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THE IMPLICATION OF A DIVIDED OR UNIFIED GOVERNMENT FOR PUBLIC POLICY MAKING: INDONESIA DURING THE DEMOCRACY TRANSITION

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Abstract

The purpose of this article is to delves the implications of a divided or unified government for public policy making in Indonesian democracy transition process. This article used qualitative methodology. Data which was collected during the early phases of the research process was analysed by using several descriptive analysis techniques. The authors found evidence that showed that the formation of a unified government during Gus Dur-Megawati, Megawati-Hamzah Haz, SBY-JK, and SBY-Boediono regimes did not translate into an easy public policy making process. The same is expected to apply to Jokowi-JK government. The existence of a divided government during Jokowi-JK regime continues hampering the policy making process. The existence of a divided or unified government does not have so much influence on the policy making process rather the substance of the policy, the level of support the government can garner in the national assembly.

Keywords: *Political Gridlock, Budgeting Policy, Political Transaction, Coalition*



A. Introduction

This article delves into the implications of either a divided or a unified government for public policy making in Indonesia, especially during the ongoing democratic transition. The choice of the theme was based on the intensifying dynamism of the implications, especially with respect to divided government, which bedevils Joko Widodo and Muhammad Jusuf Kalla (Jokowi-JK) regime, in the realm of public policymaking. The concern is not only about the dynamism but also fears that various programs that Jokowi-JK planned are likely to face obstacles from opposing parties that are organized under the Red-White Coalition (KMP), which since the national assembly plenary session for 2014-2019 that was convened on October 2014, KMP controls all National assembly leadership positions. The control of KMP commissions and other institutions of the assembly.

The above condition is a direct consequence of the choice that Indonesia made which is the presidential system that was adopted in the aftermath of the amendment of the 1945 constitution during the 1999-2002 period by the National consultative council. Indonesia adopted a new system that involves direct election of the President and Vice President, replacing the previous representation system. The presidential system, wherever it is adopted, has the tendency of creating differences that are based on political party or groups of political party affiliations which control the parliament. Such differences have in practice become susceptible to political gridlock. It is an attempt to avert the high susceptibility to political gridlock, which presidential system has for long associated with, that prevented the compilers of the 1945 national constitution from adopting the system for a newly independent Indonesian nearly six decades ago (Effendi, 2006: 2).

The concept of either a divided or unified government is in general adopted based on the system setting of the United States of America which has two dominant political parties, *inter alia* the Republic Party and Democratic Party. The separation of power and strong political party identity, facilitate and foster the formation of either a divided or unified government.

The two main characteristics of a presidential system, include, (1) the president and vice president are directed elected into office (article 6



A); and (2) the elected president and vice president face a fixed tenure of service which is confined to two consecutive periods (article 7). It is thanks to such conditions that the position of the president and vice president becomes strong and at par with the national assembly (parliament), making any attempt to dislodge him/or her from power difficult (Asshiddiqie, 2005: 59-61).

On the contrary, in a parliamentary democracy system, the prime minister who is the head of the government is elected by the parliament from individuals who are heads of various institutions in a political party that wins the general election. The tenure or duration of the prime minister and his/her cabinet depends on the confidence the parliament has in his or her leadership and government. If the parliament adopts a vote of no confidence, the president or king/queen, whichever applies, dissolves the government and calls for an election. This is a consequence of the parliamentary system, which is formed on the basis of the majority of seats in parliament (Cheibub 2007: 1).

In government practice, the presidential system has weaknesses. The elected president often fails to obtain the majority of seats in the national parliament. The implication of that is, the elected president owes his or her support to political parties that are not in the majority in the national parliament. Consequently, a divided government becomes unavoidable (Rosenthal & Alesina, 1996: 1; Elgie, 2001: v; Isra, 2009: 2). The formation of a divided government is even easier to occur in countries that adopt a presidential system within the framework of a multi-party system. Nonetheless, a divided government has the proclivity of fomenting conflicts between the president and the legislature. (Hasibuan (2003: 2).

B. Literature Review

1. Divided or unified government approach

Elgie (2001:2) categorizes two approaches to a divided or unified government, *inter alia* : (1) the arithmetical approach; and (2) behavioural interpretation approach. The arithmetical approach considers a divided government as, “the absence of any political party which in simultaneity



has majority control of the executive and legislature". The definition is only appropriate if applied to the government system in the United States, hence cannot be applied in entirety to other countries that have in place a multi-party presidential, semi-presidential, or parliamentary system.

With regards to the case of the USA, the arithmetical definition of a divided or unified *system* has been adopted as the standard to understand this terminology. In fact, Laver and Shepsle (1991: 252) clarify that the meaning, which is attached to a divided government in the United States of America is straightforward. The two espouse the notion that a divided government is characterized by a situation "when one party controls the presidential institution, while another political party controls at least one of the houses of the legislature".

On the contrary, the above definition cannot be applied to other countries which have in place a multi-party presidential system. This is especially the case in those countries which use the winner takes all election system. Nonetheless, the failure of the political party that supports the president to control one of the houses of the legislature, does not automatically mean that other political parties have control of other houses of the legislature. In most countries, the opposition consists of more than one political party. Thus, it is very possible that no single political party holds the majority in any single house of the legislature.

Meanwhile, based on the behavioral interpretation approach, the concept of a divided government is considered as attesting to *divisiveness*. In other words, a divided government cannot be perceived from an arithmetical prism, rather through the interpretation of political behavior. Specifically, a divided government is characterized by a situation where a conflict exists between the executive and the legislature organs of government whatever support the former has from the latter (Elgie, 2001: 7).

Based on the behavioral interpretation approach, the formation of a divided or unified government depends on conflict situation in the support that the legislature gives to the executive organ of government. Unified government occurs in the event of the existence of majority support of the legislature for the executive organ. Contrariwise, when the conflict between the two organs crystallize into the situation whereby it is



only the minority in the legislature that supports the executive. Under such a situation, political gridlock ensues, leading to the formation of a divided government.

To enhance understanding of the concept of a divided or unified government, this article elaborates the definition of behavioral interpretation which was propounded by Elgie. According to Elgie, the formation of either a divided or unified government depends on the level of support the executive garners in the legislature. A divided government refers to “a situation where the executive fails to obtain the support of the majority in at least of the houses of the legislature” (Elgie, 2001: 7). This means that a unified government occurs if the executive succeeds to obtain majority support in both houses of the legislature.

In light of that, for the purpose of this article, the concept of a divided or unified government used relates to the form of support which the legislature accords to the executive with respect to policy and program proposals. In this context, therefore, a divided government refers to the failure of the executive to obtain majority support of the legislature for policy and program proposals. On the contrary, if the executive garners majority support of the legislature for its policy and program proposals, the formation of a unified government ensues.

2. The impact of a divided or unified government on public policy making

A divided or unified government is more often than not, associated with public policymaking. There are concerns that the existence of a divided government reduces and undermines the legislation making. While some pundits espouse the notion that a divided government is an obstacle to the legislation making process, a unified government does the opposite. This is an issue which has been a bone of contention, especially in the United States which has a bicameral system. This is attributable to the fact that each house of the legislature is under the control of a different political party. Nonetheless, findings by Mayhew (1991) showed things in a different light. Mayhew reached the conclusion that the differences between a divided and unified government with respect to the process of making legislation are not many. The finding was based on a research of



267 major statutes for 1947-1990 period. The results showed that the number of legislation which was produced during unified government periods was 12.8, which was not significantly different from 11.7 achieved during periods of divided government.

In a similar development, Brady and Craig Volden (1998) in a further development of Mayhew's view, contended that gridlock and policy statement is a manifestation of budgeting politics. The increase in budget deficit has catapulted budgeting politics into the center stage. The emergency of conflicting interests between the president and the Congress has become unavoidable. The two parties face trade-off as to whether to develop new programs and innovations or promote the advancement of one area at the expense of another. If conflicting interests is the main issue, policy stalemate will ensue as both parties try to maintain the status quo (Epstein and O'Halloran, 1999: 147-148). In a similar vein, Jones (1995: 28) concluded that a divided government does not hamper legislation development. To that end, this obviates the need for gridlock simply because of the existence of a divided government (Edward III, et.al., 1997: 546).

However, Cox and Kernell (1991), have a starkly different view that points to the existence of a divided government as the source of conflicts that are evident in delays that characterize the approval process of any legislation, as a result of bargaining by the President and the Congress (Miles, 2011: 720). Edward III, et.al (1997: 545) supports the argument that associates a divided government with the delay in approving legislation. The position of the president, which is diametrically opposed to that espoused by the national parliament often leads to failure of both parties to approve legislation. There isn't a lot of extant research on the decline of the number of draft legislation (bills), attributable to the lengthy bargaining process between the organs of a divided government (Miles, 2011: 720).

3. Coalition in a presidential system

To avert the potential for the formation of a divided government, a presidential system can forge a coalition which culminates into a unified government, albeit a fragile one that demands stringent political party discipline. This is the notion that Cheibub (2007: 7) notes that, "coalition in a

presidential system is very fragile due to the lack of incentives, which is contrary to parliamentary system". In a similar development, Linz and Stepan (1996: 181) as cited in Cheibub (2007: 7), elucidate that, "a parliamentary system over time develops various incentives which help in forging a majority coalition, while in a presidential system is constrained by lack of incentives that favor the formation of a coalition".

Besides, political party discipline and accountability in presidential system are often bedeviled by conflicts. According Mainwaring (1993: 28) that the formation of a coalition in a parliamentary system is far more difficult than in a parliamentary system. The difficulty is attributable to the fact that in a presidential system, coalition as an institution is not required, and does not favor the process of forging political collaboration. Even if a coalition is formed, it is far more vulnerable than that in a parliamentary system.

C. Method

The method used in this research is qualitative. Subsequently, the quality of qualitative research depends very much on the validity and reliability of its methods and findings. To ensure the validity of the data and information, which was used in the research, the study used a combination of several data analysis techniques. Qualitative data analysis involves the collection of data, interpretation, and reporting of research results in simultaneity.

The last step entails an explanation of the implications of a divided government for policy making during Jokowi-JK government. The explanation is based on various cases on the 2016 annual budget. The choice for this case is strongly related to public interest, which is bound to jockeying efforts from various interest groups, both in the government and the national assembly.

D. Results and Discussions

1. A Unified government: from Gus Dur-Megawati until SBY-Boediono

In the aftermath of the democratic transition in Indonesia, the existence of a divided government has serious implications for policymaking. Prior to the adoption of a presidential system, there was a tendency of forming a unified government. The elected president and the vice president therefore were supported by the majority of seats in the



national parliament. Nonetheless, in practice, there was no guarantee that the national assembly lent its support to all policies and programs proposed by the government. During Gus Dur government for instance, which received majority support in the national assembly, the government did not find it easy to convince the national assembly to support its programs and policies. In fact, on several occasions, the national assembly issued several memoranda that served as a warning for Gus Dur to implement policies that were in line with the agreement that underpinned the coalition. A series of memoranda were not connected with government reshuffle, which Gus Dur has made, rather his involvement in two scandals: corruption in Bulog and financial assistance he had received from the Kingdom of Brunei (Ambardi, 2009: 195).

The same applied to Megawati's government, which also received majority support in the national parliament, on several occasions found difficulty in obtaining requisite support for its policies and programs. This was particularly the case with policies and programs that were in public interest. A case in point was when the government on January 1, 2003, announced a proposal to remove subsidies on fuel, electricity, and telephones, which met strong opposition from the parliament. In fact, the national parliament went to the extent of convening a consultative meeting with the government to discuss the issue.

Moreover, the tension in parliament continued beyond that meeting, as evidenced by strenuous efforts by the government to convince the parliament that the policies and programs it implemented were right and therefore needed parliamentary support. In response to that, the national parliament formed a multi-party caucus that called upon the government to rescind its decision. What was even more surprising was the initial refusal of the PDIP, which was the ruling political party, to support the proposal. However, internal political party discipline ensured that eventually, the party lent its support to the policy. Tension subsided when after the government made compromises in its policy proposals that entailed reducing the level of subsidy cuts on the three aforementioned services (Tempo, 20-26 January 2003; Lombardi, 2009: 221-228).



Subsequently, since Indonesian adopted a presidential system, in which the president and vice president are elected by a popular vote in general elections there is a high likelihood that the elected President and vice president do not obtain the majority of seats in parliament to support their policies and programs. This is the situation which SBY-JK faced in the wake of winning the first direct presidential elections in 2004. It has become common practice that the elected president and vice president initially receive a slight majority in parliament, which gains a majority after one year in power. This happened to be the case during SBY-JK's government during 2004-2009 as well as the continuation in the form of SBY-Boediono during the 2009-2014 period.

The government of SBY-JK during 2004-2009, as has been mentioned in an earlier section, despite clinching a 60.62% of popular vote or 50.18 seats in the national assembly during the second presidential election runoff. Thus, the coalition of seven parties which supported SBY-JK candidature was not able to secure the majority seats in the national assembly. It was not before the vice president, Jusuf Kalla, assumed the position of head of Golkar party that SBY-JK's government achieved a majority of seats in parliament. Even then, controlling the majority of seats in the national assembly did not translate automatically into majority support for government policies and programs.

Meanwhile, during the 2009-2014 period, SBY-Boediono government garnered 75.36% of seats in the national assembly. In fact, the government formed what at the time was described as a permanent coalition to serve as coordinating forum for all political parties in the broad coalition with a joint secretariat (Setgab) serving as the steering organization. The mosaic of political parties comprised PD, PAN, PPP, PKB, PKS, and the Golkar party. On the contrary, PDIP, Hanura party and Gerindra party opted to serve as the opposition. A repeat of 2004-2009 government became evident during 2009-2014 elections. Despite controlling 75.36% of seats in parliament, SBY-Boediono government on a number of occasions faced difficulty in securing support for government policies and programs, including members of the joint secretariat.

In the case that related to the Bailout of Bank Century, for instance, the expectation was that the majority of seats under the control of the joint



secretariat would prevent the formation of the special parliamentary investigation committee. However, the reality was that the proposal to form the committee achieved requisite support leading to its formation. The Bank Century Bailout became a lingering stain during the entirety of SBY-Boediono's government, as reflected in the fact that case remained unresolved by October 20, 2014, when SBY-Boediono government ended.

Another case that underscored the point concerned the right for members of parliament to request for an inquiry into tax mafia practices. The proposal almost achieved the support needed to proceed before the joint secretariat flexed its muscles and foiled it. What is worth noting in the case was that two political parties which were members of the joint secretariat, Golkar party, and Justice Party, stood in line with the opposition to support the formation of the inquiry. To that end, the two cases above, underscore the fact that a unified government does not always guarantee the support of the national assembly for government policy and program proposals. It is not farfetched to say, that the existence of a unified government does not per se ensure the existence of a unified stance on policy, but may also end up creating divided approach on policy and program issues.

2. A Divided Jokowi-JK government

Based on the experience gleaned from countries which had divided governments, the reality is contrary to expectations. The existence of a divided government does not always become an obstacle for government policy and program proposals. Colomer (2005) in a research on policy-making process in a divided government, concluded that the existence of a divided government does not impact on policymaking. It is political party discipline that plays a crucial role in the policy-making process. Political parties play an important role in directing and influencing the choices that legislators make in parliament. Nacif (2003) in a research on the same theme in Mexico reached similar results. Nacif concluded the legislators in their individual capacities as well as in their collective capacity determine public policymaking. However, it is political parties which play the crucial role (ideal points) hence are the pivot actors in the decision-making process.



There is a likelihood that the experience, which USA and Mexico had, can as well affect Jokowi-JK government. A closer observation of the political constellation prior to the swearing in of Jokowi-JK government indicated that a divided government that today characterize the current government bears the hallmarks of being the situation. The implication of that is there is a likelihood that changing dynamics in Indonesian political landscape may create conditions that will turn what today is a divided government into a unified one. The above scenario is likely to occur in the event, one or the political parties which are in the KMP may decide to jump ship and joint the Great Indonesia coalition. A good case in point to the effect was the process of electing heads of institutions in the national assembly and national consultative consul. During the election process of heads of organs/institutions of the national assembly, the PPP was hand in glove with the KMP but changed sides to support the great Indonesia coalition during the election process of heads of supporting institutions/organs of the national consultative assembly. To that, there is the likelihood that the same thing can occur during deliberations of government policies and programs in the national assembly.

In fact, the existence of a divided government is very beneficial for the general public. On one hand, the government will attempt to implement populist policies and programs. A good example of that is the Indonesia health card (KIS) which Jokowi-JK used as a campaign symbol in the lead up to the 2014 presidential elections. Doubtless, pledging to implement populist policies was intended to increase public support during the campaigns which if maintained was expected to increase the chances of winning the elections. However, attempting to persuade public support through the adopting and supporting populist policies and programs are not limited to the government. On the contrary, the legislature also played the same card, when for example the legislators in the opposition vowed to strengthen control of government policies in the national assembly and national consultative council. Doubtless, the gesture was aimed projecting commitment to serving the public interest. In other words both the government and parliament bank their hopes on showing support and commitment to the implementation of populist policies.

Nonetheless, there is need to stress the point that Jokowi-JK government which is a divided one, does not always mean that it faces



obstacles in proposing and implementing policies and programs. This is evidenced by the deliberations on the 2016 annual budget in the national assembly, which culminated in its approval.

E. Conclusion

Not unlike other countries, which are in the democratic transition phase, and for Indonesia's case, the experience of a presidential system has lasted for just a decade, the formation of a divided or unified government has provided vital lessons learned for improving the democratic process. To that end, the formation of a divided government during Jokowi-JK government should not be a serious cause for concern. In fact, the existence of a divided government may end up contributing to the advancement of Indonesian democracy.

This argument is based on the experience and practice elsewhere and even in Indonesia, some of which have been cited earlier, that shows that a divided government in itself does not hamper policy and program proposals in the legislature. On the contrary, a divided government can serve as a motivation for the government to prioritize and put more emphasis on populist policies and programs that are in public interest. This also applies to efforts by the national assembly to control the majority of seats in the house. Thus, this serves as evidence that the decision whether or not to agree to a government program proposal does not depend on the existence of a divided or unified government, rather other factors. Such factors include the policy formulation mechanism, policy actors, the existence of an executive veto, parliamentary veto, political party behavior (attitude), and policy interests and issues.

It is worth noting that, in any case, the existence of a unified government does not guarantee that the government will find it easy to garner the support of the legislature for the policy and program proposals it makes. The agreement of the national assembly still depends very much on the above factors. Moreover, the general public is not concerned about what form of government is formed in the aftermath of the presidential elections. On the contrary, what the general public wants and hopes is that the government that is formed, whether divided or unified, has the ability and capacity to collaborate with the national assembly to achieve national goals for Indonesia—a just and prosperous society.



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