



## Interpretation of the Constitution Regarding the Presidential Term

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### Abstract

The limitation of the presidential term has become one of the mandates of the 1945 Constitution of the Republic of Indonesia (UUD 1945), serving as the foundation for various laws in Indonesia. The restriction on the presidential term, allowing a president to be elected for only two consecutive or non-consecutive terms, imposes additional demands on the president to build Indonesia in line with prevailing ethical standards. However, issues arose in the year 2021 when there was discourse regarding the extension of the presidential term, leading to various parties presenting arguments on the matter. Therefore, researchers intend to conduct a study to interpret the UUD 1945 regarding the limitation of the presidential term using a normative juridical method. The researchers found that the UUD 1945 concerning the limitation of the presidential term can be interpreted as a means to avoid absolute power, enhance transparency, ensure the balance of the trias politica, increase participation and dialogue with the public, and promote the president's compliance with prevailing ethical standards.

**Keywords:** 1945 Constitution, limitation of the presidential term, trias politica

### Introduction

Indonesia is a democratic country whose government system is regulated by the 1945 Constitution of the Republic of Indonesia<sup>1</sup>. The 1945 Constitution serves as the foundation for various laws currently in effect in Indonesia, to provide rights and realize the state's responsibility to protect and improve the welfare of the people through a just government<sup>2</sup>. The 1945 Constitution regulates various aspects of governance in Indonesia, including the presidency.

Articles 4 to 12 of the 1945 Constitution regulates various matters related to the presidency. These articles serve as the legal basis and constitutional framework for the Indonesian presidency, including responsibilities and authorities in various situations, including during emergencies, as well as the presidential term. Additionally, these articles also affirm the principles of democracy, the rule of law, and the division of powers within the Indonesian government system.

<sup>1</sup> Gunawan Santoso and others, 'Kajian Konstitusi Di Indonesia: Kembali Pada UUD 1945 Asli Atau Tetap Dalam UUD NKRI 1945 Di Abad 21' (2023) 2 Jurnal Pendidikan Transformatif 257.

<sup>2</sup> Mei Susanto, 'Kedudukan Dan Fungsi Pembukaan Undang-Undang Dasar 1945: Pembelajaran Dari Tren Global' (2021) 18 Jurnal Legislasi Indonesia 184.



According to <sup>3</sup>, the regulations regarding the presidential term in the 1945 Constitution reflect various considerations, both implicitly and explicitly, such as historical, political, and legal perspectives prevalent at that time. The Constitution stipulates that the presidential term is five years and a president can only be reelected once. As explained by <sup>4</sup>, this article emphasizes the spirit of democracy by allowing periodic leadership changes, fostering the emergence of new leaders with evolving ideas. Furthermore, according to <sup>5</sup>, this provision plays a role in preventing excessive presidential power and ensuring a balance of power in Indonesia.

However, in 2021, as reported by <sup>6</sup>, there were discussions to amend the 1945 Constitution to allow presidents to serve for three terms, meaning they could be reelected twice after their initial term. This discourse garnered significant attention from various segments of society, including those working in the government. As quoted by <sup>7</sup>, this proposed change is seen as a violation of democracy in Indonesia because, despite some support from the Indonesian public, it contradicts the provisions of the 1945 Constitution regarding presidential term limits.

Considering the debate surrounding the possibility of a three-term presidency, despite President Joko Widodo himself rejecting the idea, this discourse raises concerns for the future. Therefore, the researchers intend to conduct a study on the interpretation of the 1945 Constitution regarding term limits. The authors hope that this research will provide an in-depth analysis and discussion on the interpretation of the 1945 Constitution for those who read this regulation and other relevant parties.

## **Research Method**

In conducting research, researchers use normative juridical research methods to analyze the interpretation of the 1945 Constitution regarding the term of office of the president. Normative juridical research is a research method specifically used to discuss applicable legal norms, emphasizing understanding of laws, court decisions, and so on <sup>8</sup>.

## **Result and Discussion**

### **1. Interpretation of Laws**

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<sup>3</sup> Pin et al. (2021)

<sup>4</sup> Sarira & Najicha (2022)

<sup>5</sup> Pratiwi et al. (2021)

<sup>6</sup> Erwanti (2022)

<sup>7</sup> Syugiarto (2022)

<sup>8</sup> Zainuddin Ali, *Metode Penelitian Hukum* (Sinar Grafika 2021).



Interpretation of laws is the process by which individuals or groups understand and explain each article of a law or regulation <sup>9</sup>. Based on the explanation given by <sup>10</sup>, the interpretation of laws plays an important role in the implementation of law in a region, generally carried out by legal practitioners and academics.

In legal interpretation, as quoted by <sup>11</sup>, various aspects need to be mastered by those interpreting the law. The aspects that need to be understood are as follows:

**a. Methods of Interpretation**

To interpret, an appropriate method is needed to interpret the applicable laws, such as using historical, systematic, or comparative methods.

**b. Principles of Interpretation**

Principles such as prudential, consistential, aequitas, utilitas, and claritas play an important role in the quality of the interpretation to be made. These principles emphasize the need for interpreters to be careful in making interpretations to avoid significant differences in legal perspectives.

**c. Basis of Interpretation**

basis in the interpretation of laws, such as textualism, purposive interpretation, constructive interpretation, and conflict resolution, ensure that the interpretation of laws can create correct and fair interpretations of legal norms and serve as guidelines for interpreting ambiguities in existing or future laws.

**2. Interpretation of Laws Related to the Term of Office of the President**

The 1945 Constitution of the Republic of Indonesia (UUD 1945) that is related to the term of office of the president is located in Article 7 paragraphs (1) and (2), Article 5, Article 8, and Article 9. In the process of interpreting the law, normative analysis is used by incorporating or considering relevant political science knowledge such as the division of powers, checks and balances, and concepts of presidential leadership.

In these regulations, the term of office of the president in Indonesia is limited to 2 terms, whether consecutive or separate after the Presidential Election (Pilpres), as stated in Article 7. The term of office is a period of time in which the elected president has full power and responsibility for the Indonesian state and society <sup>12</sup>. This limitation on the term of office of the president is based on historical

<sup>9</sup> Bagus Hermanto, Nyoman Mas Aryani and Ni Luh Gede Astariyani, 'Penegasan Kedudukan Penjelasan Suatu Undang-Undang: Tafsir Putusan Mahkamah Konstitusi' (2020) 17 Jurnal Legislasi Indonesia 251.

<sup>10</sup> Haryono (2021)

<sup>11</sup> Prayitno (2020)

<sup>12</sup> Tundjung Herning Sitabuana and Patricia Kimberly Elias, 'Wacana Memperpanjang Masa Jabatan Presiden: Inkonstitusional Atau Tidak?' (2023) 7 Jurnal Pendidikan Tambusat 2229.



considerations, as explained by <sup>13</sup>, which is a result of Indonesia's history that has experienced problems with long-term leadership by a president. Looking at the historical perspective of Indonesia, the emergence of presidents who served for a long time, such as in the cases of the first president, Ir. Soekarno, and the second president, Soeharto, created significant issues during that period due to their long-term leadership. Referring to the explanation given by <sup>14</sup>, the problems that arose during the early years of the formation of the country were due to the absolute power held by these presidents. This power was often exploited by the presidency itself or by those around the president, leading to an uncertain national situation and negative impacts on society, particularly in terms of the economy and security. Quoting <sup>15</sup>, limiting the term of office of the president will reduce the tendency for abuse of power by presidents who hold office for too long, as was the case before the limitation was implemented.

Meanwhile, from the perspective of the division of powers, a limited term of office for the president will help realize the division of powers or checks and balances to prevent the president from controlling all branches of the government by appointing subordinates or individuals close to the president to control the legislative and executive branches. Referring to <sup>16</sup>, in Indonesian history, leaders who held office for too long had the potential to dominate all major branches of government, resulting in an overly dominant presidency. This absolute power of the president disrupted the balance among the three branches of government, making it prone to conflicts of interest, where both the laws enacted and law enforcement were under the command of the president, which could be problematic for society if the president frequently violated the existing constitution but was exempted due to their absolute power in the legislative and judicial branches.

If we look at the perspective of political stability, theoretically, according to <sup>17</sup>, a change of president can create political instability where polarization and massive shifts in political decisions can occur. However, in reality, political stability under a long-term ruling president has its issues, such as authoritarianism and power accumulation. This can create problems if there are no limitations on the president's term of power. Article 7 of the 1945 Constitution imposes such limitations to maintain political stability, where a change of president after 2 terms or limitations on the president's term will provide time constraints for the president to not hold

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<sup>13</sup> Pahlawan et al. (2020)

<sup>14</sup> Nurmalaningrum & Dewantara (2018)

<sup>15</sup> Yudhistira (2020)

<sup>16</sup> Ferdinandus (2023)

<sup>17</sup> Hardjanti (2022)

power for too long and result in less stable political conditions due to their absolute power.

From the perspective of development policy, with the limitation of presidential power, development activities throughout Indonesia are expected to be evenly distributed in every province. Looking at what happened in the past in Indonesia, as cited from research by <sup>18</sup> comparing Indonesia's development, especially in infrastructure, during the New Order era and the reform era, it was found that development during the reform era had a greater impact on the people living outside of Java Island. This happened because during the New Order era, development was too centralized on Java Island for over 30 years. Stagnant development outside of Java caused economic and infrastructure disparities between Java Island and other islands. Evidence of this disparity can be seen in the Java-Papua region, where there are many villages in Papua that are still isolated from infrastructure development, resulting in a high level of inequality in human development compared to the people in Java Island. The limitation of presidential terms is beneficial in addressing this inequality, where with limited terms, a president who has been elected twice does not need to worry about the next election and can support development equalization to eliminate differences between Java Island and other islands, especially in the eastern part of Indonesia.

Furthermore, looking at accountability and transparency, the limitation of presidential terms will enhance accountability and transparency <sup>19</sup>. Good levels of accountability and transparency can be achieved because the public can pressure a president who does not hold absolute power to be transparent about financial matters and work programs. Additionally, the provisions in the 1945 Constitution regarding presidential limitations can also be interpreted as a way to ensure accountability and transparency because the elected president must carry out development efficiently and responsibly in fulfilling their duties due to the limited term of 2 periods.

The limitation of the presidential term can also have an impact on the participation of the public in the electoral process. The limitation of the presidential term according to the 1945 Constitution will put pressure on every presidential candidate to come up with fresh ideas and innovations in governing. Each change of president due to term limitations will bring new ideas and innovations to every presidential election contest because the next president will be expected to be closer to the people and engage in dialogue to create innovative regulations or policies to

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<sup>18</sup> Octavia (2022)

<sup>19</sup> Natashya Natashya, Cindy Laurencia and Rasji Rasji, 'Perspektif Hukum Tata Negara Terhadap Pemikiran Jabatan Presiden Tiga Periode Ditakutkan Menjadi Penyalahgunaan Wewenang' (2023) 3 Innovative: Journal Of Social Science Research 2832.



address the issues faced by society<sup>20</sup>. Public officials, including the president, tend to open up communication with the public when they have limitations on their time in power, as cited by<sup>21</sup>. This emerging habit not only encourages the president to actively generate ideas but also motivates the public to actively engage in discussions about the programs that will be implemented by future presidents. Therefore, the limitation of the presidential term according to the 1945 Constitution can also be interpreted as a way to shape an active society in governance that is capable of generating ideas or innovations brought by new presidential candidates participating in the presidential election.

Lastly, the limitation of the presidential term according to the 1945 Constitution can be interpreted as a way to enhance the ethics and integrity of elected presidents. According to<sup>22</sup>, the limitation of the presidential term influences the dynamics of government and political life in Indonesia, including the ethics of presidents who are involved with high moral standards. In the context of term limitations, leaders are encouraged to have high ethics and not misuse their power for personal or group interests. This limitation also creates an incentive for presidents to act in accordance with ethics because if they do not, it will have long-term consequences for the reputation of both the party and the individual as a former president who served for two terms<sup>23</sup>.

## Conclusion

The limitation of the presidential term in Indonesia, as stated in the 1945 Constitution Article 7, serves as a foundation for regulating the political, economic, and security conditions of Indonesian society in facing political turmoil that arises from presidents with unlimited terms, as seen during the eras of Ir. Soekarno and Soeharto. In implementing the mandate of the 1945 Constitution, interpretations must be made to ensure that its implementation aligns with the objectives of the law. Based on the analysis, the researchers found that Article 7 of the 1945 Constitution can be interpreted as a way to maintain the power of the president without it becoming too absolute, to

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<sup>20</sup> Elwidarifa Marwenny, Roby Syafwar and Desi Sommaliagustina, 'Penundaan Pelaksanaan Pemilihan Umum Presiden/Wakil Presiden Dan Perpanjangan Masa Jabatan Presiden/Wakil Presiden Dan UUD 1945 Amandemen' (2023) 5 *Ensiklopedia of Journal* 20  
<<http://jurnal.dpr.go.id/index.php/ekp/article/view/156>>.

<sup>21</sup> Kurniawan & Arianto (2020)

<sup>22</sup> Disantara (2021)

<sup>23</sup> Yanuari Wizqii Waahidah, 'Persepsi Pemilih Pemula Terhadap Keputusan Memilih Calon Presiden Pada Pemilu 2024 Di Jawa Timur Menggunakan Structural Equation Modelling Partial Least Square (SEM-PLS)' (2023).

maintain a balance of power, to increase accountability and transparency of the president, to promote equitable development throughout Indonesia, to maintain

political stability, to enhance the innovations provided by the president or presidential candidates participating in the presidential election (Pilpres), and to ensure that the president adheres to presidential ethics as it will impact the legacy and image of both the former president and the political party that supports them.

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