



THE IDEA OF A SINGLE TERM OF OFFICE OF THE PRESIDENT AND VICE PRESIDENT IN INDONESIA

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ABSTRACT

Limiting the term of office of the head of government is an important prerequisite for realizing a democratic state life. In Indonesia, these restrictions are imposed on the President and Vice President with a term of office of 5 years and after that, they can be re-elected only for 1 term of office. Using the normative juridical method, this study shows that this choice has become a source of debate in other parts of the world, and several presidential countries have chosen different models of restrictions. In Indonesia, it has been revealed that this choice is not based on a deep conceptual debate and empirically has threatened the continuity of a principled election. As a solution, this study offers the application of the concept of a single term of office for the President and Vice President in Indonesia. This research also enriches the study of state administration in the theme of structuring the presidential system.

Keywords: office; term; president

INTRODUCTION

Indonesia's position after the fall of the new order regime and entering the reform era is considered to be a country where democracy well-implemented.¹ One measure is that the position of head of state is not filled by descent or inheritance, but rather elected for a specific office.² In accordance with Article 6A Paragraph (1) of the 1945 State Constitution of the Republic of Indonesia, the President and Vice President are elected in one pair directly by the people.³ Both served for five years, and thereafter could be re-

elected to the same office, for only one term.⁴

The election of the President and Vice President is part of the general elections (elections) as referred to as Article 22E Paragraph (2) of the 1945 State Constitution of the Republic of Indonesia: "General elections are held to elect members of the House of Representatives, the Regional Representative Council, the President, and Vice President and the Regional People's Representative Council".⁵ Thus, the election of the President and Vice President is subject to what is known as the principles of direct, public, free, secret, honest, and fair elections every five years.⁶

These two things, the mechanism for filling and limiting the period of office of the President and Vice President, have been effective for approximately two decades or the past 4 election years in Indonesia. The range has been filled with many phenomena to assess the coherence between the two, and finally, the contrast shown against the pseudo-democratic practices of the pre-reform era. One of the assessment efforts manifests itself in a question, namely to what extent are the term limitations of the President and Vice President in his version now in accordance with the principles

¹ Made Oka Cahyadi Wiguna, "Pentingnya Prinsip Kebijakan Berdasarkan Pancasila Dalam Kehidupan Hukum Dan Demokrasi Indonesia," (The Importance of the Principles of Wisdom Based on Pancasila in Indonesian Legal and Democratic Life), *Jurnal Ilmiah Kebijakan Hukum* 15, no. 1 (2021), page 134.

² Ali Safaat, *Sistem Pemerintahan Negara: Pendidikan dan Pelatihan Peningkatan Pemahaman Hak Konstitusional Warga Negara* (State Government System: Education and Training Improving the Understanding of Citizens' Constitutional Rights) (Jakarta: Pusat Pendidikan Pancasila dan Konstitusi Mahkamah Konstitusi Republik Indonesia, 2016), page 8.

³ 1945 Constitution of the Republic of Indonesia (Republic of Indonesia, 1945).

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

of elections, exactly the principle of fairness in elections?

Initially, the above question came to the fore concerning the possible participation of the office of President and Vice President in the election, facing other contestants who are less powerful. But from here, concerns continued until the quality of the government was formed. Constitutional law expert Refly Harun, for example, in addition to criticizing elections in Indonesia that have not been fully straightforward, clean, honest, and fair, where there are still many parties who use their power to be re-elected as leaders, also criticizes the ineffectiveness of the government that occurs due to the restriction of two presidential period. According to his observations, in the first six months, the president had to make adjustments. such as internal consolidation with the political parties that carry it and making ministerial nomenclature, whereas, in the last two years (reflecting on the reign of President Joko Widodo), the president has begun to abandon public affairs and focus on his re-election. That is, the President tends to lose a lot of time working in his first period.⁷

The theme of the re-election of the President and Vice President has become a polemic not only in Indonesia but also in other parts of the world, including in the United States, where the tradition of the two presidential periods is considered to have originated. One alternative that emerged following this polemic was the limitation of the single term of office of the President and Vice President, where both could no longer be elected to the same office after serving their only term (first and last). This idea also appeared in Indonesia, and for that, this article will try to clarify it.

This article differs from similar research that mostly focuses on the urgency of limiting the President's period of office, regardless of the shortcomings and advantages of each type of restriction. In addition, this article is also different from research that examines the president's office period from a developmental perspective, as Harun

⁷ Riyan Setiawan, "Pakar Hukum Tata Negara Usul Presiden Cukup 1 Periode Tapi 7 Tahun," (The root of the Constitutional Law of the President's Proposed Only 1 Period But 7 Years), *Tirto.Id*, last modified 2019, accessed November 23, 2020, <https://tirto.id/pakar-hukum-tata-negara-usul-presiden-cukup-1-periode-tapi-7-tahun-eme4>.

Alrasid has very well written in his dissertation entitled "The Problem of Filling the Position of President Since the Session of the Preparatory Committee for Indonesian Independence 1945 until the Session of the People's Consultative Assembly 1993". Different from the two, this article takes the perspective of prospects, especially regarding the limitation of the single term of office of the President and Vice President in Indonesia.

The formulation of the problems that are trying to be answered through this article include: (1) How is the re-election of the President and Vice President in theoretical and regulative review? (2) What is the feasibility of implementing the single term of office of the President and Vice President in Indonesia?

RESEARCH METHODS

This research is in the form of juridical-normative, by examining the design of the term limitations of the President and Vice President in Indonesia and their implications for ownership and the sustainability of government. The typology of this study is prescriptive-analytical by offering a single office term limitation of the President and Vice President. The type of data used in this study is secondary data, which is not obtained in the capacity of being the first source. The data analysis method is qualitative so it is not translatable into mathematical-statistical figures, but rather narrated based on logical reasoning.

DISCUSSION AND ANALYSIS

A. Re-election of President and Vice President in Theoretical Debate and Various Regulative

1. Theoretical Debate

The theme of the re-election of the President (and Vice President) has become a source of debate in several countries. In the United States, this issue has created two opposite groups, with their arguments. The group that rejected the re-election postulated that this opportunity made the executive branch a permanent campaign hotbed, and the policy would always be taken concerning the electoral effect. It will also weigh the burden on the incumbent and interfere with him in carrying out his obligations. Not to mention that in the eyes of the public, the incumbent will always doubt

his sincerity in governing, because the public also sees the opportunity to be re-elected which is the motivation of the incumbent, not the spirit of devotion.⁸

Responding to the above arguments, the group that supports the re-election argues that this opportunity makes the incumbent more responsible for the policies he made. Concerns that the interests of campaigning will weigh more on the incumbent are not insurmountable, as this can be shared with others. Even the campaign activities themselves are still important for the incumbent to bring himself closer to the citizens. While credibility issues are in the public eye as previously feared, the most decisive is the character the incumbent has built since the beginning of office, rather than the prospect of re-election. Finally, the ultimate argument of the group supporting the existence of re-election is the importance of this opportunity to underpin the legitimacy of the incumbent. Without this instrument of accountability, a distance will be created between the government and its citizens that will foster distrust.⁹

The debate in the United States is not the only illustration of how controversial the theme of *the re-election* of the President (and Vice President) is. In Latin America, a similar debate is also occurring. This time the Presidential *re-election* was rejected for a very specific reason taken from the experience of many countries on the continent, namely that the existence of Presidential *re-election* invited an abuse of executive power and, in the end, a tyranny.

Support for the institutionalization of presidential *re-elections* on this continent does not refute the above arguments. But they believe that the prospect of re-election has the utility of encouraging politicians to be responsive to the demands of citizens and reducing the problem of a lame duck. In addition, for more philosophical reasons, the ban on re-election is considered to limit the choice of citizens so that it is essentially anti-democratic.¹⁰

⁸ Bruce Buchanan, "The Six-Year One Term Presidency A New Look at an Old Proposal," *Presidential Studies Quarterly* 18, no. 1 (1998), 130–134.

⁹ *Ibid.*, 135–140.

¹⁰ John M. Carey, "Policy Issues: The Reelection Debate in Latin America," *Latin American Politics and Society* 45, no. 1 (2003), hlm 130–131.

In its development, the arguments of each of the above parties are certainly not taken for granted. However, groups that support the existence of Presidential re-election can be considered to have a heavier burden to defend their arguments because empirically, the potential deviation due to this re-election was confirmed in Latin America (even Indonesia, at least during the New Order period). Meanwhile, hypothetical arguments from the supporters' group also received serious rebuttals. The main argument that re-election is important for the sake of accountability, for example, is refuted by the findings of James D. Fearon who revealed that voters do not see elections as a means of sanctioning (or conversely, appreciation), but rather that voters see them as an opportunity to vote for the best.¹¹

Several countries have indirectly demonstrated their position in the above debate through the model of limiting the tenure of the President and Vice President they elect. This will be seen soon in the next discussion in this article.

2. Regulative Variations: Comparison of Several Countries

Indonesia is not the only country with a presidential system. Thus the issue of the office period of the President and Vice President and their possibility of being re-elected is also faced by several other countries. As a capital comparison, in this section, it will be described how several other countries regulate this

1. Chile

The President of the Republic shall perform his functions for four years and cannot be re-elected for a subsequent term (Paragraph 2 of Article 25 of the Chilean Constitution of 1980).¹²

2. Uruguay

The President and Vice-President shall serve for five years, and to serve again it will be required that five years have passed from

¹¹ James D. Fearon, "Electoral Accountability and the Control of Politicians: Selecting Good Types versus Sanctioning Poor Performance," in *Democracy, Accountability, and Representation*, ed. Adam Przeworski, Susan C. Stokes, and Bernard Manin (UK: Cambridge University Press, 1999), 56–57.

¹² *Chile Constitution 1980 with Amendments through 2015* (Republic of Chile, 1980).

the date of their dismissal (Paragraph 1 of Article 152 of the Uruguayan Constitution of 1966).¹³

3. Costa Rica

The presidency will last for four years (Article 134 of the Costa Rican Constitution of 1949).¹⁴

Cannot be elected President or Vice President (Article 132 of the Costa Rican Constitution of 1949).¹⁵

(1) Any person who serves as President at any interval in the eight years preceding the period of conduct of the election is verified, or the Vice President or the person who succeeds him, who serves for most of the period in those eight years;

(2) The Vice President held this office for twelve months prior to the election, and whoever succeeded him exercised the presidency at any interval of that range.

4. Philippine

The President and Vice President are elected by direct voting by the people for a period of six years which will begin at noon on the thirtieth of June after the election day and will end at noon on the same date six years later. The president has no right to be re-elected. No person who has finished as President and has been in office for more than four years may be elected to the same office for any time (paragraph 1 of section 4 of Article 7 of the Philippine Constitution of 1987)¹⁶

The Vice President shall not serve more than two consecutive periods (paragraph 2 of section 4 of Article 7 of the 1987 Constitution of the Philippines)¹⁷

5. South Korea

The period of office of the President is five years, and the President must not be re-

elected (Article 70 of the South Korean Constitution of 1948)¹⁸

6. Paraguay

The President of the Republic and the Vice President shall serve for five years without being able to be extended in the performance of their functions, starting from the fifteenth of August after the election. They cannot be re-elected in any case. A Vice President may only be elected President for a subsequent term if he has ceased in his term of office at least six months prior to the general election. Anyone who has held the presidency for more than twelve months cannot be elected Vice President of the Republic (Article 229 of the Paraguayan Constitution of 1992).¹⁹

7. Peru

The period of office of the president lasts for five years. There is no direct re-election. A former president may run again after at least one constitutional term, subject to the same conditions (Article 112 of the Peruvian Constitution of 1993).²⁰

8. Panama

Citizens who have been elected President or Vice President of the Republic cannot be elected to the same office in the two presidential periods that immediately follow (Article 178 of the Panama Constitution of 1972).²¹

9. Colombia

Every citizen, regardless of title, who has served as President cannot be elected President of the Republic. This prohibition does not apply to a Vice President when in office for less than three months, continuously, or intermittently over four years. The prohibition against re-election can only be reformed or set aside through a referendum on the initiative of the people or a constitutional assembly (Article 197 of the

¹³ *Uruguay's Constitution of 1966, Reinstated in 1985, with Amendments through 2004* (Oriental Republic of Uruguay, 1966).

¹⁴ *Costa Rica's Constitution of 1949 with Amendments through 2011* (Republic of Costa Rica, 1949).

¹⁵ *Ibid.*

¹⁶ *Philippine's Constitution of 1987* (Republic of the Philippines, 1987).

¹⁷ *Ibid.*

¹⁸ *Korea Constitution of 1948 with Amendments through 1987* (Republic of Korea, 1987).

¹⁹ *Paraguay's Constitution of 1992 with Amendments through 2011* (Republic of Paraguay, 1992).

²⁰ *Peru's Constitution of 1993 with Amendments through 2009* (Republic of Peru, 1993).

²¹ *Panama's Constitution of 1972 with Amendments through 2004* (Republic of Panama, 1972).

Constitution of Colombia of 1991).²²

10. Mexico

The president will begin his period on October 1st and will last for six years. Citizens who have served as President of the Republic, whether elected popularly or under a temporary or substitute character, or temporarily serving as the Federal Executive, in any case, and under no circumstances, may serve for this position again (Article 83 of the Mexican Constitution of 1917).²³

Reflecting on the choice of the model of limiting the period of office of the President and Vice President of each of the above countries, which historically is also similar to Indonesia because some of them have gone through periods of authoritarianism, it can be seen that the re-election arrangements of the President and Vice President are built on the establishment of anticipating the presence of incumbents in elections. This arrangement manifests into two models according to Zovatto, namely alternate re-election (Chile, Uruguay, Costa Rica, Panama, and Peru) and absolute prohibition of re-election (Philippines, South Korea, Paraguay, Colombia, and Mexico).²⁴

Naturally, among the countries belonging to the same classification though, the manifestation of the arrangement still varies. Alternate re-elections in Costa Rica and Panama, for example, demand a two-term pause for a President and Vice President to return to the office, while alternate re-elections in Chile, Uruguay, and Peru only demand a one-term pause. Similar variations can be found among countries that adhere to the absolute prohibition

of re-elections. The Philippines, for example, adheres to the absolute prohibition of re-elections only for its President, while for vice presidents there is an opportunity to be re-elected for only one term (immediate re-election). Meanwhile, Colombia and Paraguay implemented an absolute prohibition of re-election model for both president and vice president.

B. The Visibility of Office Period of the President and Vice President

1. Re-election of President and Vice President in Indonesia

Since its independence in 1945, Indonesia has been led by 7 Presidents and 12 Vice Presidents. This is the output of the constitutional design of filling the offices of President and Vice President under the 1945 Constitution, both before and after the amendment. The first two Presidents, Soekarno and Soeharto, were the longest-serving. President Sukarno ruled for approximately 22 years, while President Soeharto ruled for approximately 31 years. These two Presidents served before the 1945 Constitution changed.

Before changing, the 1945 Constitution did give way to continuing to extend the term of office. Article 7 of the 1945 Constitution in its original formulation stated that “the President and Vice President hold office for five years, and thereafter may be re-elected”.²⁵ With this formulation, in theory – before the amendment of the 1945 Constitution – Indonesia adhered to the principle of indefinite re-election, where there were no known restrictions in terms of the re-election of the President and Vice President.

The period before the 1945 Constitution changed, often referred to as the non-democratic period. A political configuration that is built in a non-democratic manner is also considered to have made the law fall into disrepair.²⁶ The re-election indefinite model of limiting the period of office of the President and Vice President is one of the causes. Especially during the New Order period,

²² *Colombia's Constitution of 1991 with Amendments through 2015* (Republic of Colombia, 1991).

²³ *Mexico's Constitution of 1917 with Amendments through 2015* (United Mexican States, 1917).

²⁴ Daniel Zovatto details various models of the arrangement for the re-election of the President. Quoted from Fitra Arsil, the Zovatto details consist of four models, namely: (1) indefinite re-election; (2) immediate re-election; (3) alternate re-election; and (4) absolute prohibition of re-election. Fitra Arsil, *Teori Sistem Pemerintahan: Pergeseran Konsep Dan Saling Kontribusi Antar Sistem Pemerintahan di Berbagai Negara* (Theory of Government Systems: Concept Shifts and Mutual Contributions Between Government Systems in Different Countries), (Depok: Rajawali Pers, 2019), page 77.

²⁵ 1945 Constitution of the Republic of Indonesia. – pre-amendment.

²⁶ Ahmad Yani, “Sistem Pemerintahan Indonesia: Pendekatan Teori Dan Praktek Konstitusi Undang-Undang Dasar 1945,” (The Indonesian Government System: The Theory and Practice Approach to the Constitution The 1945 Constitution), *Jurnal Ilmiah Kebijakan Hukum* 12, no. 2 (2018), 120.

the indefinite choice of the re-election of the 1945 Constitution has been “utilized” optimally accompanied by systematic efforts to turn off the political competition.

Entering the era of reform, the problem is to be overcome fundamentally by changing the indefinite model of re-election to immediate re-election. Article 7 of the 1945 State Constitution of the Republic of Indonesia formulates that the President and Vice President serve for five years and thereafter may be re-elected to the same office for only one office period.²⁷ So far, it is President Susilo Bambang Yudhoyono (first elected in 2004, and re-elected in 2009) and President Joko Widodo (first elected in 2014, and re-elected in 2019) who have succeeded in maximizing the opportunity for immediate re-election. But whether this model is ideal enough for Indonesia, will soon be seen in the next discussion.

2. The Urgency of the Sole Period of Office of the President and Vice President in Indonesia

The continuity of Indonesian presidentialism has been mired for decades in the abyss of authoritarianism. The figure of the President is incarnate as a tyrant relying on the loopholes available in the 1945 Constitution. This experience teaches a lesson in the importance of guaranteeing a democratic system, something that was to be achieved later through the amendment of the 1945 Constitution.

Unfortunately, as Jimly Asshiddiqie was the party involved in the discussion of changes to the 1945 Constitution, the text of the amendment to the 1945 Constitution was compiled and formulated without going through a deep conceptual debate. The members of the People’s Consultative Assembly of the Republic of Indonesia did not have enough time to first debate it in depth. In addition, the process of discussing the draft is also strongly influenced by the political interests of the parties involved in it. This state of affairs causes choices concerning academic truth to often be overridden by choices relating to political truth.²⁸

²⁷ *1945 Constitution of the Republic of Indonesia., – post amendment.*

²⁸ Ahmad and Novendri M. Nggilu, “Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution,” (The pulse of the Fifth Amendment

In relation to the limitations on the term of office of the President and Vice President, what Jimly Asshiddiqie put forward seems to be confirmed through the minutes of discussion of the amendments to the 1945 Constitution. The debate is more about editorial than conceptual issues. Some of the options that appeared were simply missed with almost no meaningful elaboration. The choice of immediate re-election as a model of limiting the term of office of the President and Vice President was taken so simply, and it proved that this caused problems in the future.

The 1945 State Constitution of the Republic of Indonesia, as it is known, outlines elections to be held directly, publicly, freely, secretly, honestly, and fairly (*luber jurdil*).²⁹ However, the opportunity for the President and Vice President to be re-elected after the end of his period has proven to have injured these principles. Of course, this happens in many ways. Siti Zuhro for example, a political scientist, has given an excellent record from a bureaucratic point of view.

Empirical experience shows that since the 2004 elections (followed by the 2005 regional elections) conducted directly by the people, the central/regional bureaucracy has been difficult to be politically independent. There are many cases of using central/local government facilities for the winner of certain candidates/incumbents in elections/regional elections. The use of regional budgets for the winner of certain candidates is also difficult to avoid because of the thick politicization of the bureaucracy. Political and bureaucratic congruences are found, both during and after elections.³⁰

There is a lot of evidence that explains how this issue of bureaucratic politicization can be found even since the first elections after the introduction of the immediate re-election model. In the run-up to the 2004 elections, for example, a compact disk (VCD) video circulated showing the Banyumas Regional Police Chief, Commissioner of Police A.A. Mapparessa, briefing his ranks to re-elect President Megawati and his deputy

of the 1945 Constitution through the Involvement of the Constitutional Court as the Guardian of the Constitution Principle), *Jurnal Konstitusi* 16, no. 4 (2019), 787.

²⁹ *1945 Constitution of the Republic of Indonesia.*

³⁰ R. Siti Zuhro, “Demokrasi Dan Pemilu Presiden 2019,” (Democracy And Presidential Election 2019), *Jurnal Penelitian Politik* 16, no. 1 (2019), 77.

candidate, Hasyim Muzadi. In the VCD, it was also shown that there was a distribution of fruits after the event.³¹ Then, as Tempo summarized, several names of regional heads were also alleged to be mobilizing their ranks to make the re-election of the incumbent a success. Maman Yudia as the Deputy Regent of Subang at that time, for example, was caught writing a letter addressed to the Heads of Services, Agencies, Agencies, and Offices throughout Subang Regency, the contents of which charged an amount of money for the benefit of the campaigns of President Megawati and Hasyim Muzadi in the 2004 elections.³² Much more similar evidence can be provided in this regard. But just to show that this kind of practice is still going on until the elections, it is worth mentioning that in the run-up to the 2019 elections, a video was also circulated showing the support of 15 sub-districts in Makassar to the incumbent Presidential candidate Joko Widodo and his deputy Ma'ruf Amin.³³ This latest evidence is also an affirmation that the gap of 15 years and echoes of bureaucratic reforms do not seem to have brought about enough change.

Another incentive from the current model of limiting the tenure of the President and Vice President of Indonesia against the damage to elections that are *luber jurdil* also lies in the regulatory side. It must be remembered that the 1945 State Constitution of the Republic of Indonesia gives an important role to the President in terms of lawmaking, including laws governing elections.³⁴ Thus the concern that the President

might try to create rules favorable to his candidacy became well-reasoned.

The existence of rules as feared above is as real as they can indeed be found. The holding of a presidential threshold in electoral law, for example, can be considered to reduce the meaning of democracy when it is associated with the opportunity for every citizen to engage in the political process, including engaging in fair competition in the Presidential and Vice Presidential elections.³⁵ But for incumbents running again, this rule could hinder the emergence of alternative candidates and increase their chances of being re-elected.

The phenomenon ahead of the 2019 elections is a very good example in the case of the implementation of the presidential threshold, where the government completely rejects any form of compromise with the People's Representative Council of the Republic of Indonesia to simply lower the threshold figure. The government threatened to withdraw from the discussion if the House of Representatives insisted on lowering the presidential threshold, and even rejected the proposal of a vote on this issue because it believed that the voting mechanism would defeat the will of the government.³⁶ When compared to previous elections, the presidential threshold instrument became the least relevant precisely in the 2019 elections because of the introduction of simultaneous elections.

With the conditions stated above, it is clear that the implementation of elections in Indonesia has deviated from the principles that should be distorted, especially the principle of justice. When referring to the Office for Democratic Institutions and Human Rights (ODIHR), where fair elections are defined as the implementation of elections that uphold equality and are based on an impartial

³¹ (ICH), "Ketika VCD Polisi Dibajak," (When Police VCDs are Hijacked), *Liputan6.Com*, last modified 2004, accessed August 10, 2021, <https://www.liputan6.com/news/read/82869/ketika-vcd-polisi-dibajak>.

³² Hanibal W.Y. Wijayanta, et.al., "Saatnya Mendukung Ibu," (It's Time to Support Mother...), *Tempo.co*, last modified 2004, accessed August 10, 2021, <https://majalah.tempo.co/read/nasional/92367/saatnya-mendukung-ibu>.

³³ Sabik Aji Taufan and Kuswandi, "Bawaslu Dalam 15 Camat di Makassar Deklarasi Kampanye Dukung Jokowi," (General Election Supervisory Agency (Bawaslu) Explores 15 Camats in Makassar Declaration of Campaign to Support Jokowi), *Jawapos.Com*, last modified 2019, accessed August 10, 2021, <https://www.jawapos.com/nasional/politik/23/02/2019/bawasli-dalami-15-camat-di-makassar-deklarasi-kampanye-dukung-jokowi/?amp>.

³⁴ Each bill is discussed by the People's Representative

Council (DPR) and the President for mutual approval. See, the 1945 Constitution of the Republic of Indonesia.

³⁵ Umbu Rauta, "Menggagas Pemilihan Presiden Yang Demokratis dan Aspiratif," (Initiating Democratic and Aspirational Presidential Elections), *Jurnal Konstitusi* 11, no. 3 (2014), page 609.

³⁶ Agus Triyono, "Presiden Jokowi Tidak Mau Threshold Diturunkan," (President Jokowi Doesn't Want Threshold To Be Lowered), *Kontan.co*, last modified 2017, accessed June 7, 2021, <https://nasional.kontan.co.id/news/presiden-jokowi-tidak-mau-threshold-diturunkan>.

legal framework,³⁷ then obviously the choice of the immediate re-election model regarding the tenure of the President and Vice President has resulted in the opposite condition. Incumbents running in the contestation of the Presidential and Vice Presidential elections proved not only to be supported by their official success team but also to drag down a supposedly neutral bureaucracy in practical politics. Meanwhile, the impartial legal framework of elections is hard to imagine given the key role the incumbent has in the legislative process.

Looking at the case of Indonesia, the single term limits of the President and Vice President seem relevant to demotivate this undermining of the executive leadership's top succession agenda, at least the one that may come from the President and Vice President in office. While it may be that these incumbents have a partiality to certain candidates, towards the end of their term it is natural to suspect they avoid involvement in controversies or scandals. This gamble would be too risky for their credibility as national figures.

That is also the reason why the choice of a single term of office is much better for the Indonesian context than the choice of alternate re-election. The prospect of being re-elected after the hiatus may still give impetus for the incumbent to do something of some sort of exchange of support with his successor, which will later be billed after the break is passed. In other words, the alternate re-election model has a tendency to nurture the elite rather than renew it.

3. The Adaptation of Single term of Office of the President and Vice President in Indonesia

The adaptation of the concept of a single term of office of the President and Vice President in Indonesia must be carried out through changes to the 1945 State Constitution of the Republic of Indonesia. The procedure for amending the 1945 State Constitution of the Republic of Indonesia is regulated in Article 37 of the 1945 State Constitution of the Republic of Indonesia, which reads as follows:³⁸

³⁷ OSCE Office for Democratic Institutions and Human Rights (ODIHR), *Election Observation Handbook Sixth Edition*, n.d., Page 22.

³⁸ *1945 Constitution of the Republic of Indonesia*.

- (1) Proposals for changes to the articles of the Constitution can be enacted in the session of the People's Consultative Assembly if submitted by at least 1/3 of the number of members of the People's Consultative Assembly.
- (2) Any proposed amendments to the articles of the Constitution are submitted in writing and indicated the part proposed to be changed and the reasons for it.
- (3) To amend the articles of the Constitution, the session of the People's Consultative Assembly is attended by at least 2/3 of the number of members of the People's Consultative Assembly.
- (4) The decision to amend the articles of the Constitution shall be made with the approval of at least fifty percent plus one member of the entire people's consultative assembly.
- (5) Specifically, regarding the form of the Unitary state of the Republic of Indonesia, changes cannot be made.

Also implicitly the 1945 State Constitution of the Republic of Indonesia positions the regulation of then period limits of the President and Vice President into the domain of closed legal policy³⁹ Article 7 of the 1945 State Constitution of the Republic of Indonesia states that "The President and Vice President hold office for five years, and thereafter may be re-elected to the

³⁹ Makna tertutup dalam pembuatan hukum diartikan sebagai pembatasan kewenangan pembentuk hukum dalam menentukan subyek, obyek, perbuatan, peristiwa, dan/atau akibat hukum yang diatur dalam peraturan perundang-undangan tertentu. Pembatasan demikian dilakukan oleh norma hukum yang secara hierarkis lebih tinggi dari norma hukum yang mungkin dibentuk.

Ketika norma hukum yang lebih tinggi memberi batasan-batasan tertentu, maka hal demikian menjadi rem bagi "improvisasi" pembentuk peraturan perundang-undangan sehingga kebijakannya bersifat "close". Adapun ketika norma hukum yang lebih tinggi menyerahkan atau mendelegasikan sepenuhnya pengaturan kepada norma hukum yang lebih rendah, atau bahkan tidak mengatur sama sekali, maka hal demikian membuat suatu kebijakan hukum bersifat "open". Lihat Mardian Wibowo, "Menakar Konstitusionalitas Sebuah Kebijakan Hukum Terbuka Dalam Pengujian Undang-Undang," *Jurnal Konstitusi* 12, no. 2 (2015), hlm. 211–212.

same office, only for one term of office”.⁴⁰ This provision does not open up room for changes by regulations that are hierarchically under the 1945 State Constitution of the Republic of Indonesia..

Another thing that also needs to be thought about in order to adapt the concept of a single term is the duration rather than that term. Several experts in Indonesia have put forward proposals related to this. Refly Harun for example proposes 6-7 years,⁴¹ and so did Professor of Pertahanan University, Salim Said. According to him, more than 7 years is too close to the current 2 terms and makes the circulation of the elite limited.⁴² These proposals are understandable in the logic of “compensation”, i.e. providing a longer first period due to the removal of the chance of obtaining a second period. But it is also worth considering, that taking this proposal without taking into account the circulation of parliament may harm the agenda of strengthening the presidential system, due to the reduced incentives for executive and legislative support. Therefore, maintaining 5 years per presidential term may still be the best option.

The adaptation of the single term of office of the President and Vice President in Indonesia also requires details that anticipate the exchange between these two positions (the President is running for Vice President and vice versa, the Vice President is running for President). Reflecting on several countries that have been compared before, this kind of detail first appeared in the ban on anyone who had an office as President to be later elected vice president. Meanwhile, a person who has served as Vice President, in the future it is possible to be elected president, provided that he has been detached from the post of his Vice President for a certain period, commencing up to a certain date of the election stage.

⁴⁰ 1945 Constitution of the Republic of Indonesia.

⁴¹ Setiawan, “Pakar Hukum Tata Negara Usul Presiden Cukup 1 Periode Tapi 7 Tahun.” (Constitutional Law Expert Suggests President for 1 Period But 7 Years)

⁴² Rr Dewi Kartika H, “Usul Jabatan Presiden Satu Periode 7 Tahun, Salim Said: Kita Bukan Negeri Kaya Seperti Amerika,” (Proposed Presidential Position for a 7-Year Period, Salim Said: We are not a rich country like America), *Tribunnews.Com*, last modified 2019, accessed August 4, 2021, <https://m.tribunnews.com/amp/nasional/2019/07/18/usul-jabatan-presiden-satu-periode-7-tahun-salim-said-kita-bukan-negeri-kaya-seperti-amerika>.

The final detail, the adaptation of the concept of a single term of office of the President and Vice President also needs to anticipate confusion if in a certain period a person has served as President or Vice President, but it is not lived for a full period. Can the person concerned at some point be re-elected to the same office? In this regard, the first thing that needs to be established is that the minimum duration for a term is considered unanimously as one term. Current construction specifies that the minimum duration in question is 2 years 6 months (2.5 years).⁴³ That way a person who has served past that duration is considered to have served for one term. This construction makes complete sense maintain if the concept of a single term of office is adopted also while maintaining a maximum duration of 5 years per presidential term. This means that a President or Vice President who has served for 2.5 years or more can no longer be elected to the same office.

CLOSING

A. Conclusions

Based on the previous discussion, this study produced two conclusions, including:

First, in theoretical review, the re-election of the President and Vice President has invited debate. The rejection of it is based on the main argument that this opportunity invites the abuse of power by the executive, while support for it is based on the main argument that this opportunity becomes the basis of accountability, and maximizes the rights of voters. But the arguments in favor appear to have a heavier burden to defend because, while the poor potential for re-election is empirically proven in some countries such as in Latin America, the arguments in favor are refuted by further findings, as the accountability argument is refuted by findings that reveal that voters see the election more as an opportunity to vote the best, not an opportunity to reward or sanction concerning the accountability of a person. Meanwhile, in the regulative review,

⁴³ See the Constitutional Court of the Republic of Indonesia, Decision No. 22/PUU-VII/2009 (2009), page 69. This decision was actually issued in relation to the term of office of the regional head, but here the Constitutional Court gave 1 universal argument which he called the principle of proportionality, which resulted in the conclusion that half a term or more is counted as one term of office..

several countries that have similar historical and constitutional backgrounds to Indonesia regulate the re-election of the President and Vice President above the establishment of anticipating the presence of incumbents in the elections. They chose a model of limiting the term of office of the President and Vice President to alternate re-election (Chile, Uruguay, Costa Rica, Panama, and Peru) as well as the absolute prohibition of re-election (Philippines, South Korea, Paraguay, Colombia, and Mexico)

Second, the possibility of the single term of office of the President and Vice President in Indonesia can be explained by historical aspects, urgency, and adaptability. From a historical aspect, the opportunity to extend the term of office in its history once resulted in deviations. From the aspect of urgency, the single term of office of the President and Vice President is important, especially to maintain fair elections. But behind that, the goal of launching the circulation of the political elite and the weak conceptual and comparative review in the current immediate re-election options are also reasons. Meanwhile, from the aspect of adaptability, the concept of a single term of office of the President and Vice President can be adapted by amending the 1945 State Constitution of the Republic of Indonesia, while maintaining 5 years per presidential period.

B. Suggestion

The advice to be given through this study includes several points, including:

First, suggest to the People's Consultative Assembly of the Republic of Indonesia to review the current model of limiting the term of office of the President and Vice President, and make the concept of a single term of office an alternative.

Second, it suggests to lawmakers to produce presidential and vice-presidential election regulations that optimize equality in competition, especially as long as it still adheres to the immediate re-election model, where incumbents may compete in elections.

Third, suggest to political parties as proposers of Presidential and Vice Presidential candidates in elections to optimize the function of regeneration and democratization agenda to remove the bias that Indonesia is experiencing a scarcity of figures who are able to serve as President and Vice President.

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