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The urgency of limiting the presidential term by the constitution in the discourse of extending the term of the President of Indonesia

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Abstract: The discourse on the extension of the president's term has sparked controversy in society. This paper aims to describe the controversy and analyze it based on the democratic conditions in Indonesia, as well as its connection to the prevailing constitution in Indonesia. The rules governing this issue are found in Article 7 of the 1945 Constitution, which restrictively regulates term limitations. This paper employs a legal study approach with a qualitative research method based on various printed and online document sources. The analysis reveals that the proposal for the extension of the president's term originates from within the government circles and is subsequently supported by party leaders, citing economic development, political stability, and high levels of satisfaction with the government's performance as grounds. However, opposition arises from political parties, legal experts, academics, survey institutions, students, and even the general public. The rejection is based on inconsistencies with the constitution, survey results indicating a desire for a change in national leadership, concerns about power abuse, and non-conducive socio-economic conditions. An unconstitutional extension of the president's term could lead to a regression of democracy in Indonesia. The constitution plays a crucial role as a barrier to preserve the spirit of Reform, ensure the rotation of national leadership, and serve as a hope for national political change. This paper seeks to fill the gap in analyzing the connection between term limitations, democracy, and the constitution in the discourse on extension.

Keyword: extension of presidential term, term limitations, democracy, constitution

INTRODUCTION

The controversy over the extension of the term of the President of Indonesia or the possibility of delaying the General Election, along with the potential additional term in 2022, has sparked prolonged debates and triggered mass responses. Although the idea is supported with economic reasons and the aspirations of the public, on the other hand, it has also faced opposition on the grounds of constitutional violations and public aspirations. This discussion involves various parties, including government officials, party leaders, academics, legal experts, political observers, and even students. In essence, the discourse on the extension of the term of the President and Vice President has emerged towards the end of Joko Widodo's first term in office. Precisely in 2018, there was a discourse to extend the term of the Vice President so that the Jokowi-Kalla pair could participate in the 2019 Presidential Election.¹ However, at that time, Yusuf Kalla rejected the idea, and therefore, the discourse on extending the term was not pursued.

The extension of the presidential term in certain circles is considered a preconditioning step to modify or amend the constitution, specifically Article 7 of the 1945 Constitution. This provision stipulates that the President and Vice President hold office for five years and can be re-elected for only one additional term. The issue of extending the presidential term in Indonesia is a serious concern, considering it is an integral part of the country's governance history, adopting a presidential system. From the period of independence to the New Order era, Indonesian Presidents have served for multiple terms, such as President Soekarno, who served for 22 years from 1945 to 1957. Subsequently, President Soeharto also served for several periods, totaling 31 years from 1967 to 1998. The duration of President Soeharto's term became a trigger for the Reform Movement, leading to one of its outcomes—the limitation of the presidential term to two periods through constitutional amendments. This limitation was also imposed to eliminate presidential continuism, which resulted in other high state institutions merely following the President's desires, within the Indonesian constitutional system.²

The amendment to the 1945 Constitution opened the door for fundamental changes in the governance structure of Indonesia, ushering in the era of Reformasi. The process of amending the 1945 Constitution by the People's Consultative Assembly consisted of four stages: October 14-21, 1999 (amending 9 articles and 16 clauses), August 18, 2000 (amending 27 articles), November 9, 2001 (amending 23 articles), and August 1-11, 2002. The early stages of the constitutional amendments focused on limiting the presidential term. In the first amendment, the previously unlimited presidential term was restricted to only two periods, as stipulated in Article 7 of the 1945 Constitution. This limitation has been viewed from various perspectives by several researchers. According to Padli,³ The limitation on the presidential term is part of an effort to uphold the constitution by restricting the significant powers of the President in a presidential system of government. The purpose of this limitation is to prevent the abuse of power in the exercise of the presidential authority.

It is important to emphasize that the limitation on the presidential term is a characteristic of a presidential system of government. Historically, this limitation only emerged in the 1945 Constitution after undergoing amendments in 1999 and was not present in the original version of the 1945 Constitution, the RIS Constitution, or the Provisional

¹Qonita Dina Latansa. "Constitutionality of the Term Limits for the President and Vice President in Indonesia." The source is from "Jurisdiction" Volume 2, Number 2 (2019): 595-615.

²Moch Chafid. "Constitutional Implications of Presidential Term Limits according to Article 7 of the 1945 Constitution before the Amendment on Presidential Continuism during the New Order Era." Dharmasisya 1, No. 3 (2021): 1321-1336.

³Padli Haris. "Regulation of the President's Term in an Effort to Uphold the Principles of Constitutionalism in Indonesia." Jurnal Kertha Semaya 9, No. 10 (2021): 1796-1808.

Constitution of 1950.⁴ On the other hand, the perspective from Pin et al.⁵ asserts that discussions regarding the amendment to extend the presidential term, emerging since 2021, are contradictory to the spirit of the 1999 amendment aimed at limiting presidential power. They argue that the discourse on amending to extend the presidential term to three periods is considered unlikely to lead to authoritarianism, as was the case during the New Order era.

Therefore, discussions regarding the limitation of the presidential term have deep roots in Indonesia during the Reformasi period, becoming an issue that generates differing views among researchers. Through the enactment of the amended 1945 Constitution, the presidential term is now restricted to only two periods. However, there is discourse to loosen this limitation again, especially during the administration of Joko Widodo. This discourse has triggered various responses, with supporters and opponents holding different perspectives. The objectives of this paper are first, to depict the controversy surrounding the extension of the presidential term that has emerged since 2021 to the present, both from the standpoint of supporters and opponents. Second, this paper aims to analyze the roots of such opposition and the role of the constitution in the context of the term extension issue. The significance of this paper lies in its effort to provide a more comprehensive understanding of the controversy surrounding the extension of the presidential term and its impact on democracy in Indonesia, especially considering the limited scholarly studies addressing this controversial issue.

METHOD

This article specifically captures the efforts to extend the term of the President of Indonesia from 2021 to 2022 within the framework of a presidential system that demands limitations on the presidential term. These efforts illustrate the constitutional dynamics leading to changes, particularly in Article 7 of the 1945 Constitution. The purpose of this article is to uncover the dynamics of the efforts to extend the presidential term and its responses, analyzing them based on ethics within the framework of a presidential system. The article is based on literature research and media reports on the phenomenon of attempting to extend or add to the presidential term. This research falls under the category of literature and media research with a legal approach and qualitative methodology. The normative approach involves examining the reality dimension from a normative perspective. The qualitative method involves data collection and qualitative analysis to identify patterns, root issues, and fundamental reasons underlying a particular event. Qualitative analysis results in descriptive analytical data. Descriptive analytical data is obtained from research sources, primarily documents, and news from online media.⁶

The data sources for this article come from primary, secondary, and tertiary sources obtained through literature review (library research), not field studies.⁷ The sources are obtained from literary works, e-books, e-journals, and online mass media news. These sources are collected, then the manuscripts are selected based on the study's theme, and their content is mapped to address the issues intended to be answered through this article. The final process involves content analysis to examine how efforts to extend or add to the presidential term are viewed in terms of the presidential system's need for limitations on the presidential term. Data analysis is carried out through content analysis, discourse analysis, and interpretation analysis. This process can be described as a method of restating key ideas within the data, providing an overview of patterns regarding the concepts generated by the data, and elucidating the meaning of the data to draw in-depth research conclusions.

⁴Qonita Dina Latansa. "Constitutionality of the Term Limits for the President and Vice President in Indonesia," 603.

⁵Pin Pin Jannus Timbo Halomoan Siahaan, Bertha Nellya, and Matius Bangun. "Indonesia's Presidents for Three Terms." *Jurnal Darma Agung* 29, No. 2 (2021): 267-272.

⁶Muhaimin. *Legal Research Methodology*. (NTB: Mataram University Press, 2020), 48.

⁷Bachtiar. *Legal Research Methodology*. (Tangerang Selatan: UNPAM Press, 2018), 60.

RESULTS AND DISCUSSION

Indonesia adheres to a presidential system of government (executive). This presidential system illustrates the significant executive power concentrated in the roles of both the head of state and the head of government. The separation between the executive and legislative branches is a characteristic of the separation of powers. Although the Indonesian Constitution does not explicitly adopt the concept of the separation of powers, the distribution of power is clearly influenced by the separation of powers, involving the legislative, executive, and judicial branches. In Indonesia, the allocation of power is not entirely distinct, as the president holds executive, legislative, and judicial authority. The extensive power of the president in the presidential system has certain consequences. The president is at the apex of power with full authority and can influence various branches of government, including influencing the People's Consultative Assembly (DPR), causing the DPR to tend to act merely as an approver of government policies.

Therefore, in a presidential system, limitations on the presidential term are introduced. These limitations were initially implemented by countries in Latin America in the 16th century and later adopted globally. The limitations on the presidential term serve several functions. Stone⁸ Linking the limitation of the presidential term to democracy, Stone, citing the opinions of Petracca and Schwartzberg, underscores that the essence of limiting the presidential term is the regular rotation of power, thereby freeing the governance position from personal ownership. Limiting the presidential term also provides an opportunity for citizens to exercise and be obeyed. The rotation of power prevents corruption by elected officials, evaluates potentially tyrannical governments, ensures freedom, enhances political representation, and supports broad public service in governance.

The rotation of power in democracy is achieved through periodic elections. With regular elections, various dynamics of aspirations can be accommodated by a political system that allows for the creation of a legitimate government. The connection between limiting the presidential term and democracy aims to avoid leaders with dictatorial tendencies. The limitation of the presidential term becomes crucial because in a dynamic society, there is always an interconnection between the president and the people, as voters continually have a relationship with their leaders. This ensures that the government acts in accordance with the will of the people. Elections also provide the opportunity to choose not to re-elect a president who has performed inadequately. Therefore, the limitation of the presidential term in a presidential system serves as a gateway to maintaining a healthy democracy and preventing dictatorship or tyranny. According to Chafid,⁹

should not be limited solely to quantitative restrictions. This means that qualitatively, political elites running for president must have a commitment not to violate the spirit of limiting the presidential term, which is to prevent tyranny and power concentration. When examining the limitation of terms in South Korea, with the provision that a president can only be elected once, it actually fosters a healthy and stable democracy without social unrest. Therefore, according to Chafid¹⁰ concludes that the limitation of the presidential term in the constitution is more valuable than accountability in democracy itself.

In fact, efforts to avoid limitations on the presidential term are often carried out by incumbents. Presidents demonstrate formal respect for the constitution and utilize

⁸Peter Stone. "Theorizing Presidential Rotation." In Alexander Baturo and Robert Elgie (eds.). *The Politics of Presidential Term Limits*. (Oxford: Oxford University Press, 2019), 19-20.

⁹Moch Chafid. "Constitutional Implications of Presidential Term Limits according to Article 7 of the 1945 Constitution before the Amendment on Presidential Continuism during the New Order Era," 1321-1336.

¹⁰*Ibid.*

constitutional rules or procedures to evade term limitations. A common strategy employed by incumbent presidents to circumvent term limitations is through constitutional amendments. According to the research by Versteeg et al.,¹¹ 66% of efforts to avoid term limitations are carried out through constitutional amendments. This occurs because the rule of the democratic game is the constitution. In Indonesia, the transition from the authoritarian New Order era to reform, seen as the antithesis of democracy, is marked by the constitutional amendments to the 1945 Constitution. Constitutional amendments in Indonesia brought about fundamental changes in the constitutional framework, including the limitation of the presidential term, direct presidential elections, the abolition of the highest state institution, and the strengthening of human rights aspects. The essence of the constitutional amendments that took place from 1999 to 2004 is the reinforcement of democracy, civil society, and human rights. Therefore, the amended 1945 Constitution serves as the cornerstone for the existence of the post-1998 reformation government.

In the theory of sovereignty, it is explained that the highest power of a state is in the hands of the state. Thus, the state regulates all sovereign authorities in accordance with the constitution or written rules that must be followed by every citizen, including state institutions. The forms of sovereignty vary, and Indonesia conceptualizes sovereignty in the hands of the people, exercised fully through the constitution. Indonesia applies the distribution of power system advocated by Montesquieu, which includes the executive, legislative, and judicial branches.¹² With the division of powers, efforts to improve Indonesia must continue to be undertaken. In a constitutional system that always experiences significant dynamics, Indonesia is one of the countries that implements a presidential system of government. The implementation of the presidential system has various perspectives, indicating that the presidential system in Indonesia is only a development of the system. This is evident in the diminishing role of the president, while the People's Consultative Assembly (DPR) plays an increasingly significant role in governance.¹³ In essence, the weakening role of the executive institution implies that, on one hand, the authority of the President will be limited, especially if the authority of the DPR becomes more dominant. In this case, the presidential system implemented by Indonesia needs a systemic overhaul by incorporating a system of checks and balances in line with the inherent nature of the theory of the separation of powers.¹⁴

An exploration of the weakness of the president/executive institution in the presidential system becomes an intriguing subject for in-depth research, especially when the phenomenon seems to contradict established constitutional principles. Statements such as the one issued by Formappi, declaring that "The President is at the pinnacle of power with full authority, involved in all aspects of life, while the role of the People's Consultative Assembly is reduced to being a rubber stamp for the government," add an interesting dimension to the discussion.¹⁵ Not without reason, Formappi evaluates in such a manner. Since 2020, five laws have been enacted, and four of them were proposed by the government. The Chairman of Formappi even perceives the weakness of the DPR to the extent that it prioritizes government

¹¹Versteeg, Mila; Timothy Horley, Anne Meng, Mauricio Guim and Marilyn Guirguis. "The Law and Politics of Presidential Term Limit Evasion." Paper Series of University of Virginia School of Law, (2019). <http://www.ssm.com/link/U-Virginia0PUB.html>.

¹² Ahmad Yani, "Indonesian Governance System: Theoretical and Practical Approaches to the Constitution of the 1945 Constitution," Indonesian Legislative Journal 15, No. 2 (2018), 61.

¹³ Ribkha Annisa Octovina, "Presidential System in Indonesia," *Cosmogov: Journal of Political Science* 4, No. 2 (2018), 250.

¹⁴ Efriza, "Strengthening the Presidential System in the Simultaneous Elections of 2019," *Political Research Journal* 16, No. 1 (2019), 8.

¹⁵ Ahda Bayhaqi, "Formappi Assess DPR 2019-2024 as a Rubber Stamp for the Government," last modified 2021, accessed April 9, 2022. <https://www.merdeka.com/peristiwa/formappi-nilai-dpr-2019-2024-jadi-tukang-stempel-pemerintah.html>.

draft laws over those proposed by the DPR itself. The rapid approval of the fifth law solidifies the skewed relationship between the DPR and the president. Bills that were supposed to be resolved were postponed, such as the Disaster Mitigation Bill and the Personal Data Protection Bill. This indicates legislative weakness, but what was done contradicts this by adding four new bills to the priority list in 2021, including the Criminal Code Bill, Penitentiary Bill, ITE (Information and Electronic Transactions) Bill, and the BPK (Supreme Audit Agency) Bill.¹⁶

The weakness of the DPR is further confirmed by the numerous demonstrations across all sectors. The DPR, considered as the receptacle of people's aspirations, is seen as failing to represent these aspirations. Demonstrations become a choice when political interests are not adequately addressed. As seen recently, several party chairmen, including Zulkifli Hasan of the National Mandate Party (PAN), Muhaimin Iskandar of the National Awakening Party (PKB), and Hartarto of the People's Conscience Party (Hanura), raised the issue of delaying elections and extending the presidential term. This is concerning as the parties have members in the DPR, but their silence is feared to lead to undesired actions, such as constitutional amendments.

The unrest is felt amid the challenging situation faced by the people, especially since the COVID-19 pandemic. There have been numerous job terminations, the controversial job creation law, soaring prices, uncontrolled increases in fuel prices, and even basic necessities becoming increasingly unaffordable, such as cooking oil. When cooking oil reappeared in the market, its price was very high, prompting the president to distribute cooking oil assistance, confirming that the government is at a disadvantage against certain influential groups.¹⁷

The welfare of the people is at a very low point, yet the elites are putting forward discussions about delaying elections and extending the presidential term. This is not only coming from political party politicians but also from ministers like Bahlil and Luhut. Bahlil justifies extending the presidential term by stating that business actors wish for the 2024 elections to be postponed because the business world desires it, seeking to recover after collapsing due to the pandemic.¹⁸ Meanwhile, Luhut claims there is big data indicating that 110 million people support the postponement of the 2024 elections. Confrontation arises within the society. The public, through petitions, demands the disclosure of the big data information, and it must be supported by valid evidence to avoid misinformation. If Luhut refuses to explain the big data, it would violate Article 1 number 2 of Law Number 14 of 2008 concerning Public Information Transparency.¹⁹

The pros and cons of delaying the elections and extending the presidential term continue to unfold. Opposition is being driven by students, and resistance is starting to occur everywhere. April 11, 2022, marked one of the moments of student resistance for the people. The most noticeable rejections came from Jakarta and various other regions, such as Makassar, Palembang, Cirebon, Jambi, Semarang, Riau, Jember, and West Nusa Tenggara.

¹⁶ *Ibid*

¹⁷ M. Julnis Firmansyah, "Jokowi Distributes Cooking Oil BLT, Observer: Evidence of the Government Losing to the Mafia," last modified April 3, 2022, accessed April 10, 2022, <https://nasional.tempo.co/read/1577850/jokowi-salurkan-blt-minyak-goreng-pengamat-bukti-pemerintah-kalah-dari-mafia>.

¹⁸ Desca Lidya Natalia, "Moeldoko: Bahlil Has Reasons for Proposing Presidential Term Extension," last modified January 11, 2022, accessed April 10, 2022. <https://www.antaraneews.com/berita/2636645/moeldoko-bahlil-punya-alasan-usul-perpanjangan-masa-jabatan-presiden>.

¹⁹ Dewi Nurlita, "Petition Demands Luhut to Disclose Big Data Election Postponement Signed by Almost 12 Thousand People," last modified April 6, 2022, accessed April 10, 2022.. <https://nasional.tempo.co/read/1579004/petisi-tagih-luhut-buka-big-data-penundaan-pemilu-diteken-hampir-12-ribu-orang>

There are six people's demands related to this issue, namely:²⁰ *First*, urging and demanding President Jokowi to take a firm stance or reject and provide a statement regarding the postponement of the 2024 elections or a three-term presidency because it clearly betrays the country's constitution. *Second*, urging and demanding President Jokowi to postpone and reconsider the State Capital City Law (UU IKN), including problematic articles and the impacts it may have on environmental, legal, social, ecological, political, economic, and disaster aspects.

Third, urging and demanding President Jokowi to stabilize prices and ensure the availability of staple goods in the market and address other food security issues. *Fourth*, urging and demanding President Jokowi to thoroughly investigate the cooking oil mafia and evaluate the performance of related ministers. *Fifth*, urging and demanding President Jokowi to resolve agrarian conflicts in Indonesia. *Sixth*, urging and demanding President Jokowi and Vice President Maruf Amin to fully commit to fulfilling campaign promises during the remaining term. The demands of the students are legally justified. In Article 7 of the 1945 Constitution, it is stated that the President and Vice President hold office for five years and can be re-elected for the same position, but only for one term. This means that if one five-year term can only be re-elected for one additional five-year term, then the president can serve a maximum of 10 years. Otherwise, it would be a violation of the constitution, or in other words, unconstitutional.

The anxiety of students, particularly university students, can be understood because the youth, especially students, are agents of change. In the midst of the COVID pandemic, students must continue their learning, which is often less than optimal due to the need for adjustments to online learning that may not always synchronize with the readiness of communication tools²¹, Students must not lose their spirit as agents of change. If we look at the history of student struggles, a long journey has been carved, even long before independence. In 1908, there was a student movement called Boedi Utomo, focusing on education, social issues, teaching, and culture. Additionally, in 1928, the Indonesian Youth Movement took an oath, emphasizing the unity of the Indonesian people, nation, and language. In 1966, there was a national uprising of the student movement, particularly HMI, against communist ideology in the Communist Party of Indonesia. In 1974, students criticized and protested against the planned fuel price hike, and this year also saw the Malari incident.

In 1990, the Yogyakarta Student Communication Forum emerged, demanding the revocation of the NKK/BKK to stem the massive student movement. In 1998, the reform movement demanded the elimination of corruption, collusion, and nepotism through the occupation of thousands of students. In 2007, students formed the Executive Board of Students throughout Indonesia. In 2019, students protested against several laws, and in 2020, students protested against the omnibus law (Job Creation Law)²², And now, in 2022, students are once again taking action. Student resistance is occurring in many regions. Students demand change, and when there are efforts to perpetuate power, students once again show their identity. According to Rizal Ramli, the era of Jokowi is an era of "peng-peng" (rulers

²⁰ Dany Garjito, "What Are the 6 Demands of BEM SI in the Continued Demonstration on April 11?," last modified April 9, 2022, accessed April 10, 2022. <https://www.suara.com/news/2022/04/09/141835/apa-saja-6-tuntutan-bem-si-pada-aksi-demo-lanjutan-11-april-mendatang>

²¹ Yayat Hendayana, et al., "Higher Education Book in the Covid-19 Pandemic Era," (Jakarta: Directorate General of Higher Education, Ministry of Education and Culture of the Republic of Indonesia), 2020, 36.

²² Eddy Hasby, "History of Student Movements in Indonesia, From 1908 to the Reform Era," last modified August 29, 2022, accessed April 10, 2022.

[//www.kompas.com/stori/read/2021/08/29/110000279/sejarah-gerakan-mahasiswa-di-indonesia-sejak-1908-hingga-reformasi](https://www.kompas.com/stori/read/2021/08/29/110000279/sejarah-gerakan-mahasiswa-di-indonesia-sejak-1908-hingga-reformasi)

doubling as businessmen) running rampant, or in Dutch, "Opperkoopman".²³ Furthermore, Rizal stated that during Jokowi's era, it is the golden age of oligarchy. Oligarchs control parts of the government and can influence legislation to protect themselves from legal consequences.²⁴ According to KBBI, oligarchy is a form of government run by a few individuals who hold power within a specific social or economic group.

The actions taken by students in several regions, including Makassar, Palembang, Cirebon, Jambi, Semarang, and Jakarta, have raised collective awareness among the public. As mentioned earlier, oligarchy can influence regulations. Therefore, even though Article 7 of the 1945 Constitution clearly states that the extension of the president's term is not possible, it could be forced through a structured, systematic, and massive approach to achieve its goals. The control over all aspects of life raises concerns among many parties, leading to resistance. If the extension of the president's term is forcibly pursued, it clearly violates the law, or in other words, is unconstitutional. Jokowi's response to discussions on this matter appears ambiguous, as seen from Jokowi's statements that are somewhat elusive and unclear. Many people perceive that Jokowi is enjoying the discourse on a third term.²⁵ Moreover, recently, his action of participating in appreciating and voicing support for the discourse on a third term has added to the political turmoil in Indonesia, which is increasingly concerning. It seems to be forgotten that the limitation on the president's term originated from the experiences during the old and new order governments, which should have been avoided so that presidential power has limitations in accordance with constitutional mandates.

Looking back at the impeachment procedure, where changes occurred to the 1945 Constitution of the Republic of Indonesia (UUD NRI Tahun 1945), the President can be dismissed for political reasons, not legal ones, as it does not involve judicial institutions to assess it legally.²⁶ Regarding impeachment, both before and after the amendment have the same substance, which is returned to political institutions with the assistance of the Constitutional Court's authority to ensure the principles of constitutional law are preserved. In 2019, during the presidential campaign, anyone who voiced changing the president was considered seditious, even though 2019 was the time for the presidential election. Ali Mochtar Ngabalin's Movement for Change of President was deemed uncivilized. Prof. Hibnu Nugroho said that the term "makar" comes from the Arabic language, namely "makron," which means deceiving, misleading, persuading, betraying, deceiving.²⁷ According to the first meaning in the Kamus Besar Bahasa Indonesia, "makar" refers to wicked intentions or deceit, and the second meaning is the act (effort) of attacking (killing) someone, while the third is the act (effort) of bringing down. As known, in 2019, there were presidential and vice-presidential elections in Indonesia. At that time, Jokowi was also a presidential candidate. What was accused against the campaign teams as "makar" lost its object because "makar"

²³ Arief Gunawan, "Rizal Ramli: The Rampant Peng-Peng during the Golden Age of Jokowi's Oligarchy Era," last modified March 15, 2022, accessed April 10, 2022.

<https://publika.rmol.id/read/2022/03/15/526873/rizal-ramli-peng-peng-merajalela-di-masa-emas-oligarki-era-jokowi>

²⁴ Mitha Paradilla Rayadi, "Rizal Ramli Speaks Frankly About the Flourishing Oligarchy Era of Jokowi: That's the Reason I Want to Add," last modified March 14, 2022, accessed April 10, 2022, <https://www.pikiran-rakyat.com/nasional/pr-013974774/rizal-ramli-blak-blakan-sebut-era-jokowi-oligarki-tumbuh-subur-itu-alasan-pengen-nambah>.

²⁵ Fitra Chusna Farisa, "Deemed Not Firm, Does Jokowi Enjoy the Issue of a 3-Term Presidential Period?," last modified March 31, 2022, accessed April 10, 2022.

<https://nasional.kompas.com/read/2022/03/31/07345421/dinilai-tidak-tegas-jokowi-nikmati-isu-masa-jabatan-presiden-3-periode?page=all>.

²⁶ Muhamad Aksan Akbar, "Legal Politics of the Dismissal (Impeachment) of the President and/or Vice President in Indonesia in the Perspective of the Rule of Law and Democracy," SASI 26, No. 3 (2020), 327

²⁷ Andi Saputra, "What is Rebellion (Makar)? Let's Read Its History," last modified May 9, 2019, accessed April 10, 2022, <https://news.detik.com/berita/d-4542290/apa-sih-itu-makar-yuk-baca-sejarah-nya>.

should be directed at the president, not the presidential candidate. In Indonesia, "makar" is regulated in Articles 104 to 108 of the Criminal Code (KUHP). The criminal act of "makar" consists of:

1. Criminal act of "makar" against the President and Vice President of the Republic of Indonesia;
2. Criminal act of "makar" against the Territory of Indonesia;
3. Criminal act of "makar" against the Government of Indonesia;
4. Expansion of the Meaning of the Criminal Act of "Makar";
5. Criminal act of "makar" against Friendly States and the Head of State and its Vice.

The criminal act of election-related crimes or treason, as stipulated in the Criminal Code (KUHP), should be distinguished. This is important for addressing all constitutional issues as it should be.²⁸ From the description above, the interpretation of something appears to be adjusted to political interests. With so many issues affecting the people today, and even discussions of unconstitutional actions, is it possible to take action against Jokowi with impeachment? Under UUD 1945 Article 7B, it is possible, but the implementation is not simple. There are rights of interpellation, inquiry rights, and the right to express opinions addressed to the president because the president is considered to have violated the law. If, in a plenary session, it is declared that the president has committed treason against the state, corruption, bribery, other serious crimes, or dishonorable acts, or no longer meets the requirements as President and/or Vice President, the DPR conveys the decision on the right to express opinions to the Constitutional Court. If granted, it is proposed to the MPR for dismissal.

The MPR's decision on the proposal for the dismissal of the President and/or Vice President must be made in a plenary session of the MPR attended by at least 3/4 (three-quarters) of the total members and approved by at least 2/3 (two-thirds) of the members present, after the President and/or Vice President have been given the opportunity to provide explanations. The MPR's decision on whether to dismiss the President and/or Vice President is determined by a Decree of the MPR. Considering the complexity and length of the impeachment process, it can be said that the likelihood of it happening is very low, especially if the president is from the ruling party.

1. Emergence of the Extension Idea

In the second term of President Joko Widodo's administration, the discourse on extending the presidential term re-emerged. The idea of extending the presidential term was initially proposed by Immanuel Ebenezer, the Chairman of Jokowi Mania Volunteers (Joman), on September 2, 2021.²⁹ The main reason for this proposal was the ongoing impact of Covid-19, which had not fully subsided, necessitating economic recovery. To achieve this, an amendment to the 1945 Constitution was deemed necessary, including inserting a provision for the extension of the presidential term during a state of emergency into Article 7. Later, Ebenezer revised his statement, citing President Joko Widodo's rejection of the idea and constitutionally explaining that it was not possible for Jokowi to extend his term again.

The proposal was further supported by Bahlil Lahadalia, the Minister of Investment/Head of the Investment Coordinating Board, on January 9, 2022, during the

²⁸ Muzakkir, "Rebellion Between Freedom of Speech vs. Legal Implications. National Seminar with the theme organized by the Songo Syndicate Association in collaboration with the Faculty of Law, National University," (Jakarta, 2019), 16.

²⁹ NN, "Volunteers Propose Extending Jokowi's Term by 3 Years Through Amendment," last modified September 2, 2022, accessed April 11, 2021. <https://www.cnnindonesia.com/nasional/20210902111627-32-688743/>

release of the findings of the Indonesian Political Indicator Survey.³⁰ Bahlil claimed that the proposal emerged from the business community, expressing concerns about the impact of the upcoming general elections on the post-Covid-19 economic recovery process. He argued that the postponement of elections had occurred in Indonesia during both the Old Order (Orde Lama) and the New Order (Orde Baru). Moreover, based on the Indonesian Political Indicator Survey, 31% of the public agreed with the extension of the presidential term. This stance was supported by Muhaimin Iskandar on February 23, 2022, Airlangga Hartarto on February 24, 2022, and Zulkifli Hasan on February 25, 2022.³¹ Muhaimin proposed an extension of the president's term for 1-2 years. He mentioned that the input came from authorities and economic analyses concerned about the 2024 elections disrupting economic stability. However, an analysis for the years 2022-2023 indicated a momentum in the improvement of the national economic conditions. He supported the proposal by claiming that 60% of internet accounts supported the extension of the president's term and the postponement of the elections. Meanwhile, Airlangga Hartarto, as the Coordinating Minister for Economic Affairs and the Chairman of the Golkar Party on February 24, 2022, stated that the idea was the aspiration of oil palm farmers from Siak Pekanbaru. The farmers felt an improvement in the livelihood of oil palm farmers due to Joko Widodo's policies.

Zulkifli Hasan echoed the statements of Muhaimin and Airlangga, suggesting that the 2024 elections should be postponed for two years for five reasons. These reasons include the ongoing Covid-19 pandemic, the unrecovered Indonesian economy, the global political situation due to the Russia-Ukraine war, the budget for elections that could be used for the welfare of the people, and the high satisfaction of the public with the performance of the Joko Widodo government.³² In conclusion, Luhut Binsar Panjaitan (Coordinating Minister for Maritime Affairs) stated on March 11, 2022, that he possessed big data on media conversations involving 110 million people from various platforms. The data indicated support for the postponement of elections and the extension of the president's term. He expressed regret over the allocation of 110 trillion rupiahs for the elections at a time when the economic conditions had not fully recovered.³³ Luhut was also revealed to be the communicator with political party leaders to advocate for the postponement of elections or the extension of the president's term. Luhut was also suspected of being the driving force behind the support from the Association of All Indonesian Village Governments (Apdesi) for "Jokowi Three Terms."³⁴ The proposals for the postponement of elections, extension of the president's term, or the addition of a presidential term to three years are intertwined suggestions. These proposals originated from the circle of ministers, were supported by party leaders, and involved various elements of society. The reasons put forward align with the five points mentioned by Zulkifli Hasan above, namely related to the pandemic, economic

³⁰Arnoldus Kristianu, "Bahlil: Business World Supports the Extension of Jokowi's Term until 2027," last modified January 9, 2022, accessed April 11, 2022, <https://investor.id/nasional/277554/Bahlil: Dunia Usaha Dukung Perpanjangan Masa Jabatan Jokowi hingga 2027>

³¹Delvira Hutabarat. "Political Parties Clash in Responding to the Discourse of Presidential Term Extension, Who Approves and Rejects?," last modified March 2, 2022, accessed April 14, 2022, <https://www.liputan6.com/news/read/4900036/Adu-Kuat-Parpol-Sikapi-Wacana-Perpanjangan-Jabatan-Presiden-Siapa-yang-Setuju-dan-Menolak-?>

³²NN, "PAN Chairman Zulkifli Hasan Supports Postponement of 2024 Elections," last modified February 25, 2022, accessed April 15, 2022, <https://www.jawapos.com/nasional/politik/25/02/2022/Giliran-Ketum-PAN-Zulkifli-Hasan-Dukung-Penundaan-Pemilu-2024>

³³Detikcom Team, "Luhut Claims to Have Big Data Containing the People's Voices Wanting to Postpone the Elections," last modified March 11, 2022, accessed April 14, 2022, <https://news.detik.com/berita/d-5978918/Luhut-Klaim-Punya-Big-Data-Berisi-Suara-Rakyat-Ingin-Pemilu-Ditunda>.

³⁴Dewi Nurita, "Many Question Luhut's Claim about Big Data Delaying the 2024 Elections," last modified March 10, 2022, accessed April 14, 2022, <https://nasional.tempo.co/read/1570393/>

conditions, the Russia-Ukraine conflict and its impact, the significant budget for elections, and the high level of public satisfaction with Joko Widodo's leadership.

2. Rejection Responses

The proposal for the extension of the President's term has sparked rejection responses from various quarters. These responses come from the leaders of political parties, academics, political observers, survey institutions, non-governmental organizations (NGOs), and even students. The leaders of political parties who explicitly rejected the idea of extending the president's term include PDIP, Nasdem, PPP, and Gerindra. The Indonesian Democratic Party of Struggle (PDIP) has hinted at rejecting the idea of extending the president's term since January 2022. Hasto, the Secretary-General of PDIP, emphasized that Megawati would adhere to the constitution.³⁵ Megawati's stance was reiterated by Hasto during a virtual press conference releasing a survey by LSI on March 3, 2022.

The rejection was also voiced by Amien Rais from the Ummah Party, which was responded to by several other leaders of political parties. Kamhar Lakuni and prominent figures from the Democratic Party, Hidayat Nur Wahid from the Prosperous Justice Party (PKS), Ahmad Basarah from PDIP, and Asrul Sani from the United Development Party (PPP). Lakuni based the rejection on the grounds that there is no urgency to amend the 1945 Constitution, and the two-term limit for the presidency is a constitutional mandate. Moreover, there are no outstanding achievements from Joko Widodo's leadership. Meanwhile, Hidayat Nur Wahid and Asrul Sani emphasized that there is no agenda for the People's Consultative Assembly (MPR) to amend the 1945 Constitution. Ahmad Basarah from PDIP viewed the addition of the President's term to three periods as not a current need for the nation.³⁶

Rejection responses to the proposal for an extension of the President's term have also emerged from constitutional law experts. The initial response was presented by Bivitri Susanti. She emphasized three dangers of changing the President's term to three periods: the potential for abuse of power, the lack of leadership regeneration, and the resulting hindrance to Indonesia's innovation.³⁷ In addition, Deny Indrayana considered the proposal for the postponement of the elections and the extension of the President's term as a form of constitutional abuse. Meanwhile, Jimly Asshiddiqie's opinion is that the above proposal is merely a statement without being based on studies by political parties.³⁸ On the other hand, Zainal Arifin Mochtar believes that the issue of postponing the elections and extending the President's term is very dangerous: it disrupts the principles of the presidential system and violates the principles of constitutionalism.

Survey institutions have also commented on the proposal for the extension of the President's term. Burhanuddin Muhtadi, the executive director of the Indonesian Survey Institute (LSI), stated that both supporters of President Jokowi and Prabowo Subianto in the 2019 Presidential Election rejected the postponement of the elections. The aspiration for the elections to proceed

³⁵NN, "Megawati Rejects Extension of Presidential Term," last modified January 12, 2022, accessed April 15, 2022, https://mediaindonesia.com/politik-dan-hukum/463786/Megawati_Tolak_Perpanjangan_Masa_Jabatan_Presiden.

³⁶Aryo Putranto Saptohutomo. "Puluhan Akademisi Tolak Wacana Perpanjangan Masa Jabatan Presiden", last modified March 16, 2021, accessed April 14, 2022, <https://nasional.tempo.co/read/1442553/>.

³⁷Budiarti Utami Putri, "Bivitri Susanti Mentions 3 Dangers of a 3-Term Presidential Period," last modified June 21, 2021, accessed April 14, 2022, [NasionalTempo.co/read/1474991/Bivitri_Susanti_Sebut_3_Bahaya_Masa_Jabatan_Presiden_3_Periode](https://nasional.tempo.co/read/1474991/Bivitri_Susanti_Sebut_3_Bahaya_Masa_Jabatan_Presiden_3_Periode)

³⁸Arrijal Rachman, "Lineup of Constitutional Law Experts Rejects Postponement of the 2024 Elections," last modified February 28, 2022, accessed April 15, 2022, https://nasional.tempo.co/read/1565519/Deretannya_Pakar_Hukum_Tata_Negara_Menolak_Penundaan_Pemilu_2024

as per the constitution came from various sectors or multipartisan.³⁹ Regarding Luhut's big data claim, Adi Prayitno, the Executive Director of the Indonesian Political Parameter (PPI), revealed that according to the PPI survey in June 2021, 69% of respondents rejected the extension of the President's term.⁴⁰ The survey data is supported by the analysis of online media conversations by Ismail Fahmi, the founder of Drone Emprit. He stated that public discussions about the issue of extending the President's term only involved 8,442 tweets, and the emerging clusters were expressions of rejection.⁴¹

The rejection also comes from various other elements. The Academic Alliance, initiated by Ubedillah Badrun, expressed its rejection of attempts to revise the presidential term limit for non-democratic purposes and the use of law as a political tool.⁴² Iwan Sumule, the Chairman of the Democracy Pro-Activist Network (ProDEM), considered the discourse of postponing the elections a violation and constitutional crime. The same rejection was expressed by Sasmito Madrim from the Independent Journalists Alliance (AJI). The wide spectrum of rejection indicates the lack of support for the discourse of extending the president's term and efforts to loosen the presidential term limits stated in the constitution. The various rejections from societal elements towards the discourse of extending the president's term indicate social dynamics that desire a rotation of national leadership

As for the aspirations to maintain the presidential term limits, they are rooted in three things: *First*, national leadership in Indonesia has been marked by the strong position of the President, enabling them to retain power for several decades. During the period 1945 – 1998, practically only two people held the position of President in Indonesia. This condition paved the way for the growth of national leadership that tended to be authoritarian, as seen in the Old Order era and the New Order era. During the Old Order era, President Soekarno was declared the lifelong president by the People's Consultative Assembly (MPR), whose members were appointed by the President. Meanwhile, during the New Order era, President Soeharto held leadership for almost 32 years and was able to co-opt various political forces nationally. Memories of the somewhat authoritarian leadership still linger in the minds of some Indonesian people and are part of the history of Reformasi. One of the agendas of Reformasi at the end of the New Order was 'succession' (change of national leadership). 'Succession' prompted the Reform Movement to overthrow the New Order and build a new order through an amendment to the Constitution that limits the president's term.

Second, political participation in society ahead of the 2024 elections is very high. This is evidenced by the formation of support networks for presidential candidates. Although no one has explicitly declared themselves as a presidential candidate, various supporter communities have emerged. There are various volunteer groups supporting Anies Baswedan, Ganjar Pranowo, Puan Maharani, Airlangga Hartarto, Erick Thohir, and Muhaimin Iskandar.

³⁹NN, "Constitutional Experts: 3-Term President Issue is Dangerous, a Gateway to Authoritarianism," last modified March 5, 2021, accessed April 14, 2022, [https://kumparan.com/kumparannews/Ahli Tata Negara: Isu Presiden 3 Periode Berbahaya, Pintu Masuk Otoriter](https://kumparan.com/kumparannews/Ahli%20Tata%20Negara%3A%20Isu%20Presiden%203%20Periode%20Berbahaya%2C%20Pintu%20Masuk%20Otoriter)

⁴⁰Muhammad Farhan, "Luhut Claims Big Data, Survey Institutions: 69% of the Public Rejects Extension of the President's Term," last modified March 14, 2021, accessed April 10, 2022, <https://nasional.sindonews.com/read/712081/12/luhut-klaim-big-data-lembaga-survei-69-publik-tolak-perpanjangan-masa-jabatan-presiden-1647234231>

⁴¹NN, "Experts Uncover Pros and Cons of Extending the President's Term on Social Media." <https://www.cnnindonesia.com/teknologi>. last modified March 02, 2022, accessed April 14, 2022, [https://www.cnnindonesia.com/teknologi.Ahli Bongkar Pro Kontra Perpanjangan Masa Jabatan Presiden di Medsos](https://www.cnnindonesia.com/teknologi/Ahli%20Bongkar%20Pro%20Kontra%20Perpanjangan%20Masa%20Jabatan%20Presiden%20di%20Medsos)

⁴²Aryo Putranto Saptohutomo, "Dozens of Academics Reject the Discourse of Extending the President's Term," last modified March 16, 2021, accessed April 14, 2022, <https://nasional.kompas.com/read/2022/03/16/16494431/puluhan-akademisi-tolak-wacana-perpanjangan-masa-jabatan-presiden?page=all>.

The emergence of volunteers is seen as a shift from political value and oligarchy reduction to participatory. Since 2021, volunteer supporters of presidential candidates have begun to emerge, indicating the active involvement of private political machinery in anticipating the 2022 democratic party. *Third*, Indonesia is currently experiencing a decline in democracy, as seen from the decrease in the freedom of speech index from 66.17 in 2018 to 64.29 in 2019. The decline in democracy in Indonesia is caused by a decrease in freedom of expression and speech. This condition indicates a shift from electoral democracy to flawed democracy. The decline in quality, according to Jati,⁴³ dipengaruhi pula tiga hal, yaitu: penguatan peran aktif militer dalam peran sipil pada era Presiden Joko Widodo, menguatnya polarisasi kubu nasionalis-pluralis dengan kubu konservatif, dan berkembangnya tendensi dinasti politik. Sebagai akibatnya adalah munculnya oposisi keras dari kalangan konservatif dan harapan lebih besar terhadap terjadinya rotasi kepemimpinan nasional.

Fourth, the increase in the prices of cooking oil, fuel, and the rise in taxes amid the difficult situation experienced by the people, especially since the COVID-19 pandemic, becomes a factor that worsens the quality of democracy. The economic downturn caused by the pandemic since 2020 has led to job losses and a decrease in people's income. This situation coincides with the development of the discourse on extending the president's term, amidst public questioning of why the government is losing to the mafia.⁴⁴ The issue of the mafia colors the era of Joko Widodo's leadership, which according to Rizal Ramli, is an era of oligarchy and the golden age of oligarchy. Oligarchy controls power and can manipulate laws to protect itself from legal consequences.⁴⁵

3. The Constitution as the Last Bastion

The amendment of the 1945 Constitution has successfully embodied the spirit of Reformasi. One aspect of this spirit is the introduction of term limits for the President, allowing only two terms, with each term lasting five years. The significance of this limitation can be seen in the historical experience of Indonesia, which had Presidents with long terms. In 1963, the People's Consultative Assembly (MPR) appointed Sukarno as President for life. Subsequently, in 1977, Suharto was inaugurated as the President of Indonesia for the seventh time, triggering student demonstrations.⁴⁶ The amendment to the 1945 Constitution not only limits the President's term but also strengthens the President's position to prevent easy removal. Before the amendment, the President could be dismissed for political reasons without involving judicial processes through the legal system.⁴⁷ After the amendment, the President of Indonesia is no longer appointed or dismissed by the MPR but ends their term due to its expiration, except in certain circumstances that force the MPR to revoke the presidential mandate. However, this is not easily achieved, especially with the strong support of the People's Consultative Assembly (DPR) for the current President, Joko Widodo.

Therefore, the discourse of extending the president's term involving ministers has sparked strong reactions, with the effort being considered treason, terror, and a violation of the constitution. Deni Indrayana views the attempt to extend the president's term as unconstitutional, violating Article 7 and Article 22E of the 1945 Constitution, which states

⁴³Wasisto Raharjo Jati, "The Phenomenon of Democratic Decline in Indonesia 2021," *The Insights* No. 27, June 9, 2021. www.habiebiecenter.or.id

⁴⁴M. Julnis Firmansyah, "Jokowi Distributes Cooking Oil BLT, Observer: Evidence of the Government Losing to the Mafia."

⁴⁵Mitha Paradilla Rayadi, "Rizal Ramli Speaks Frankly About the Flourishing Oligarchy Era of Jokowi: That's the Reason I Want to Add."

⁴⁶Qonita Dina Latansa, "Constitutionality of the Term Limits for the President and Vice President in Indonesia," pages 599 and 602.

⁴⁷Muhamad Aksan Akbar, "Legal Politics of the Dismissal (Impeachment) of the President and/or Vice President in Indonesia in the Perspective of the Rule of Law and Democracy," page 327.

that general elections must be conducted directly, publicly, freely, and secretly. The importance of elections is as a forum to choose the President and Vice President, Members of the People's Consultative Assembly (DPR), Members of the Regional Representative Council (DPD), and Members of the Regional People's Representative Council (DPRD). If the election is delayed, it will also result in an extension of the terms of Members of the DPR and DPD. This firm stance is also influenced by the government's decisive actions against the opposition that campaigned for a change in leadership before the 2019 Presidential Election, seen as an attempted coup.⁴⁸ Interestingly, despite this, the government apparently seeks to amend the 1945 Constitution to extend the president's term.

The rejection of the discourse of extending the president's term is an effort to uphold the values of reform, which are considered increasingly eroded due to the influence of political oligarchy and the weakening oversight of the government because the DPR cannot accommodate the aspirations of the people. Article 22E of the 1945 Constitution serves as a fortress to ensure the democratic process, the rotation of national leadership, the accommodation of opposition voices, and the resolution of legal issues. With these hopes, democracy activists, opposition figures, and the public who already have presidential candidates for the 2024 elections are countering the discourse of extending the president's term. People are concerned that the discourse of postponing elections could be used as an excuse by the government to push the DPR and MPR to amend the 1945 Constitution.⁴⁹

The suspicion of various elements of society is not unrelated to the weakness of the DPR, which should act as a counterbalance and overseer of the government but often merely follows the government's wishes. Since 2020, five laws have been enacted, and four of them were government proposals. The DPR is perceived as weak because it prioritizes government draft laws over its own and promptly approves these five laws. If the government pushes for an amendment to the 1945 Constitution regarding the president, there are concerns that the DPR will approve it because the proposal benefits DPR members.

At this stage, the constitution becomes the last line of defense for democracy, limiting the terms of the president and vice president, as well as regulating elections. The rule limiting the president's term in the 1945 Constitution reflects constitutional democracy itself. In the 20th century, constitutional democracy was upheld by democratic governments based on the rule of law. The realization of the rule of law includes constitutional protection of individual rights and clear procedures, an independent and impartial judiciary, free elections, and freedom of expression.

Therefore, limiting the president's term to two periods, each lasting five years, is a form of protection for the sustainability of constitutional democracy. Based on studies in various countries, if a president holds power for an extended period, negative deviations and impacts can occur, as seen in the former Soviet Union. Limiting the president's term in a situation of high political participation, democratic decline, and concerns about oligarchic interference is a guarantee for change and refreshment in governance. It ensures a healthier and more stable government.

CONCLUSION

The political dynamics in Indonesia in recent years have been characterized by tension resulting from the Presidential Elections in 2014 and 2019. In this context, discussions about extending the president's term, delaying elections, and adding presidential terms have become highly sensitive topics. Proposals from the government and its supporting parties have faced

⁴⁸Wishnugroho Akbar, "Ngabalin Calls the Movement for Changing the President Rebellion and Uncivilized."

⁴⁹Bram Setiawan, "5 Things About the Postponement of the 2024 Elections, Why Does it Spark Controversy?"

strong reactions. The proposals for extending the president's term mainly come from the government, particularly from ministers. This plan is then echoed by the leaders of supporting political parties, based on the aspiration of the public to support economic growth and political stability. Although these proposals are backed by claims of public support and survey results indicating high satisfaction with the government's performance, they have faced criticism from various quarters. Political party leaders express adherence to the constitution and consider amendments to the 1945 Constitution unnecessary. Legal experts and academics view these proposals as attempts to abuse power and violations of the constitution. Survey institutions show that the level of support for extending the president's term is relatively low. Students reject the extension of the president's term, considering it unconstitutional, and demand economic improvements. This rejection stems from Indonesia's long-standing political experience. During the Old Order era, the MPR decision to appoint a president for life emerged. During the New Order era, Soeharto served for seven terms. Additionally, Indonesia is currently experiencing a decline in democracy and facing economic challenges due to government policies. Therefore, the discourse on extending the president's term is considered counterproductive to the efforts of consolidating democracy in Indonesia and national development. The constitution is seen as a fortress to uphold the spirit of Reformasi, ensuring the rotation of national leadership and hoping for national political change.

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