vice Minister of Public Works.⁴⁶

In fact, efforts to form a quality and professional cabinet have been initiated since the first presidential election in 2004. After the election, President SBY held an open selection of ministerial candidates ahead of the formation of the cabinet. However, towards the end of the decision, several names that were not previously included in the list of ministerial candidates were actually included in the cabinet.⁴⁷

4.2. State Ministries Posture in Kerja Cabinet (2014-2019)

The composition of the Kerja Cabinet is the cabinet of the Indonesian government led by President Jokowi and the Vice President, Muhammad Jusuf Kalla (JK). The composition of this cabinet comes from professionals, proposed by the political parties supporting the Jokowi-JK pair in the 2014 Presidential Election and the success team for the Jokowi-JK pair in the 2014 Presidential Election. The cabinet composition was announced by President Jokowi on October 26, 2014. and was officially inaugurated the day after:

Table 2. *List of Ministers of Kerja Cabinet*

No.	Ministers Members of The Cabinet
1.	Coordinating Minister for Political, Legal and Security Affairs
2.	Coordinating Minister for the Economy
3.	Coordinating Minister for Human Development and Culture
4.	Secretary of State
5.	Minister of Home Affairs
6	Minister of Foreign Affairs
7	Defense Minister
8	Minister of Law and Human Rights
9	Minister of Finance
10	Minister of Energy and Mineral Resources
11	Minister of Industry
12	Minister of Trade
13	Minister of Agriculture
14	Minister of Forestry and Environment

⁴⁶ Presidential Decree Number 65/M of 2012.

⁴⁷ Hanta Yuda AR, *Presidensialisme Setengah Hati* (Gramedia Pustaka Utama, 2010).

15	Minister of Transportation
16	Ministry of Maritime Affairs and Fisheries
17	Minister of Labor
18	Minister of Agrarian Affairs and Spatial Planning
19	Minister of Health
20	Minister of Research and Technology and Higher Education
21	Minister of Social Affairs
22	Minister of Religion
23	Coordinating Minister for Maritime Affairs
24	Minister of Communication and Information
25	Minister of Public Works and Public Housing
26	Minister of Koperasi and Small and Medium Enterprises
27	Minister of Culture and Primary and Secondary Education
28	Minister of State for Women's Empowerment and Child Protection
29	Minister of State Civil Apparatus Empowerment and Bureaucratic Reform
30	Minister of Villages, Acceleration of Development of Disadvantaged Regions and Transmigration
31	Minister for the Acceleration of National Development
32	Minister of State-Owned Enterprises
33	tourism Minister
34	Minister of Youth and Sports

Source: Presidential Decree Number 121/P of 2014

Deputy minister who accompanies several ministers on Kerja Cabinet are Vice Minister of Foreign Affairs, Vice Minister of Finance, and Vice Minister of Energy and Mineral Resources.

The number of cabinet members of the 34 State Ministries in the era of President Jokowi is still considered "fat" by Constitutional Law and Political Science experts, including Professor of Constitutional Law, Faculty of Law, Andalas University, Saldi Isra, and Director of the Center for Constitutional Studies, Faculty of Law, Andalas University, Feri Amsari. According to Saldi Isra, the Cabinet in the Jokowi era should have been filled with only 25 or 26 Ministers, and abolished the positions of Coordinating Minister whose function in the Government was effective.⁴⁸ According to Feri Amsari, the number of State Ministries should be slightly streamlined to a minimum of 21 State Ministries and a maximum of 26 State Ministries so that the work

⁴⁸ The author concludes from the opinion of the Professor of Constitutional Law, Faculty of Law, Andalas University, Prof. Dr. Saldi Isra, S.H, MPA at ILC "Jokowi-JK Mencari Menteri Yang Bersih", October 21, 2014.

of the Ministers in the Cabinet will be more effective and focused.⁴⁹ The author also analyzes Article 15 of the Law on State Ministries meaning "The total number of State Ministries as referred to in Articles 12, 13 and 14 is at most 34" not that the President has to appoint 34 Ministers, but 34 is the maximum limit for cabinet members. Moreover, the author really hopes that President Jokowi becoming the 2014-2019 President will make the cabinet format like his body which is "thin and slender".

In fact, from the experiences of 2014-2019, the posture of State Ministries is still as fat as the cabinets of previous Presidents. Several State Ministries were merged, renamed State Ministries, separated, and President Jokowi also established new State Ministries. Even President Jokowi appointed many Vice Ministers in the 2019-2024, Indonesia Maju Cabinet.

4.3. State Ministries Postur in Indonesia Maju Cabinet (2019-2024)

Indonesia Maju Cabinet is the cabinet led by President Jokowi and the Vice President, KH. Ma'ruf Amin. This cabinet consists of four Coordinating Ministers and 30 field ministers who were appointed based on Presidential Decree Number 113/P of 2019. The Ministers appointed by the President on 23 October 2019 were:

Table 3. *List of Ministers Member of the Indonesia Maju Cabinet*

No.	Ministers Members of The Cabinet
1.	Coordinating Minister for Political, Legal and Security Affairs
2.	Coordinating Minister for the Economy
3.	Coordinating Minister for Human Development and Culture
4.	Secretary of State
5.	Minister of Home Affairs
6	Minister of Foreign Affairs
7	Defense Minister
8	Minister of Law and Human Rights
9	Minister of Finance
10	Minister of Energy and Mineral Resources
11	Minister of Industry
12	Minister of Trade
13	Minister of Agriculture
14	Minister of Forestry and Environment
15	Minister of Transportation

⁴⁹ The author concludes from the opinion of the Constitutional Law Lecturer at the Faculty of Law, Andalas University, Feri Amsari at ILC, Faculty of Law, Andalas University, Feri Amsari at the ILC " Rebutan Kursi, Rebutan Rezeki?", July 9 2019.

16	Ministry of Maritime Affairs and Fisheries
17	Minister of Manpower
18	Minister of Agrarian Affairs and Spatial Planning
19	Minister of Health
20	Minister of Research and Technology/Head of the National Research and Innovation Agency ⁵⁰
	Ministry of Investment /Investment Coordinating Board
21	Minister of Social Affairs
22	Minister of Religion
23	Coordinating Minister for Maritime Affairs
24	Minister of Communication and Information
25	Minister of Public Works and Public Housing
26	Minister of Koperasi and Small and Medium Enterprises
27	Minister of Education and Culture ⁵¹
	Ministry of Education, Culture, Research and Technology
28	Minister of State for Women's Empowerment and Child Protection
29	Minister of State Civil Apparatus Empowerment and Bureaucratic Reform
30	Minister of Villages, Acceleration of Development of Disadvantaged Regions and Transmigration
31	Minister for the Acceleration of National Development
32	Minister of State-Owned Enterprises
33	Minister of Tourism and Creative Economy
34	Minister of Youth and Sports

Source: Presidential Decree Number 113/P of 2019 and Presidential Decree Number 72/P of 2021

On April 28, 2021, President Jokowi through Presidential Decree Number 72/P of 2021 merged the Minister of Research and Technology and Higher Education into the Minister of Culture and Primary and Secondary Education so that the nomenclature of the Minister of Culture and Primary and Secondary Education changed to Ministry of Educations, Cultures, Research and Technology and promoting the Investment Coordinating Board, became the Ministry of Investment.⁵² However, in this Cabinet, President Jokowi left the same with SBY by adding many vice ministers, from the author's note there are 14 vice ministers in this cabinet, namely: Vice Minister of

⁵⁰ Based on Presidential Regulation Number 31 of 2021 concerning Structuring the Duties and Functions of the Ministry of Education, Culture, Research and Technology, the Ministry of Research and Technology/National Innovation Research Agency was merged with the Ministry of Education and Culture.

⁵¹ Based on Presidential Regulation Number 31 of 2021 concerning Structuring the Duties and Functions of the Ministry of Education, Culture, Research and Technology, the nomenclature has changed to the Ministry of Education, Culture, Research and Technology.

⁵² Evant Gray Sipayung et.al, "Pembentukan Kementerian Investasi/Badan Koordinasi Penanaman Modal Menurut Sistem Hukum Indonesia," *Tatohi: Jurnal Ilmu Hukum* 1, no. 11 (2022): 1149, <https://doi.org/10.47268/tatohi.v1i11.872>.

Foreign Affairs, Vice Minister of Defense, Vice Minister of Finance, Vice Minister of Trade, Vice Minister of Environment and Forestry, Vice Minister of Villages and Development of Disadvantaged Regions and Transmigration, Vice Minister of Public Works and People's Housing, Vice Minister of Religion, Vice Minister of Agrarian Affairs and Spatial Planning/Vice Head of the National Land Agency, Vice Minister of Tourism and Creative Economy, Vice Minister of State-Owned Enterprises, Vice Minister of Health, Vice Minister of Agriculture, and Vice Minister of Law and Human Rights.

From 2022-2024, President Jokowi even added several new positions. There are two Ministerial level positions, namely: Head of the Archipelago Capital Authority; and Head of the Presidential Communications Office. President Jokowi also added four Vice Ministers in several Ministries. Among them: Vice of Head of the Archipelago Capital Authority; Vice Minister of Home Affairs; Vice Minister of Manpower; and Vice Minister of Investment.

After the Law on the Ministry of State was promulgated, there were already two Presidents who implemented its Law, namely: President SBY and Indonesia Bersatu Cabinet whose total Cabinet members are 34 State Ministries; and President Jokowi with a Kerja Cabinet whose total number of Cabinet members is 34 State Ministries. This still follows the maximum limit for cabinet members regulated by Article 15 of the Law on State Ministries.

4.4. State Ministries Postur in Merah Putih Cabinet (2024-2029)

The pattern of ministerial relations that are responsible to the president is a logical consequence of the choice of constitutional law to implement a presidential system of government. In a presidential system, the president as head of government and head of state has a crucial role in the implementation of state administration practices. That is why the president becomes a contested power so that in its implementation it must be limited by the provisions of The 1945 Constitution.⁵³ It is then comprehensible that the paradigm of placing prerogative on the president in the current conditions without clear limitations will complicate the running of government in Indonesia. One of them

⁵³ Novendri M Nggilu et al., "Indonesia's Constitutional Identity: A Comparative Study of Islamic Constitutionalism," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (2024): 480-500.

is the president's prerogative in preparing the structure and infrastructure of government. Naturally, in preparing the structure and infrastructure of government, the president must be cautious in appointing his ministers, including preparing the posture of the state ministry that will be run based on the prevailing laws.⁵⁴

Once ignored, democracy can at any time be hijacked by oligarchic political elites who control economic and political resources, and people's sovereignty will ultimately be nothing more than a procedural-electoral political procession. Because, essentially, the presence of the prerogative held by the President is not intended to guarantee the interests of a handful of people in power, but rather to guarantee the interests of a sense of justice for all people without exception.⁵⁵ This notion is bolstered by Sri Soemantri's opinion, that "state institutions must form a unified process that is interconnected with each other in the framework of implementing state functions or actual governmental processes". This means that synergy is needed so that there is no overlapping of authority, duties, functions and is firm and can create an effective and efficient governmental bureaucratic chain.⁵⁶

Currently, the Government and the House of Representatives (DPR) have passed Law Number 61 of 2024 concerning Amendments to Law Number 39 of 2008 on State Ministries. Interestingly, the substance of the changes in Law Number 61 of 2024 focuses more on the foundational issues of the establishment of state ministries, the number of ministries, and the functional relationships among ministries. One of the most notable changes is regarding the number of ministries. According to Point 4 of Law Number 61 of 2024, Article 15 has been amended to state that the total number of ministries established as referred to in Articles 12, 13, and 14 is determined based on the needs of government administration by the president.

⁵⁴ Yuliandri et.al, "Presidential Power in the Formation of Cabinet Posture after the State Ministries Law 2024," *South-East Asian Journal of Advanced Law and Governance* 1, no. 2 (2024): 49-73, <https://doi.org/10.22146/seajalgov.v1i2.15929>.

⁵⁵ Muhammad Mutawalli et al., "Polemic on the Dissolution of Ministries: An Overview of the Presidential System in Indonesia," *LITIGASI* 24, no. 2 (2023): 322-54, <https://doi.org/10.23969/litigasi.v24i2.10326>; Jamaludin Ghafur, "Pembatasan Masa Jabatan Ketua Umum Partai Politik: Tinjauan Negara Hukum Dan Demokrasi," *LITIGASI* 25, no. 2 (2024): 407-39, <https://doi.org/10.23969/litigasi.v25i2.19327>.

⁵⁶ Yuliandri et.al, "Presidential Power in the Formation of Cabinet Posture after the State Ministries Law 2024."

As a result, the maximum limit of 34 ministries stipulated in Article 15 of Law Number 39 of 2008 has been revised and replaced with the phrase “unlimited,” depending on institutional needs. With this new framework, the public deserves to know the legal and non-legal considerations of the Government and the DPR in increasing the number of ministries, which was previously set at 34 in the original State Ministries Law. Sixteen years ago, the lawmakers who drafted the State Ministries Law must have had strong and in-depth reasons for determining the figure of 34 ministries.

This unlimited number of ministries stipulated in Law Number 61 of 2024 has resulted in a bulkier cabinet structure, forcing the government to reorganize the bureaucratic patterns in each ministry. On October 20, 2024, President Prabowo Subianto announced 48 ministers and 59 deputy ministers who will assist him in governing for the next five years. From the author’s perspective, the figure of 48 ministries is remarkable compared to the previous 34 ministries before the enactment of Law Number 61 of 2024. Even though it is intended to increase the effectiveness of government and compliance with the rules in the constitution, paradoxically it has the potential to perpetuate structural problems that have long disrupted government efficiency. Constitutionally, according to Article 17 of The 1945 Constitution, it is stated that ministers are appointed and dismissed by the President. Furthermore, Article 3 of the State Ministries Act states that ministries are under and responsible to the President.

The purpose of the a quo provision is that the structure of the ministry is the prerogative of the President and the Ministers are directly responsible to the President for all their duties and obligations. The State Ministries Act has actually given the President the freedom to determine the composition of the ministries in his cabinet. For example, based on Article 13, it is stated that the President can form ministries that handle several governmental affairs including foreign affairs, home affairs, defense, religion, law, finance, security, human rights, education, culture, health, social, employment, industry, trade, mining, energy, public works, transmigration, transportation, information, communication, agriculture, plantations, forestry, animal husbandry, maritime affairs, fisheries, national development planning, state apparatus, state secretariat, state-owned enterprises, land, population, environment, science,

technology, investment, cooperatives, small and medium enterprises, tourism, women's empowerment, youth, sports, housing, and development of underdeveloped areas or regions.⁵⁷

Though the above provisions actually provide some limitations on the areas wherein the President can form ministries, each governmental matter does not have to be formed into a separate ministry. This means that determining the ministerial structure for certain matters remains the prerogative of the President. In addition to the authority to form ministries, the State Ministries Act also provides the President with the freedom to appoint deputy ministers in certain ministries and form Coordinating Ministries. The duties, functions, and organizational structure of ministries are also the authority of the President to regulate in the Presidential Regulation. Even the change and dissolution of state ministries is limited to state ministries mentioned in The 1945 Constitution which cannot be changed or dissolved by the President. Furthermore, the President can change or dissolve a ministry without the approval of any party, but based on considerations from the DPR.

Therefore, although the actual purpose of the presence of the State Ministry Law is to limit the President's prerogative in determining the ministries under him, the President still enjoys great liberty to determine the structure of the ministries under him. DPR's interference in ministerial affairs in this context is only limited to the implementation of the check and balances function between branches of power. Meanwhile, the technical composition and structure of the ministry is the President's domain.

Consequently, increasing the number of ministries for now without an in-depth evaluation to the effectiveness of existing functions will only worsen administrative complexity without substantially solving fundamental government problems. Thus, the issue of increasing the number of ministries cannot only use the legal paradigm through the president's prerogative per se, but there are also many non-legal aspects that need to be considered by the president in formulating the policy. Therefore,

⁵⁷ Yuliandri et.al, "Presidential Power in the Formation of Cabinet Posture after the State Ministries Law 2024."

academic justification is needed on how the posture of the state ministry run by the elected president can truly run effectively and proportionally in accordance with the public interest. This is because, though the President owns the prerogative in determining the ranks of his ministers, the President is still subject to the restrictions contained in The 1945 Constitution and the State Ministries Act.⁵⁸

President Prabowo Subianto Subianto's Government Cabinet based on Presidential Regulation Number 139 of 2024 concerning Structuring the Duties and Functions of State Ministries in Merah Putih Cabinet for the 2024-2029 Period which was issued by President Prabowo on October 21 2024 states that state ministries in the Red and White Cabinet for the Year Period 2024-2029 consists of 48 ministries. The ministries are:

Table 4. *List of Ministers Member of the Merah Putih Cabinet*

No.	Ministers Members of The Cabinet
1.	Coordinating Ministry for Political and Security Affairs
2.	Coordinating Ministry for Law, Human Rights, Immigration and Corrections
3	Coordinating Ministry for Economic Affairs
4	Coordinating Ministry for Human Development and Culture
5	Coordinating Ministry for Infrastructure and Regional Development
6	Coordinating Ministry for Community Empowerment
7	Coordinating Ministry for Food
8	Secretary of State
9	Minister of Home Affairs
10	Minister of Foreign Affairs
11	Defense Minister
12	Minister of Religion
13	Minister of Law
14	Minister of Human Rights
15	Ministry of Immigration and Corrections
16	Minister of Finance
17	Ministry of Primary and Secondary Education
18	Ministry of Higher Education, Science and Technology
19	Ministry of Culture
20	Minister of Health
21	Minister of Social Affairs
22	Minister of Manpower
23	Ministry for the Protection of Indonesian Migrant Workers/Indonesian Migrant Worker Protection Agency

⁵⁸ Yuliandri et.al, "Presidential Power in the Formation of Cabinet Posture after the State Ministries Law 2024."

24	Minister of Industry
25	Minister of Trade
26	Minister of Energy and Mineral Resources
27	Minister of Public Works
28	Ministry of Housing and Residential Areas
29	Ministry of Villages and Development of Disadvantaged Regions
30	Ministry of Transmigration
31	Minister of Transportation
32	Ministry of Communications and Digital
33	Minister of Agriculture
34	Minister of Forestry
35	Ministry of Maritime Affairs and Fisheries
36	Minister of Agrarian Affairs and Spatial Planning
37	Minister of Research and Technology/Head of the National Research and Innovation Agency
38	Minister of State Civil Apparatus Empowerment and Bureaucratic Reform
39	Minister of State-Owned Enterprises
40	Ministry of Population and Family Development/National Population and Family Planning Agency
41	Minister of Environment/Environmental Control Agency
42	Ministry of Investment and Downstreaming/Investment Coordinating Board
43	Minister of Koperasi
44	Minister of Small and Medium Enterprises
45	Minister of Tourism
46	Minister of Tourism and Creative Economy/Creative Economy Agency
47	Minister of State for Women's Empowerment and Child Protection
48	Minister of Youth and Sports

Source: Presidential Regulation Number 139 of 2024

The composition of the Merah Putih Cabinet, Prabowo-Gibran, consists of seven Coordinating Ministers (Menko), 41 Ministers under the Coordinating Minister, and five institutions that are not under the Coordinating Minister's coordination. Thus, the total number of Ministers in the Merah Putih Cabinet is 53 Ministers and/or Ministerial-level Institutions. Apart from that, there are also 56 deputy ministers in the Red and White Cabinet for the 2024-2029 period. Many even say that the Merah Putih Cabinet is the Cabinet of 100 Ministers Volume II after the Cabinet of 100 Ministers (Kabinet Dwikora II), which was created by President Soekarno to respond to the government's policy on the Three Demands of the People (Tritura) which was formed

on February 24 1966.⁵⁹ The following is a comparison of the Merah Putih Cabinet with the Dwikora II Cabinet:

Table 5. Comparison of the Merah Putih Cabinet with the Dwikora II Cabinet:



Source: Historia, 2024

There is something interesting regarding the number of deputy ministers in the Merah Putih Cabinet for the 2024-2029 period, because for one minister there are more than one deputy. For example, the Minister of Finance has three deputy ministers, while the Minister of Primary and Secondary Education and the Minister of Higher Education, Science and Technology each have two deputy ministers. When compared with the Advanced Indonesia Cabinet led by President Joko Widodo and Vice President Ma'ruf Amin. At first glance, the number of Ministers and deputy Ministers in the Merah Putih Cabinet for the 2024-2029 period looks 'fat'. President Prabowo Subianto has a reason for making the ministry fat, namely wanting to form a strong government by forming/building a large coalition. Apart from that, Prabowo also reminded that Indonesia is a large country so it is natural that its cabinet is quite large.

Many people are worried that with so many aides to President Prabowo, it will increase the burden on the state budget. Celios projects the potential for budget swelling of up to IDR 1.95 trillion over the next five years due to this fat coalition. This figure does not include the cost of purchasing goods arising from the construction of office/building facilities.⁶⁰ There have been at least three criticisms by the public of the structure of the Merah Putih Cabinet. First, skepticism regarding the cabinet's competence and

⁵⁹ Hayatun Na'imah, "Peralihan Kekuasaan Presiden Dalam Lintasan Sejarah Ketatanegaraan Indonesia," *Khazanah: Jurnal Studi Islam Dan Humaniora* 13, no. 1 (2015): 128, <https://doi.org/10.18592/khazanah.v13i1.518>.

⁶⁰ Titik Triwulan Tutik, "Kabinet 'Gemoy' Prabowo-Gibran, Why Not ...!!!", [uinsa.ac.id/blog](https://uinsa.ac.id/blog/kabinet-gemoy-prabowo-gibran-why-not), Accessed December 29, 2024, <https://uinsa.ac.id/blog/kabinet-gemoy-prabowo-gibran-why-not>.

professionalism which is feared will disrupt the effectiveness and efficiency of the cabinet's performance. Second, it is feared that the budget burden will only be absorbed by matters of a technical administrative nature. Some groups were disappointed that President Prabowo did not compile a cabinet zaken.⁶¹

The author focuses on the preparation of the zaken cabinet (expert cabinet or professional cabinet), which is a cabinet containing ministers who come from professional circles or experts in their fields while ignoring coalition political considerations.⁶² Zaken cabinet or what is also commonly referred to as business cabinet is the term for a cabinet that has non-party characteristics, or a cabinet whose ministerial ranks come from the majority of experts without including members of political parties or any parties affiliated with certain political parties.⁶³

The zaken cabinet does not have to be filled with expert ministers who are non-political parties. Because, in essence, the zaken cabinet is filled by people based on their competence. Zaken cabinet will be more profitable for the Indonesian people than a political-based cabinet. The reason is, what is always worried about a political-based cabinet is the existence of a conflict of interest, namely the interests of ministers as public officials who must serve the public, on the other hand they must also serve their parties.⁶⁴ The importance of compiling a cabinet zaken was expressed by Arbi Sanit who gave his opinion during the Special Committee (Pansus) for the Draft Law on State Ministries 2006. According to Arbi Sanit:⁶⁵

“There shouldn't be too many Cabinet members. That's a waste of state money, and it's not efficient, especially since Indonesia is still considered a developing country. Even in countries that are already rich, the Cabinet is slim, for example: Japan, Germany and the UK have 14 Ministries of State, the US only has 15. Indonesia in this bill makes the maximum Ministries of State 34, where will the money come from? Moreover, with the increase in agencies, more funds are needed for employee salaries and allowances for echelon officials. If I say the ideal

⁶¹ Hasbi Rofiqi, “Mengidealkan Kabinet 'Gemoy' Merah Putih”, DetikNews, <https://news.detik.com/kolom/d-7599174/mengidealkan-kabinet-gemoy-merah-putih>.

⁶² Dody Nur Andriyan, “Format Kabinet Presidensial Multipartai Dalam Tata Hubungan Dan Pengelolaan Pemerintahan Daerah,” *Jurnal Jentera* 3, no. 1 (2020): 244.

⁶³ Herbert Feith, *The Decline of Constitutional Democracy in Indonesia* (Equinox Publishing, 2006).

⁶⁴ Reja Fahlevi dan Darul Huda Mustaqim, “Kolaborasi Kabinet Zaken Dan Kabinet Koalisi Dalam Pembentukan Kabinet Efektif,” *Jurnal Ilmiah Mimbar Demokras* 19, no. 2 (2020): 52, <https://doi.org/10.21009/jimd.v19i02.14939>.

⁶⁵ DPR RI, *Risalah Rapat Dengar Pendapat Umum Dengan Pakar Ilmu Politik, Tanggal 25 Januari 2006*.

cabinet members are 15-20 Ministry of State. Why should there be so few ministerial rooms? In order to create cabinet zaken, if there are too many ministerial posts, there is room for the President to share the power cake with the Coalition Party and his relatives. So we have to create a system so that the President does not appoint Ministers for his practical political interests, and those of his supporting parties.”

It must be acknowledged that determining the size of the Cabinet of Ministers is the President's prerogative.⁶⁶ This is because ministers are assistants to the president and are responsible to the President.⁶⁷ This includes the appointment and dismissal of ministers (Article 17 of the 1945 Constitution).⁶⁸ From a political aspect, it is natural that a leader will try as hard as possible so that during their reign there will be no turmoil or friction which will certainly disrupt the stability of their performance. On this basis, a President can design and arrange a cabinet of ministers based on needs, not desires. Like the composition of the people who should sit in the Ministry. Based on records from the research institute, Celios, the majority of names called Prabowo were dominated by politicians with details:

Table 6. *Background of Ministers and Vice Ministers of the Merah Putih Cabinet*

No.	Background	Percentage (From a Total of 108 Positions (48 Ministers and 56 Vice Ministers))
1.	Politician	55,6%
2	Professional	15,7%
3	Military/Police (TNI/POLRI)	8,3%
4	Businessman	7,4%
5	Academics	5,6%
6	Religious Leaders	4,6%
7	Public Figure	2,8%

Source: Celios, 2024

Seeing this fat composition is indeed in the public spotlight because the State Revenue and Expenditure Budget (APBN) is still burdened with the amount of foreign debt payments and installments. As an illustration, foreign debt in August 2024 was USD

⁶⁶ Bagir Manan, *Lembaga Kepresidenan* (FH UII Press, 2006).

⁶⁷ Richard M Pious, "Prerogative Power and Presidential Politics," in *The Oxford Handbook of the American Presidency* (Oxford University Press, 2011), <https://doi.org/10.1093/oxfordhb/9780199238859.001.0001>.

⁶⁸ Jimly Asshiddiqie, *Perkembangan, Dan Konsolidasi Lembaga Negara Pasca Reformasi* (Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2006).

200.4 billion (an increase of 4.6% annually) and this was greater than July 2024 (an increase of 0.6%). This amount is also felt to be increasingly burdened by the program being campaigned for, namely free lunch. Therefore, criticizing the size of the budget for the Fat Cabinet and also the issue of funding for the State Revenue and Expenditure Budget is interesting to pay attention to.⁶⁹

If you look at the Merah Putih Cabinet under the current command of President Prabowo, representation and inclusion are considered not yet optimal. Talking about inclusiveness, the Merah Putih Cabinet also has the opportunity to face big challenges. First, there is still geographic inequality, where of the total 48 ministers, around 27 people come from Java, while other regions such as Papua and Sumatra are only represented by a few ministers. It is felt that this could create a gap in understanding and response to needs in areas outside Java. Second, it is feared that the low representation of women in the Red and White Cabinet (only 10 percent of Ministers are Women) could result in policies that are less inclusive of women's needs.⁷⁰

Third, the biggest challenge from swelling the composition of the cabinet can also be a big threat in the Presidential system. Oversized cabinets and coalitions with a broad cross-section of interests can cause the president to become hostage to the interests of the parties, so that in the end the mission of forming a zaken cabinet cannot be realized due to political compromise.⁷¹ In terms of efficiency, this oversized cabinet is also spending more and more of the budget in each ministry, and the potential for hyperregulation in each ministerial sector is getting bigger,⁷² it is feared that this will deviate from the President's vision and mission.

⁶⁹ Edy Purwo Saputro, "Kabinet Gemoy", *Harian Ekonomi Neraca*, Accessed December 29, 2024, <https://www.neraca.co.id/article/208318/kabinet-gemoy>.

⁷⁰ Adam Muhshi dan Fenny Tria Yunita, "Konstruksi Kabinet Presidensial Yang Profesional Dan Bebas Dari Monopoli Partai Politik: Peluang Dan Tantangan Kabinet Merah Putih," *PUSKAPSI Law Review* 4, no. 2 (2024): 89–107, <https://doi.org/10.19184/puskapsi.v4i2.53696>.

⁷¹ Muhammad Taufiq et al., "Tengka, Identity Politics, and the Fiqh of Civilization: The Authority of Madura's Kiai in the Post-Truth Era," *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 1 (2024): 139–65, <https://doi.org/10.18326/ijtihad.v24i1.139-165>.

⁷² Idul Rishan, "Risiko Koalisi Gemuk Dalam Sistem Presidensial Di Indonesia," *Jurnal Hukum Ius Quia Iustum* 27, no. 2 (2020): 219-240., <https://doi.org/10.20885/iustum.vol27.iss2.art1>.

5. Reconstruction of Restrictions on the President's Power in Determining the Posture of State Ministries in the Indonesian Government System

The author in this sub-chapter will provide a Design for Restricting the President's Power in Determining the Posture of State Ministries through the Establishment of the Law on Presidential Institutions in order to strengthen the Presidential System in Indonesia. The Design of Limiting the President's Power in Determining the Posture of the Ministry of State through the Establishment of the Presidential Agency Law in order to strengthen the Presidential System in Indonesia according to the Author, **First**, establishment of the Presidential Agency Law. Considering that the State Ministry is part of the Executive. Against this background, Article 17 of the 1945 Constitution mandates that State Ministries regulations be regulated in law, not by law. The meaning is regulated by law so that the problem is regulated by a separate law. Meanwhile, the meaning is regulated in the law so that the problem is not regulated in a separate law.⁷³ The House of Representative (DPR), and the President do not need to form a Law on State Ministries that should be formed is the Presidential Agency Law.

Second, in the Presidential Agency Law, the substance of the content must stipulate that the maximum number of State Ministries is 24, so as to prevent the large number of ministers. The number of Ministers must be determined, and is limited by the Presidential Agency. The number of Ministers must be determined, and is limited by the Presidential Agency. So every time the President changes, the President cannot make changes to the Ministries of the State at will, let alone accommodate those who have contributed to their victory in the General Election.⁷⁴ As Arbi Sanit said, Indonesia must create a state system so that the president does not make ministers for his own practical political interests, as well as for his political parties.⁷⁵ This is in line with what Akbar Tandjung said that the Presidential System has given the President the prerogative to appoint his assistants, but the President himself in the Indonesian context is not standardized with this system. As a result, the President in forming the

⁷³ DPR RI, *Risalah Rapat Dengar Pendapat Umum Dengan Forum Konstitusi, Dan Partnership for Governance Reform, Tanggal 26 Januari 2006* (Bidang Arsip, dan Museum DPR RI, 2006).

⁷⁴ DPR RI, *Risalah Rapat Dengar Pendapat Umum Dengan Paguyuban Mantan Anggota DPA RI, Tanggal 8 Februari 2006*.

⁷⁵ DPR RI, *Risalah Rapat Dengar Pendapat Umum Dengan Pakar Ilmu Politik, Tanggal 25 Januari 2006*.

Cabinet invited so many political parties. So the fault lies not in the Presidential System, but the President who must be consistent with the government system stipulated in the 1945 Constitution.⁷⁶ According to the author, the ideal number of Ministries of State in the cabinet is 24, with details as follows:

Table 7. *List of Ideal Cabinet Member Ministers*

No.	Cabinet Member
1	Ministry of State Secretariat
2	Ministry of Home Affairs
3	Ministry of Foreign Affairs
4	Ministry of Defense
5	Ministry of Law and Human Rights
6	Ministry of Finance
7	Menteri ESDM
8	Ministry of Industry and Trade
9	Ministry of Agriculture
10	Ministry of Environment and Forestry
11	Ministry of Transport
12	Ministry of Marine Affairs and Fishery
13	Ministry of Manpower
14	Ministry of Health
15	Minister of Technology, Communication and Information
16	Ministry of Social Service and Public Housing
17	Ministry of Religious Affairs
18	Ministry of Public Works and Spatial
19	Ministry of Cooperatives Small, Micro, Small and Medium Enterprises, and Creative Economy
20	Ministry of Education, Culture and Research
21	Ministry of Empowerment of States Apparatus and Bureaucratics Reform
22	Ministry of State Own Company
23	Ministry of Woman Empowerment and Child Protection
24	State Minister for Youth and Sports Affairs

Source: Author's Thought Results

Third, in the Presidential Agency Law the contents are obliged to regulate the amalgamation of the Cabinet Secretariat (Setkab), the Presidential Military Secretariat (Sesmilpres), Presidential Secretariat, Presidential Household and Protocol (Setpres), Presidential Spokesperson is an integral part of the Ministry of State Secretariat. So the conclusion is that the State Ministries are part of the Presidential Agency Law because

⁷⁶ DPR RI, *Rapat Dengar Pendapat Umum Dengan Tokoh Politik, Dan Mantan Menteri, Tanggal 2 Februari 2006* (Bidang Arsip, dan Museum DPR RI, 2006).

their position is clearly under the President. if there is already the Presidential Agency Law, the Ministry of Religion Law can be declared no longer valid.

Fourth, in the Presidential Agency Law the substance of the contents is obliged to regulate the Elimination of the Institutional Coordinating Ministry. According to INDEF Economist, Mohamad Fadhil Hasan, Coordinating Ministry Institutions and Coordinating Minister Positions must be removed because in addition to burdening the State Budget (APBN), it can also hamper the bureaucracy in the Cabinet, the problem is that Ministers should be able to directly connect the President with the Vice President, with the Coordinating Minister having to go through the Coordinating Minister first.⁷⁷ This was reinforced by Ryaas Rasyid who stated: "*The consequence of not having a Coordinating Minister is that the cabinet is not too big. This is good for government reform, and administration*".⁷⁸ According to the author, the Institution of the Coordinating Ministry and the Position of the Coordinating Minister really deserve to be removed from the cabinet members because from the point of view of authority, the Coordinating Minister's job is only to hold coordination meetings, and the Coordinating Minister has absolutely no authority to make any decisions, except for coordinating, and the results of the coordination are reported to the President, and the position of Coordinating Minister was still considered necessary by Presidents from the Old Order, New Order to the present Reformation. Considering that the position of Coordinating Minister has existed since the Old Order, this position must be removed so that it does not become part of a state convention so that it becomes a binding obligation for every President to hold this position in each of his cabinets. Consequently, the President and the Vice President must be able to coordinate their Ministers to replace the role carried out by the Coordinating-Minister so far.

Fifth, Fifth, the substance of the Presidential Institution act is obligatory to regulate the Elimination of the Position of Vice Minister. Vice Minister is one of the positions formed

⁷⁷ DPR RI, *Risalah Rapat Dengar Pendapat Umum Dengan Pakar Ekonomi INDEF, Tanggal 19 Juni 2006* (Bidang Arsip, dan Museum DPR RI, 2006).

⁷⁸ DPR RI, *Risalah Pembahasan DIM Materi Panja RUU KN Di Hotel Salak, Bogor, Tanggal 9 Juli 2008* (Bidang Arsip, dan Museum DPR RI, 2008).

by the President based on Article 10 of the Ministry of State Law.⁷⁹ In the Explanation of Article 10 of the Law on State Ministries it is stated that: “*what is meant by wamen is a career official, and not a member of the cabinet*”. However, after the Constitutional Court Decision Number 79/PUU-IX/2011 which canceled the Elucidation of Article 10 of the State Ministry Law. The position of Vice Minister is now categorized as a political-appointees for the President, and is no longer a career position as stated in Article 10 of the Law on State Ministries.⁸⁰ However, the position of Vice Minister again experienced ambiguity after the President issued Presidential Decree Number 60 of 2012 concerning Vice Minister. Presidential Decree Number 60 of 2012 states that the position of vice minister is not a structural official, but neither is he a member of the cabinet. The odd thing is, the vice minister is appointed by the President without being proposed by a minister, but the vice minister is responsible to the minister.⁸¹ The position of Vice Minister must also be removed because the organizational structure of the State ministries is not clear, and it is ambiguous because it is not in line with the provisions of Article 9 of the Law on State Ministries, which states that the organizational structure of state ministries consists of leaders, namely ministers, the secretariat general as an assistant leader, the Director General as executor of main tasks, the Inspector General as supervisor and so forth.⁸² Experience proves that Indonesia once had a Vice Minister of Law and Human Rights who from 2012-2014 seemed to have no clear duties because his duties were only to hold press conferences, carry out sudden inspections (sidak) of Correctional Institutions (Lapas),⁸³ and other matters which in terms of duties, principals, and functions are far from the Duties,

⁷⁹ Article 10 of the Ministry of State Law: “In the event that there is a workload that requires special handling, the President can appoint vice ministers at certain ministries”. See Feliciano Pakpahan et.al, “Analisis Yuridis Putusan Mahkamah Konstitusi Nomor 79/PUU-IX/2011 Tentang Kementerian Negara Dalam Hal Penghapusan Jabatan Wakil Menteri,” *Diponegoro Law Journal* 6, no. 1 (2017): 5.

⁸⁰ Ahmad Ilham Wibowo dan Karina Maharani Alkhusna, “Urgensi Pembatasan Kekuasaan Presiden Dalam Pengangkatan Wakil Menteri Pasca Reformasi,” *Jurnal Ius Quia Iustum* 2, no. 28 (2021): 283–99, <https://doi.org/10.20885/iustum.vol28.iss2.art3>.

⁸¹ Aidin, “Kedudukan Wakil Menteri Dalam Sistem Ketatanegaraan Republik Indonesia,” *Jurnal Ius: Kajian Hukum Dan Keadilan* II, no. 5 (2014): 250.

⁸² Rusnan, “Kedudukan Wakil Menteri Dan Implikasinya Pada Sistem Ketatanegaraan Indonesia,” *Jurnal Ius: Kajian Hukum Dan Keadilan* 1, no. 1 (2013): 179–80.

⁸³ Y.A. Triana Ohoiwutun, “Sel Berfasilitas Istimewa Ditinjau Dari Aspek Kebijakan Kriminal,” *Jurnal Masalah-Masalah Hukum* 43, no. 4 (2014): 1, <https://doi.org/10.14710/mmh.43.4.2014.478-486>.

Principals, and Functions of the Ministry of Law and Human Rights in Laws and Regulations.⁸⁴

According to Muwaffiq Jufri, in the process of endeavoring to revise regulations, to be successful requires formal legitimacy, and scientific legitimacy.⁸⁵ **First**, formal legitimacy by the The House of Representative (DPR) and the President in forming laws, in this case the Presidential Agency Law to limit the President's power in determining the posture of state ministries. **Second**, Scientific Legitimacy. In order for the Presidential Agency Law to be made in a systematic, comprehensive manner and not filled with political interests of individuals or certain groups, journals, books, research, seminars, FGDs, even debate competitions, constitutional drafting, and quiz contests are needed for high school students and students. and ideas in law-forming institutions (the The House of Representative (DPR) and the President)⁸⁶ in drafting the Presidential Agency Law.

6. Comparison of the Limitation of the President's Power in Determining the Posture of State Ministries with Other Countries

After the amendment to the 1945 Constitution, there was a slight reduction in presidential power in terms of forming, changing, and dissolving the State Ministries, namely through regulation by law. Prior to the amendment, such provisions were not regulated in the 1945 Constitution which in practice was regarded as the president's prerogative to appoint and dismiss ministers in order to carry out the President's vision and mission.

In this sub-chapter, the author will make a comparison of the limitations of the president's power in determining the posture of state ministries and other countries. The countries that the author compares are the United States, Japan and Germany. The

⁸⁴ Hermi Sari BN et.al, "Pengharmonisasian Rancangan Peraturan Daerah Inisiatif Eksekutif Oleh Kementerian Hukum Dan Hak Asasi Manusia," *Jurnal Dinamika Sosial Budaya* 22, no. 2 (2020): 333.

⁸⁵ Muwaffiq Jufri, "Urgensi Amandemen Kelima Pada Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Terkait Hak Dan Kebebasan Beragama," *Jurnal HAM* 12, no. 1 (2021): 123, <https://doi.org/10.30641/ham.2021.12.123-140>.

⁸⁶ Charles Simabura, "Legislative Power In The Presidential Government System: A Comparative Study Between Indonesia And In The United States Of America," *Journal of Legal, Ethical and Regulatory Issues* 24, no. 6 (2021): 1.

purposes for which these countries were selected for comparison were: first, the difference in the area of the country's territory. Second, the geographical proximity factor to Indonesia. Third, to observe various government systems, forms of government and forms of state in the world so that it is hoped that they will gain broader insights.⁸⁷

First, United States. In Indonesia, according to the provisions of Article 17 of the 1945 Constitution, the President has the authority to appoint and dismiss state ministers. The President of the United States has the same thing. However, the difference is that the President of the United States requires advice and approval from the Senate when he wants to appoint his ministers. Meanwhile in Indonesia, the President can at will in appointing and dismissing his ministers without having to seek advice or approval from other state institutions.⁸⁸

Second, Japan. In Japan, the prime minister has the authority to appoint and dismiss ministers. Even so, he has an obligation so that the majority of the ministers are members of the Diet. This is certainly different from Indonesia, where the president does not have to be bound to appoint his ministers from parliament.⁸⁹ The president can appoint anyone he sees fit to carry out this task. **Third**, Germany. In the German Federation, the president has the power to appoint and remove federal ministers at the suggestion of the Chancellor. However, despite having the power to appoint the chancellor and ministers, the swearing in of the office of chancellor and ministers does not take place in front of the president but rather in front of the Bundestag. This is different from in Indonesia, where the President has the right to appoint his ministers without any suggestion from anyone. The president also has the right to inaugurate and take the oath of his ministers.⁹⁰

⁸⁷ Abdul Ghoffar, "Kekuasaan Presiden (Studi Komparatif RI Dengan Beberapa Negara Maju)," *Jurnal Widyaiset* 13, no. 1 (2010): 84.

⁸⁸ Abdul Ghoffar, *Dinamika Lembaga Kepresidenan Di Berbagai Negara* (PT Rajagrafindo Persada, 2022).

⁸⁹ Abdul Ghoffar, *Hukum Lembaga Kepresidenan 30 Negara Di Kawasan Asia, Eropa, Oseania Dan Afrika: Kekuasaan, Pengisian, Dan Pemberhentian Presiden* (PT Rajagrafindo Persada, 2022).

⁹⁰ Abdul Ghoffar, *Perbandingan Kekuasaan Presiden Indonesia Setelah Perubahan UUD 1945 Dengan Delapan Negara Maju* (Prenada Media Group, 2009).

From a comparison of these three countries, the author sees that the power of the President of Indonesia to change, form, dissolve the State Ministries, including having great powers to appoint and dismiss the President must be limited through the Presidential Agency Law. So that history does not repeat itself that the amount of power given to heads of state and heads of government tends to be abused. There are many cases that can be used as the basis for this argument, for example President Soekarno during the “*Demokrasi Terpimpin*” era⁹¹ and President Soeharto during the “*Orde Baru*” era.⁹²

7. Conclusion

After Law Number 39 of 2008 concerning State Ministries was promulgated, the Indonesia Bersatu Cabinet had 34 members from the Ministry of State; The Kerja Cabinet has 34 members from the Ministry of State; The Advanced Indonesia Cabinet has 34 Cabinet members, Ministry of State; and Merah Putih Cabinet, the number of Cabinet members is 48 Ministry of State in accordance with Law Number 61 of 2024 concerning limited revision of Law Number 39 of 2008 of the Ministry of State which gives the President the freedom to form the Ministry of State according to his needs.

Reconstruction of Restrictions on the President's Power in Determining the Posture of State Ministries in the Indonesian Government System, namely: first, Forming the Presidential Agency Law. Second, in the Presidential Agency Law the substance of the contents is obliged to regulate the maximum number of Ministries of State 24, so that large number of ministries can be minimalized. Third, the fusion of Cabinet Secretariat, Sesmilpres, Presidential Secretariat, Presidential Spokesperson to become an integral part of the Ministry of State Secretariat. Fourth, the Elimination of the Ministry of Coordinating Institutions. Fifth, Elimination of the Position of vice Minister.

⁹¹ Herbert Feith, “President Soekarno, the Army and the Communist: The Triangle Changes Shape,” *Asian Survey* 4, no. 8 (1964): 977, <https://doi.org/10.2307/2642634>.

⁹² Wicaksana Dramanda et.al, “Sistem Presidensial Dan Kebangkitan Neo-Otoritarianisme: Kegagalan Reformasi Konstitusi Di Indonesia?,” *Jurnal Konstitusi* 21, no. 3 (2024): 345–65, <https://doi.org/10.31078/jk2131>.

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