

CHAPTER ONE

INTRODUCTION

A. Background

Indonesia as a modern country is called the welfare state that requires the government to directly involve in development efforts to improve general well-being.¹ Indonesia is a constitutional democratic state with a republican form of state and a presidential system of Government with a parliamentary character. According to Jimly Asshiddiqie Indonesia did not adopt a power separation system but a power-sharing system. Legislative power is exercised by the People's Consultative Assembly (M.P.R.) and the People's Representative Council (D.P.R.). Executive power is exercised by the President and all his assistants; the Supreme Court exercises judicial control; the Constitutional Court; and the Judicial Commission.² The Presidential government system recognizes six central state institutions, namely the President, the People's Consultative Assembly (M.P.R.), the People's Representative Council (D.P.R.), the Regional Representative Council (D.P.D.), the Supreme Court (M.A.), and the Constitutional Court (M.K.).³

The President of Indonesia is the head of State and head of the Indonesian Government. The President has the executive power to run the Government and is the official symbol of Indonesia. The concurrent position of the President as head of State and

¹ Disiplin F. Manao, "Penyelesaian Penyalahgunaan Wewenang Oleh Aparatur Pemerintah Dari Segi Hukum Administrasi Dihubungkan Dengan Tindak Pidana Korupsi", *Jurnal Wawasan Yuridika*, Vol. 2 No 1 (2018) p.23.

² Jimly Asshaddiqie, 2006, *Pengantar Ilmu Hukum Tata Negara*, Jakarta, Sekretariat Jendral dan Kepanitraan Mahkamah Konstitusi RI, p 23-34.

³ Firmansyah Arifin, 2005, *Lembaga Negara dan Sengketa Kewenangan Antar Lembaga Negara*, Jakarta, Konsorium Reformasi Hukum Nasional, p.36.

head of Government makes the President's power not only in the executive sector but also in the legislative and judicial fields.⁴ The President's assistants will assist the President in carrying out his duties. Among the assistant to the President are the Vice President and Cabinet Ministers. Since the 2009 general election, the vice president has been directly elected by the people through a presidential election Article 6 A of the Third Amendment of the 1945 Constitution.

Chapter V, Article 17 of the 1945 Constitution stipulates that the State Minister assists the President. State ministers are appointed and dismissed directly by the President, and their duties are directly responsible to the President. Each Minister is responsible for some issues in the Government, which is further regulated by Law Number 39 of 2008 concerning the National Ministry and Presidential Regulation Number 47 of 2009 concerning the Establishment and Organization of National Ministries.

Apart from the Ministry, the President is assisted by several other state agencies in the government support system. According to Hans Kelsen, state institutions carry out the functions stipulated by the legal order, make laws, and implement regulations.⁵ One of the government support systems is a Presidential Special Staff.

The Presidential Special Staff is a non-structural institution formed to assist the performance of the President in running the Government as head of state leadership, which is regulated in article 17 of presidential regulation no 17 of 2012. In line with the increasing complexity of the problems faced by the state, the President feels that his duties and obligations are increasing and requires assistance so that the President can carry out all of

⁴ Denny Indrayana, 2008, *Negara Antara Ada dan Tiada: Reformasi Hukum Tata Negara*, Jakarta, PT Gramedia Pustaka Utama, p.195.

⁵ Hans Kelsen, 2010, *Teori Hukum Tentang Hukum dan Negara*. Bandung, Nusa Media, P.276.

his duties correctly.⁶ Therefore, the President formed the Presidential Special Staff to assist the President in carrying out his responsibilities in Government, with specialization in specific fields.

In Government, Special Staff positions in the Ministry, President, and Vice President has different duties.⁷ Since the President's millennial exceptional staff appointment, pre-existing Special staff positions have become a public concern. The laws and regulations in Indonesia do not recognize the term Special millennial staff, only Special Staff. Special Millennial Staff emerged from media coverage because 7 out of 13 Special Staff appointed during President of the Republic of Indonesia Jokowi were classified as young, namely between 23-36 years. According to the K.B.B.I., the word "millennial" means a person or generation born in the 1980s and 1990s.⁸

The age range of the seven (seven) Special Presidential Staff corresponds to the age of the millennial generation, thereby increasing the appointment of Special millennial Staff in media coverage. It is said that the position of seven Special millennial Staff is to develop innovation in various fields because some people with academic backgrounds are graduates of well-known foreign universities or have performed well in their respective fields, even founders or C.E.O.s in private companies, all of whom are achieved by age. who can be said to be young⁹

⁶ Arfan Faiz Muhlizi, "Reformulasi Diskresi dalam Penataan Hukum Administrasi", *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, Vol. 1 No 1 (2012) p.93- 111.

⁷ Praptining Sukowati, "Hukum Administrasi Negara Dalam Konteks Pemerintahan Di Indonesia", *Jurnal Hukum Ekonomi & Bisnis*, Vol 7 No 1 (2009) p. 25-34.

⁸ Hidayatullah, S., Waris, A., & Devianti, R. C., "Perilaku Generasi Milenial Dalam Menggunakan Aplikasi Go-food", *Jurnal Manajemen dan kewirausahaan*, Vol 6 No2 (2018) p. 240-249.

⁹ Ihsanudin, 2019, *Yang Spesial Untuk 7 Staf Khusus Milenial Jokowi*, published on <https://nasional.kompas.com/read/2019/11/22/06000701/yang-spesial-untuk-7-staf-khusus-milenial-jokowi?page=all#page4> accesses on October 1st, 2020 at 21:20 PM

However, concerning the position of C.E.O., there was an alleged conflict of interest. For example, there is Special Staff who write an official letter on the head of the Cabinet Secretariat containing requests for assistance from village officials to support the implementation of the P.T. Amarta Mikro Fintek (the company he founded) with the Village Volunteer Program Against COVID-19 under the Ministry of Villages, Development of Disadvantaged Areas, and Transmigration.

According to the constitutional law expert of the Indonesian Muslim University (U.M.I.) Makassar, Dr. Fahri Bachmid SH MH, the real example of power abuse was conducted by Presidential Special Staff Andi Taufan Garuda Putra, who sent a letter with the logo of the Cabinet Secretariat of the Republic of Indonesia to sub-district heads throughout Indonesia regarding the handling of the pandemic outbreak of the coronavirus or Covid-19. According to the administrative procedures and techniques concerning the working mechanism of Government in the presidential government system, the letters and patterns of correspondence such as those written by presidential special Staff Andi Taufan are not known in the government administration. This is known in the constitutional design of the Indonesian government system.¹⁰

Most ordinary people do not understand the Presidential Special Staff's position, duties, and functions in the government system. Therefore, people tend to be easily provoked by negative government issues, especially around the Presidential Special Staff. In an era of information disclosure like today, it is necessary to socialize the position, duties, and functions of the President's Special Staff to the public.

¹⁰ Ratna Puspita, *Pakar: Presiden Harus Tata Ulang Staf Khusus*, published on <https://republika.co.id/berita/q9051u428/pakar-presiden-harus-tata-ulang-staf-khusus>, accessed on October 1st, 2020 at 21:24 PM

Based on the above background, the author is very interested in discussing in detail how the position of the Special Staff of the President in the Indonesian constitutional system.

B. Research Problem

Considering the research background above, the research problem is formulated into “How is the position of Presidential Special Staff in the Indonesian Presidential Office?”

C. Objective of Research

Based on the research question above, there are three objectives to be achieved, namely:

1. To understand the concept and the existence of Presidential Special Staff in the Indonesian Presidential Office.
2. To evaluate the position of the Presidential Special Staff in the Indonesian Presidential Office.
3. To formulate recommendation for a better concept of Presidential Staffs.

D. Benefits of Research

There are some benefits of this research, namely:

1. Theoretical Benefit

The research will give benefit the development of legal science, particularly in the area of constitutional Laws.

2. Practical Benefit

The research will contribute to the Presidential Office for a better policy on the Presidential Special in the future.