

Constitutional Court Judges' Interpretation Regarding the Limitation on the Presidential and Vice-Presidential Term of Office

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ABSTRACT

Purpose of the study: This paper aims to analyze the philosophical meaning of the Constitutional Court Judges' interpretation of Decision No. 117/PUU-XX/2022 on the limitation of presidential and vice-presidential terms of office. It also seeks to examine the limitations of the presidential and vice presidential terms of office in Indonesia's legal transformation and renewal.

Methodology: This normative research used the qualitative method. The writers employed development law theory, judges' interpretation, and philosophical theory.

Results: It was revealed that the Constitutional Court Judges' interpretation of Decision No. 117/PUU-XX/2022 considered the grammatical, sociological, systematic, historical, comparative, and futuristic interpretations. The term limits for the president and vice president are part of Indonesia's legal reform and renewal efforts, which aim to establish a system of checks and balances among the state's highest institutions. The 1945 Constitution previously established this limitation.

Applications of this study: Since presidential and vice-presidential candidates can only hold office for two terms, this research may motivate political parties to choose candidates who exhibit integrity, morals, and character. Finding the best persons to represent the nation is therefore preferable.

Novelty/Originality of this study: There has not been any previous research that analyzes Constitutional Court Judges' interpretation of Decision No. 117/PUU-XX/2022 on the limitation of presidential and vice-presidential terms of office. The transformation and renewal of the law in Indonesia regarding term limits for the president and vice president should be guided by the applicable legal politics in Indonesia. Law No. 7 of 2017 concerning General Elections continues to be referenced in legal politics made by election organizers. The president's term of office is limited to two terms, according to Article 169 letter n and 227 letter i.

Keywords: Judicial interpretation, constitutional court, term of office, president, Indonesia.

ABSTRAK

Tujuan Kajian: Tulisan ini bertujuan untuk menganalisis makna filosofis dibalik interpretasi hakim Mahkamah Konstitusi terhadap Putusan Nomor 117/PUU-XX/2022 tentang pembatasan masa jabatan presiden dan wakil presiden. Selain itu juga bertujuan untuk menganalisis pembatasan masa jabatan presiden dan wakil presiden dalam transformasi dan pembaharuan hukum di Indonesia.

Metodologi: Penelitian ini merupakan penelitian normatif yang menggunakan metode kualitatif. Penulis menggunakan teori hukum pembangunan dan interpretasi hakim serta teori filosofis.

Hasil Temuan Penelitian: Ditemukan bahwa interpretasi hakim konstitusi terhadap Putusan Nomor 117/PUU-XX/2022 mempertimbangkan interpretasi gramatikal, interpretasi sosiologis, interpretasi sistematis, interpretasi historis, interpretasi komparatif, dan interpretasi futuristik. Dalam transformasi dan pembaharuan hukum di Indonesia, pembatasan masa jabatan presiden dan wakil presiden bertujuan untuk menciptakan sistem check and balances antar lembaga tinggi negara. Pembatasan ini sudah sesuai dengan UUD 1945.

Aplikasi Studi: Penelitian ini dapat memotivasi partai politik untuk menjadi calon presiden dan wakil presiden yang memiliki integritas, moral, dan akhlak, karena presiden dan wakil presiden hanya dapat menjabat selama dua periode. Jadi, yang terbaik adalah menemukan kandidat terbaik untuk mengabdikan pada negara.

Kebaruan/Originalitas penelitian: Belum ada penelitian sebelumnya yang menganalisis interpretasi hakim Mahkamah Konstitusi terhadap Putusan Nomor 117/PUU-XX/2022 tentang pembatasan masa jabatan presiden dan

wakil presiden. Transformasi dan pembaharuan hukum di Indonesia terhadap Pembatasan masa jabatan Presiden dan Wakil Presiden. Hendaknya berperdoman pada politik hukum yang berlaku di Indonesia, politik hukum berupa pembuatan kebijakan dari penyelenggara pemilu tetap mengacu pada Undang No 7 Tahun 2017 tentang Pemilihan Umum. Pasal 169 huruf n, dan Pasal 227 huruf I yang mempertahankan masa jabatan Presiden hanya berlaku dua kali masa jabatan.

Kata kunci: Penafsiran yudisial, mahkamah konstitusi, masa jabatan, Presiden, Indonesia.

INTRODUCTION

In Indonesia, from Soekarno, the first president of the Republic of Indonesia, to Joko Widodo, the current president, the leadership and the presidential term have undergone changes according to each era's problem and demand. The 1945 Constitution made it quite explicit how long the president could serve in that position. Regulations of the 1945 Constitution have also been amended four times. The formulation, planning, and discussion of specific articles that need to be altered to meet the demands of the state and the Indonesian people are undoubtedly influenced by legal politics. One of them is Article 7 of the 1945 Constitution. The length of office was not precisely controlled prior to the Reformation. As a result, the periods of office for presidents and vice presidents were uncapped (Crisdianto Eko Purnomo, 2010).

Currently, people in East Nusa Tenggara want President Joko Widodo to hold office for more than two terms, but many political elites disagree. It was conveyed by Muhammad Qadari, Executive Director of Indo Barometer. The 1945 Constitution's Article 7 is the foundation for the rejection (Sigiranus Marutho Bere, 2023). As the country aspired at the beginning of the 1945 Constitution for the welfare of the people, changing tenure is difficult and must go through protracted methods and phases (Muhamad Aljebra Aliksan Rauf, Rudini Hasyim Rado, 2022). Formerly, it made President Soeharto, Indonesia's second president, win multiple elections for reelection.

Nevertheless, Article 7 of the 1945 Constitution on the presidential and vice-presidential terms of office was amended after the Reformation. The First Amendment of this article states, "Presidents and vice presidents hold office for five years, and they can be reelected." Then, it was changed into "Presidents and vice presidents hold office for five years, and they can be reelected into the same position after that but only for a term of office." Since issues still exist with the formulation of this article, an *ius constituendum* is required.

Between 1999 and 2002, the amendments were carried out four times. The amendments were made because President Soeharto served as President of the Republic of Indonesia for over ten years. The New Order had no restrictions on the president's term of office (Bagir Man. 2010). However, since the reform era, there has been a change in the arrangement of the president's term of office to five years, and he can be reelected only for one term (Hero et al. 2020). At the beginning of independence, there was also no limit to the terms of office of the president and vice president.

Then, a new thought emerged about the constitutional design in which Article 7 of the 1945 Constitution should be divided into two clauses. The formulation of clause (1) should be added with the phrase, "either successively or non-consecutively." Then, there is the addition of clause (2), which states the constitutionality of the limitation of the presidential and vice-presidential terms of office as requirements for presidential and vice-presidential candidacy in Indonesia. Previously, there was no limit to the term of office of the president and vice president at the start of independence (Qonita Dian Latansa, 2019). The term of office was only limited by the First Amendment to the 1945 Constitution.

According to Isra, the presidential election is directly organized because the people support their chosen presidents. Presidential elections are also inseparable from the political party representatives with political power and interests in the presidential term of office (Isra Saldi, 2016). Presidential and vice-presidential elections through general elections are always supported by political parties, hoping that the people they nominate will be appointed presidents and vice presidents.

The term limits for the president and vice president have developed from 2018 to 2019; prior to the 2019 presidential/vice presidential general election, there was a discourse to reelect presidents and vice presidents for three periods (www.newskompas.com). The Vice Head of the People's Representative Assembly from the Partai Persatuan Pembangunan (The United Development Party/PPP) fraction, Arsul Sani, stated that the change of the presidential term of office into three periods was suggested by a Legislative House member from the Nasional Demokrat (National Democratic) Party fraction, one of the parties that supported the incumbent president (Farisa, 2022). It indicates that many political parties supported President Joko Widodo and wanted him renominated in the 2024 general election.

Following that, in 2022, Muchdi Purwopranjono (the General Manager of the Central Board of the Golongan Karya Party) and Fauzan Rachmansyah (General Secretary of the

Central Board of the Golongan Karya Party) filed a lawsuit against the Constitutional Court. The material examination was conducted on November 30th, 2022, with case number 117/PUU-XX/2022. Purwopranjono and Rachmansyah applied for the constitutional review of Article 169 letter n and Article 227 letter i of Law No. 7 of 2017 on General Elections. Their lawsuit's major goal was to have the two-term presidential and vice-presidential terms subjected to a material investigation. These two people's applications sought to give another chance to the currently serving president to renominate himself as president in the 2024 General Election. Concerning that review, the Constitutional Court rejected this lawsuit. In rejecting the lawsuit's application to the presidential term of office (Court Decision, The Republic of Indonesia's Constitutional Court, 2022), the Constitutional Court judges carried out legal interpretations.

Before deciding, judges analyze the legal facts of legal cases filed in court. The interpretation of the panel of judges committed a normative violation in the form of a rule in Article 7 of the 1945 Constitution concerning the term of office of the president and vice president by disclosing the meaning of the sentence abstract/*in abstracto* in legal regulations, i.e., the president and vice president nominate themselves for five years and can be reelected only for one term of office (Indah, 2019). In this regard, K.C. Wheare stated that the interpretation of legal regulations could be changed through amendments, judicial interpretations, and constitutional interpretations by judges. Judges may add, subtract, and fix the meaning of legal regulations (Hoft, 2021). In fact, judges require legal interpretations of legal regulations through material examination in the Constitutional Court.

Further, there is an interesting issue in the discourse on making the presidential and vice-presidential terms of office into three periods. This case has been materially examined in the Constitutional Court, but Constitutional Court Judges rejected it by issuing Constitutional Court Judge Decision No. 117/PUU-XX/2022. Thus, the writers are interested in academically and profoundly analyzing this decision. This paper, therefore, aims to analyze the Constitutional Court Judges' interpretation of the limitation of the presidential and vice-presidential terms of office by studying the Decision of the Constitutional Court Judge No. 117/PUU-XX/2022.

For that reason, the problems of this research are: (1) What is the philosophical meaning behind the Constitutional Court judges' interpretation of Decision No. 117/PUU-XX/2022 on the limitation of presidential and vice-presidential terms of office? (2) What is the limitation of presidential and vice-presidential terms of office in the legal transformation and renewal in Indonesia?

RESEARCH METHOD

In this paper, the writers used the normative research method to analyze Constitutional Court Judge Decision No. 117/PUU-XX/2022 and Article 7 of the 1945 Constitution on the presidential and vice-presidential. The authors analyzed the data on Constitutional Court Decisions using the theory of judicial interpretation and other laws and regulations. The qualitative research was used to explain or narrate the results of Constitutional Court Judge Decision No. 117/PUU-XX/2022. It employed primary data from Constitutional Court Judge Decision No. 117/PUU-XX/2022, Law No. 7 of 2017 on General Elections, and the Republic of Indonesia's 1945 Constitution. The authors also incorporated secondary information from the legal, political, and democratic theories of democracy and development law. To analyze the problem of this research, the writers also utilized the judges' interpretation theory and associated it with the judges' philosophical theory.

RESULTS AND DISCUSSION

The philosophical meaning of the constitutional court judges' interpretation of Decision No. 117/PUU-XX/2022 on the limitation of the presidential and vice-presidential terms of office

Legal interpretation is when judges undergo legal discovery by interpreting legal regulations. Judges have the right to judge and examine cases proposed by applicants to fill the legal void due to the lack of legal regulations. Hence, judges are not allowed to reject judging or examining proposed cases, as it is their job to fill the legal void by interpreting legal regulations (Khalid, 2014).

To make a decision, the decency principle is the judge's authority. The judge's decision is subjective; moreover, the perspective and thinking of the judge are determined by legal facts (James L. Gibson, 2010). The Panel of Judges also decides based on the principle of justice for the parties to the litigation (Pandu Dewanto, 2020). Judges will explore cases with the value of justice, as formulated in Article 5 clause (1) of Law No. 48 of 2009 concerning Judicial Power, which reads, "Judges and constitutional judges are obliged to explore, follow, and understand the legal values and sense of justice that live in a society" (Juita et al., 2020). The judge must be able to find the law if there is no statutory regulation. It is different if a case already has written rules, which the judge will easily decide (Dian Ratu, Anggita Doramia, 2020). In addition, the judge has full power to interpret the results of decisions with permanent legal force.

According to Mertokusumo and Pitlo, interpretation methods are divided into several types. (1) Grammatical interpretation is where the law is linguistically interpreted, and there is

an interpretation of legal articles' sound or meaning. (2) Sociological interpretation means that the law is analyzed based on whether it benefits society. (3) Systematic interpretation suggests that legal regulation is analyzed based on whether it is structurally arranged. (4) Historical interpretation is where the historical basis of the law is analyzed to see whether it needs to be substituted or changed. (5) Comparative interpretation denotes that the law is compared with other laws. Lastly, (6) futuristic interpretation analyzes the meaning contained in the proposed law (Mertokusumo and Pitlo, 2020). In fact, legal interpretation has extensive meaning. Judges may undergo interpretation of either written or unwritten legal regulations. For normative interpretation of regulations, it is also found either in written or unwritten articles (Askarial, 2018). In this regard, judicial interpretation is required to define the meaning of legal regulations and provide a sense of justice in society. Judges do this by interpreting the proposed articles.

The judicial interpretation discussed in this paper is the Constitutional Court Decision on the material examination of Article 169 letter n and Article 227 letter i of Law No. 7 of 2017 on General Elections, which regulate the presidential and vice-presidential terms of office. Judicial review applicants proposed that the presidential and vice-presidential terms of office be extended by more than two periods from what was previously only two. The applicants were Muchdi Purwopranjono and Fauzan Rachmansyah (Constitutional Court Decision, The Republic of Indonesia, 2022). They applied for a plea for material examination of the regulations concerning the presidential and vice-presidential terms of office.

Muchdi Purwopranjono (the General Manager of the Central Board of Golongan Karya Party in the central office in Jakarta) and Fauzan Rachmansyah (General Secretary of the Central Board of Golongan Karya Party in the central office in Jakarta) submitted an application to the Constitutional Court on November 23rd, 2022. After submitting an application, they obtained an application number. Their registration submission deed had Application Number 111/PUU/PAN.MK/AP3/11/2022. Then, on November 30th, 2022, it was approved by the Constitutional Court Committee and obtained case number 117/PUU-XX/2022 (Constitutional Court Decision, The Republic of Indonesia, Case Number 117/PUU-XX/2022). A judicial review of Law No. 7 of 2017 concerning elections was conducted by Muchdi Purwopranjono and Fauzan Rachmansyah.

Next, the authors elucidate the philosophical meaning of the interpretation of the Constitutional Court Judges against Article 7 of the 1945 Constitution, i.e., that the term of office of the president and vice president is five years and can be elected for the same term. The

writers also analyzed the theory presented by Mertokusumo and Pitlo. The application submission from Muchdi Purwopranjono and Fauzan Rachmansyah was interpreted by Constitutional Court Judges on the material examination of Article 169 letter n and Article 227 letter i of Law No. 7 of 2017 on General Elections. The material examination of the laws concerning the presidential and vice-presidential terms of office in Case No. 117/PUU-XX/2022 is as follows:

1) Grammatical Interpretation

Law No. 7 of 2017 on General Elections Article 169, letter n, states that the requirement for becoming prospective president and vice president candidates is that candidates have not become presidents or vice presidents twice for the same term of office. Article 227, letter i, states that when registering, prospective president and vice president candidate pairs have not served twice for the same term of office (Law No. 7 of 2017 on General Elections). The articles regulate the term limits for the president and vice president.

The Constitutional Court Judge interpreted Article 169 letter n and Article 227 letter i as follows: the term of office of the president and vice president is twice for the same term of office. Presidents and vice presidents serve for five years if associated with Article 7 of the 1945 Constitution. The presidential term of office only lasts two periods of ten years. To exceed two terms of office or to make a president serve for more than two periods or more than ten years, the 1945 Constitution must be amended.

2) Sociological Interpretation

Sociologically, Muchdi Purwopranjono and Fauzan Rachmansyah have legal status as plaintiffs, who submitted a judicial review of Article 7, Article 169 letter n, and Article 227 letter i of Law Number 7 of 2017 concerning General Elections, which states that the president and vice president are elected through general elections. They serve for five years, and they can be reelected in the next period (for a total of two periods or ten years). Purwopranjono and Rachmansyah argued that all political parties have constitutional rights to propose names of prospecting president and vice president candidate pairs that have served for two periods to re-participate in the 2024 presidential and vice-presidential elections.

3) Systematic Interpretation

Systematically, the juridical regulations that became the Constitutional Court's legal basis for handling the case in the name of the plaintiffs, Purwopranjono and Rachmansyah, were Article 24C clause (1) of the 1945 Constitution, Article 10 clause (1),

letter a, of Law No. 24 of 2003 on the Constitutional Court, Decision of the Constitutional Court No. 2 of 2021 on Procedural Guidelines in Cases of Legal Review, Article 6A, Article 7, Article 226 clause (1), and Article 227 letter n of Law No. 7 of 2017 on General Elections.

4) Historical Interpretation

The history of the application submission from Purwopranjono and Rachmansyah was that Indonesia is state-regulated by law. The law states that the presidential and vice-presidential terms of office are five years. Presidents and vice presidents are chosen through a free, public, honest, just, and confidential general election, as regulated in Article 1 clause (3) of the 1945 Constitution, Article 7 of the 1945 Constitution, Article 22E clause (1) of the 1945 Constitution, and Article 28D clause (1).

Presidents and vice presidents may be chosen and reelected after that. It denotes that the presidential and vice-presidential terms of office are only two periods. Thus, political parties nominate a prospective president and vice presidential candidates who must not have previous experience serving twice in a row or for two periods. It is regulated in Article 6A, Article 7, Article 226 clause (1), and Article 227, letter n, of Law No. 7 of 2017 on General Elections.

5) Comparative Interpretation

Regarding the comparative interpretation of other legal regulations, Plaintiffs Purwopranjono and Rachmansyah stated that the 1945 Constitution guaranteed it, including Article 1 clause (3) of the 1945 Constitution, Article 7 of the 1945 Constitution, Article 22E clause (1) of the 1945 Constitution, and Article 28D (1) amended into Law No. 7 of 2017 on General Elections. The proposed articles were Article 226 clause (1) and Article 227 letter n.

6) Futuristic Interpretation

According to Article 7 of the 1945 Constitution and Article 22E clause (1) of the 1945 Constitution, general elections are organized every five years. It is a unity of norms, which reads that presidents and vice presidents can only serve for one period and can be reelected for the same term of office.

Moreover, a judge's decision at the Constitutional Court Institution will result in a decision to change the meaning of the Constitution and statutory regulations. Here, everyone has the right to file a lawsuit through the judicial process (judicial interpretation), which is then interpreted by the judge (Feri Amsari, 2016). K.C. Wheare believes that the Constitution

has a different meaning of dualism, so it needs interpretation by judges. Chief Justice Hughes also stated that the Constitution is not considered a document but an interpretation of the law (Joachim Sanden, 2013). Legal interpretations by judges are interpreted grammatically and systematically to explain the meaning of statutory regulations.

The philosophical meaning is based on the grammatical and systematic interpretation of Article 226 clause (1) and Article 227 letter n of Law No. 7 of 2017 on General Elections. Presidents and vice presidents can serve for five years, and then they can renominate themselves and be reelected into office for another five years. In Indonesia, the norm is that a term of office is not ten years. However, the presidential and vice-presidential pairs may re-participate in the next general election, meaning they have served for five years. Then, it continues for five years if they are reelected through presidential and vice-presidential elections (1945 Constitution and Law No. 7 of 2017 on General Elections). The explanation is based on grammatical tracing.

In this regard, the Constitutional Court is a judicative institution with authority to judge material reviews of legal regulations, dissolve political parties, and resolve the results of disputes. They judge from the first to the last level, making final and binding decisions. It is as stipulated in Article 24C clause (1) of the 1945 Constitution, Article 10 clause (1) letter a of Law No. 24 of 2003 on the Constitutional Court, and Regulation of the Constitutional Court No. 2 of 2021 on Procedural Guidelines in Cases of Legal Review.

Since the 1945 Constitution does not explain the meaning of each rule, the task of the Constitutional Court Judges is to provide grammatical and sociological interpretations so that they become the basis for legal renewal based on the results of the decision given by the judge (Achmad Miftah Farid, Nanik Prasetyoningsih. 2022). The decision of the Constitutional Justices may also not have political interests. The interpretation of judges in the judiciary is carried out democratically. The principle of *nemo iudex* applies; impartial justice is universal in nature and applies to all litigants (Idul Rishan, 2022). In addition, Constitutional Court Judges require a constitutional review to prevent them from being involved in conflicts of interest.

Concerning the meaning of the philosophical interpretation of Constitutional Court Judge Decision No. 117/PUU-XX/2022 on the limitation of presidential and vice-presidential terms of office, the Constitutional Court Judges go through ante-legislative, legislative and post-legislative stages in making decisions. The judge will consider input and suggestions from experts in the trial, and the judge will also consider the interests of the general public (Putera

Astomo, 2014). Solly Lubis said that the material for considering the Constitutional Justices in forming the law is sourced from common interests without taking sides. So that there will be justice in making decisions, Constitutional Justices will consider legal facts before making a decision (M. Solly Lubis, 2020).

Moreover, Abraham Lincoln, the ex-president of the United States, provided the concept of democracy as “from the people, by the people, for the people” (Lincoln, 2018). Thus, democracy from the people and for the people is carried out through presidential and vice-presidential general elections. Based on Abraham Lincoln’s opinion, the writers interpret that the people must be involved in presidential and vice-presidential general elections. The people choose them based on their conscience and have the will to choose. In this case, the 1945 Constitution has regulated legislative, executive, and judicial institutions to apply the checks and balances principle in the Indonesian governmental system. Article 7 of the 1945 Constitution stipulates that the terms of office of the president and vice president are only valid for five years and can be reelected for one term. Thus, the analysis of the authors' thinking is that if the tenure is too long, it will lead to dominant and heavy executive power. According to the authors, there is a need for regulations that limit the term of office of the president and vice president in the transformation and renewal of law in Indonesia.

Limitation of presidential and vice-presidential terms of office in the legal transformation and renewal of Indonesia

When Joko Widodo and Yusuf Kalla participated in the contestation of presidential and vice-presidential candidate elections in 2015-2018, they were chosen as the Republic of Indonesia's 7th president and vice president, respectively. Then, in 2019, Joko Widodo re-participated in the presidential election. Joko Widodo was reelected as president with KH. Ma'ruf Amin as his vice president (Junaidi, 2022). According to Article 6A (1), the people directly choose presidents and vice presidents. Article 7 of the 1945 Constitution regulates that the presidential and vice-presidential terms of office are five years. Nevertheless, during President Joko Widodo’s rule, there was a discourse to amend the 1945 Constitution and revise Article 226 clause (1) and Article 227 letter n of Law No. 7 of 2017 on General Elections (CNN. Indonesia.com. 2019). Even though he paired up with different vice presidents, President Joko Widodo has served as president twice.

Furthermore, general election democracy is based on elections by the people whose elections are held in a certain year. Political equality and freedom are determined by the people's ability to elect leaders (Henry B. Mayo, 2017). The 1945 Constitution regulates the limitation of the president's term of office, which is done to promote the regeneration of leaders. A term of office that exceeds two periods raises many cons. Hence, limitations were made to avoid the authority of power as experienced before the reform. Because the president served more than two terms, the 1945 Constitution stipulated new restrictions on power (Syugiarto, Riady Ibnu Khaldun, 2022). Limiting the president's term of office also allows political parties to register presidential candidates to fight against the incumbent presidential candidate (Paul, J. 2010).

The writers analyzed the limitations of presidential and vice-presidential terms of office, which require legal transformation and renewal in Indonesia. The transformation of the creation of democracy for people's welfare and legal renewal in the form of legal politics is as follows:

First is the *rechtstaat* legal state. According to Dedi Mulyadi, the Indonesian *rechtstaat* legal state has a special characteristic, Pancasila, as a source of legal norms. Thus, Indonesia is a Pancasila legal state (Dedi Mulyadi, 2020). As the basis of the state (*grundnorm*), Pancasila has a higher position than statutory regulations. Regulators are based on Pancasila's values. Further, making new rules can lead to legal reform in Indonesia (Siti Malikhatun Badriyah. 2010). The state establishment in the governmental system requires power limited by the law that aims to protect the people (Wignjosoebroto, 2018). Here, Pancasila guides the legal state in Indonesia as the guidelines for life as a nation and a state.

The legal state follows the principle of the highest power. The principle of supreme power is that all activities in society are regulated by statutory regulations so that everyone is subject to and obedient to the regulations with the highest authority. Indonesia is also made by the people through their representatives. All stately regulations in the form of political positions filled through general elections, including the position of president, can be taken through presidential and vice-presidential general elections. The appointment of state officials, i.e., presidents and vice presidents, as the highest officials and heads of the legal state applies the principle of the highest power (Yudhistira, Elsan, 2020). Presidents and vice presidents are directly elected by the people through presidential and vice-presidential general elections.

Second, Jimmly Asshiddiqie stated that Indonesia is a democratic legal state. It is a legal state with a principle of people's sovereignty (*democratie*) called democratic legal

understanding (*demokratische reachstaat*). It has a constitutional form, called the constitutional democracy (*constituinal democracy*) (Jimmly Asshiddiqie, 2021). In a condition where the power in a state is too dominant, democracy will fail as it will always control the people, making it authoritarian. If the presidential power is extended into three periods, it will exceed the state's civil society. It makes politicians who desire group interests more dominant. Without clear direction, it will create a chaotic, messy, and government-less state. Thus, it is why there are democratic constitutional stipulations in the 1945 Constitution that formulate economic and social welfare (the welfare state).

Related to that, the presidential and vice-presidential terms of office extended into three periods do not guarantee welfare for Indonesians, as stipulated in the Preamble of the 1945 Constitution. It states, "Subsequent thereto, to form a government of the state of Indonesia which protect all the people of Indonesia and all the independence and the land that has been struggled for, and to improve public welfare, to educate the life of the nation and to participate toward the establishment of a world order based on freedom, perpetual peace and social justice; therefore, the independence of Indonesia is formulated into a constitution of the Republic of Indonesia which is built into a sovereign state based on a belief in the One and Only God, just and civilized humanity, the unity of Indonesia, and democratic life led by the wisdom of thoughts in deliberation amongst representatives of the people, and achieving social justice for all the people of Indonesia" (Preamble of the 1945 Constitution). Therefore, the nation's welfare can be realized if the president, as the state's leader, has implemented the constitutional guidelines of the 1945 Constitution.

Third, Mahfud MD expressed that legal politics is legal policy. Legal politics is the implementation of official policies on the law, which will be well implemented by forming new laws or changing old laws to reach the state's goals. Legal politics is required to formulate the direction of government policies directed at citizens. Through the formulation of governmental policies, legal renewal to legal politics is carried out in every country. In addition, legal policy or politics are legal regulations citizens must comply with. Legal politics or renewal are choices on the laws that will apply and regulations from laws that will be revoked or not enforced (Mahfud MD, 2020). Furthermore, legislation is crucial to regulating the life of the state. Thus, mechanisms for changing rules require legal renewal in legal politics. The government can involve the community to provide input on regulations considered no longer appropriate (Muhammad Aziz Zaelani et al., 2019). All this aims to reach the state's ideals.

Concerning Article 169, letter n, of the Republic of Indonesia's Law No. 7 of 2017 on General Elections and Article 7 of the 1945 Constitution, according to Huda, the articles in the 1945 Constitution state that the president has a very strong and great position and power (Huda, 2019). Consequently, the presidential term of office needs to be regulated to prevent the abuse of power. If not limited, there are concerns about creating an authoritarian state (Elsan, Yudhistira, 2020). There also need to be limitations on the presidential term of office so that there is no misuse of power and authority.

Thus, some political aspirants want the power in the presidential term of office to be limited so that there are checks and balances among the state's high institutions. The presidential system that some countries worldwide apply also regulates the presidential term of office. As such, the Constitutional Court Judge Decision No. 117/PUU-XX/2022 on the limitation of the presidential and vice-presidential terms of office is, according to the writers, already accurate and aligns with the 1945 Constitution, which limits the presidential term of office to only two periods.

If the Constitutional Court Judge grants the plaintiff's application, the People's Representative Assembly must amend Article 7 of the 1945 Constitution, which is certainly not easy. It requires academic analysis through more profound research, which is specially reviewed in various aspects. It also requires ample funds, and there are the state's and people's demands and deeds. On the other hand, in situations where presidents are deemed successful, two periods are considered suboptimal for continuing the ongoing programs. Therefore, political parties that nominate presidential candidates will certainly want the presidential term of office to be three years longer than the previous two periods. Nevertheless, if the term of office is three years, it does not always guarantee that the country will achieve welfare and justice. It might be that the extension of the presidential term of office may lead to misuse of authority and cause widespread corruption, collusion, and nepotism.

CONCLUSION

The Constitutional Justices' interpretation of Decision Number 117/PUU-XX/2022 considers grammatical, sociological, systematic, historical, comparative, and futuristic interpretations. In the transformation and renewal of law in Indonesia, the limitation on the term of office of the president and vice president aims to create a system of checks and balances between high state institutions. This limitation aligns with the 1945 Constitution.

REFERENCES

Book

- Amsari ferry. 2016. *Amendments to the 1945 Constitution: Amendments to the Constitution of the Unitary State of the Republic of Indonesia Through Constitutional Court Decisions*. Jakarta: RajaGrafindo Persada. Page 5.
- Astomo, Putera (2014). Formation of Laws in the Context of Reforming National Laws in the Era of Democracy. *Journal of the Constitution*, Volume 11, Number 3, September. [Http://urnalkonstitute.mkri.id/index.php/jk/article/view/1139](http://urnalkonstitute.mkri.id/index.php/jk/article/view/1139) Asshiddiqie, Jimmly. (2021). *Constitutional Law and the Pillars of Democracy*. Jakarta: Sinar Grafika.
- Badriyah, Siti Malikhatun. (2010). *Legal Findings in the Context of the Search for Justice*. First Print, Semarang: Diponegoro University Publishing Agency. p.45 Hoft, P. V. (2021). *Rechtsvinding/Legal Discovery*. Bandung: Laboratorium Hukum FH Universitas Parahyangan.
- J. Paul. 2010. *If It Quacks Like a Lame Duck, Can It Lead the Free World: The Case for Relaxing Presidential Term Limits*. *Conn. L. Rev.*, 43.
- Junaidi, V. (2022). *The Legal Politics of the Election System: A Portrait of Openness and Public Practice*. Jakarta: Yayasan Perludem.
- Lincoln, Abraham. (2018). *The Concept of Democracy*. Jakarta: Pustaka Ilmu.
- Lubis, M. Solly. (2020). *Politics and Law in the Reformation Era*. Bandung: Mandar Maju. Page. 24.
- Manan, Bagir (2001). *Constitutional Theory and Politics*. Jakarta: Directorate General of Higher Education Ministry of National Education.
- MD, Mahfud, (2020). *Building Legal Politics, Upholding the Constitution*. Jakarta: Raja Grafindo Persada.
- Mayo, Henry B. (2017) *An Introduction to Democratic Theory*. New York. Oxford University Press. 2017.
- Mertokusumo, S., and Pitlo, A. (2020). *Chapters on the Discovery of Laws*. Bandung: Citra Adiya Bakti.
- Mulyadi, Dedi. (2020). *Legislative Policy Concerning Criminal Sanctions for Legislative Elections in Indonesia in a Democratic Perspective*. Cianjur: Gramata.
- Wignjosebroto, S. (2018). *From Colonial Law to National Law*. Jakarta: Rajawali Press.

Journal

- Aliksan Rauf, Muhamad Aljebra. Hasyim Rado, Rudini. Measuring the Opportunity of the President's Term of Office for 3 Periods in the Legal Political Configuration. *Al-Adalah Journal: Journal of Islamic Law and Politics Vol. 7 No. 1, January 2022. Page 50*. Retrieved from [Https://jurnal.iain-bone.ac.id/index.php/aladalah/article/download/2054/pdf](https://jurnal.iain-bone.ac.id/index.php/aladalah/article/download/2054/pdf)
- Askarial. (2018). Interpretation or Interpretation as a Legal Discovery Method. *Science tower journal. Volume. 12. No. 2*. Retrieved from [Https://journal.unnes.ac.id/nju/index.php/pandecta/article/download/39857/13895](https://journal.unnes.ac.id/nju/index.php/pandecta/article/download/39857/13895)
- Astomo, Putera (2014). Formation of Laws in the Context of Reforming National Laws in the Era of Democracy. *Journal of the Constitution*, Volume 11, Number 3, September. [Http://urnalkonstitute.mkri.id/index.php/jk/article/view/1139](http://urnalkonstitute.mkri.id/index.php/jk/article/view/1139)
- Ayu Uswatun Khasanah, Dian Ratu. Lumbanraja, Anggita Doramia. (2020). *The Development of Legal Interpretation by Judges in Indonesia in the Domination of the Civil Law System*

- Tradition. *Journal of Ius Constituendum Volume 7 Number 2*. Retrieved from <https://journals.usm.ac.id/index.php/jic/article/view/4799>
- Aziz Zaelani, Muhammad. Ayu Rachmi Handayani, I Gusti Ketut. Isharyanto. (2019). Antinomi Diskresi dalam Bentuk Freies Ermessen untuk Penyelenggaraan Pemerintahan Berwawasan Pancasila. *Jurnal Jurisprudence Volume. 9. No. 1. 2019*. Retrieved from <https://journals.ums.ac.id/index.php/jurisprudence/article/view/8096/>
- Dewanto, Pandu. (2020). Reconstruction of Judges' Considerations on Decisions on Civil Disputes Based on Justice Values. *Journal of Ius Constituendum 5. No 2. 22 Oktober*. Retrieved from <https://journals.usm.ac.id/index.php/jic/article/download/2307/1725>
- Eko Purnomo, Chrisdianto (2010). The Effect of Restricting President's Power on Indonesian State Administration Practices. *Journal of the Constitution, Volume 7, Number 2, April*. Retrieved from <https://jurnalkonstitusi.mkri.id/index.php/jk/article/view/727> \
- Hapsoro Ismail, Fakhris Lutfianto. (2020). Interpretation of the Constitution in Testing Constitutionality to Realize the Living Constitution. *Journal of Jambura Law Reviewer. Volume 2 Issue 02*. Retrieved from <https://ejournal.ung.ac.id/index.php/jalrev/article/view/5644/0>
- Helmi, Muhammad. (2020). Legal Invention by Judges Based on Constructivism Paradigm. *Kanun Journal of Law Studies. 22. No. 1 April. 132*. Retrieved from <https://jurnal.usk.ac.id/kanun/article/view/14792>
- Gibson, James L. (2010). From Simplicity to Complexity: The Development of Theory in the Study of Judicial Behavior. *Journal Political Behavior, Judicial Behavior: Theory and Methodology. Volume 5. No. 1*. Retrieved From <https://www.semanticscholar.org/paper/Fromsimplicity-to-complexity:-The-development-of-Gibson/a4cc147a078e8d0c81320e96e7d232bb9bf9c62>
- Indah, C. M. (2019). Initiating Moral Ideals in Judge's Law Interpretation. *Legal Reflections: Journal of Legal Sciences. Volume 4. No. 1*. Retrieved from (<https://doi.org/10.24246/jrh.2019.v4.i1.p41-60>)
- Juita, Subaidah Ratna. Sihotang, Amri Panahatan. Supriyadi. (2020). Application of the Principles of Criminal Individualization in Tax Crime Cases. *Journal of Ius Constituendum 5. No. 2. October 19th. Jurnal Ius Constituendum 5, No. 2. 19 Oktober*. Retrieved from Journals. <https://usm.ac.id/index.php/jic/article/view/1938>
- Khalid, A. (2014). Legal Interpretation by Judges in the Indonesian Judicial System. *Journal Al'Adl. Volume. 6. No. 11*. Retrieved From <https://ojs.uniska-bjm.ac.id/index.php/aldli/article/view/196>
- Latansa, Qonita Dina. (2019). Constitutionality Limits of Term of Office of President and Vice President in Indonesia. *Jurist-Diction*. Retrieved From <https://doi.org/10.20473/jd.v2i2.14254>
- Miftah Farid, Achmad. Prasetyoningsih, Nanik. (2022). Legal Reasoning of the Constitutional Court Verdict Number 25/PUU-XX/2022 on the State Capital Law According to Social Justice Value. *Jurnal Jurisprudence. Volume. 12. No. 2. 2022* Retrieved from <https://journals2.ums.ac.id/index.php/jurisprudence/article/view/1285/488>
- Ulfa, Siti. (2020). Restrictions on President's Term of Office in Indonesia *Rechten Journal: Legal Research And Human Rights Volume. 2 No. 2* . Retrieved from journal.uinjkt.ac.id/index.php/citahukum/article/view/16504
- Pahlawan, Juang. Salama, Neneng. Ulfah, Siti. (2020). Restrictions on President's Term of

- Office in Indonesia. *Rechten Journal: Legal and Human Rights Research Volume. 2 No. 2*. Retrieved From <https://rechten.nusaputra.ac.id/article/view/23>
- Rishan, Idul. (2022). Doubting Impartiality: Constitutional Court Judges and Conflict of Interest. *Jurnal Jurisprudence. Volume. 12. No. 1*. <https://journals2.ums.ac.id/index.php/jurisprudence/article/view/1058/350>
- Saldi, Isra. (2016). Legislative and Executive Amendment Prospects and Challenges. Retrieved from *Journal Unisia. Volume 26. No. 49*. Retrieved From <https://doi.org/10.20885/unisia.vol26.iss49.art1>
- Sanden, Joachim (2013). Methods of Interpreting the Constitution; Estonia's Way in an Increasingly Integrated Europe". *Journal Juridica International*. <https://ejournal.ung.ac.id/index.php/jalrev/article/view/5644/0>
- Syugianto, Khaldun Riady Ibnu. (2020). The Issue of Three Periods of Presidential Term of Office in the View of Democracy Polinter. *Journal Political Science Study Program FISIP UTA'45 Jakarta Vol. 7 No. 2 September-February*. Retrieved from file:///C:/Users/user/Downloads/5433-13775-3-PB.pdf
- Yudhistira, Elsan. (2020). Restrictions on the President's Term of Office as an Effort to Avoid the Occurrence of Abuse of Power. *Al-Ishlah: Scientific Journal of Law. Volume 23. No. 2*. Retrieved from <https://doi.org/10.56087/aijih.v23i2.43>

Newspaper

- CNN Indonesia (2019, November 21). Wacana Amandemen UUD 45: Presiden Bisa Dijabat Tiga Periode (Discourse On The Amendment Of The 45 Constitution: The President Can Serve Three Periods). *CNN Indonesia*. Retrieved From <https://www.cnnindonesia.com/Nasional/20191121123217-32-450285/Wacana-Amandemen-Uud-45-Presiden-Bisa-Dijabat-Tiga-Periode>
- Farisa, F. C. (2022, April 4). It is Considered That the Discourse on the Presidential Position for 3 Periods Can Create Community Tensions. *Kompas*. Retrieved From <https://nasional.kompas.com/read/2022/04/04/06432761/wacana-jabatan-presiden-3-periode-dinilai-bisa-munculkan-ketegangan>.
- Marutho Bere, Sigiranus. (25 May 2023). (Dukung Jokowi 3 Periode, Warga NTT Deklarasi Komite Referendum Masa Jabatan Presiden). Support Jokowi for 3 Periods, NTT Residents Declaration of the Referendum Committee for the President's Term of Office. Access [www.Kompasonline.com](https://regional.kompas.com/read/2021/06/22/072206678/support-jokowi-3-period-warga-ntt-deklarasi-komite-referendum-tenure?page=all). <https://regional.kompas.com/read/2021/06/22/072206678/support-jokowi-3-period-warga-ntt-deklarasi-komite-referendum-tenure?page=all>

Legislation

Undang-Undang Dasar 1945

Law No. 7 of 2017 Concerning General Elections

The Republic of Indonesia's Constitutional Court. (2022). Putusan Hakim Mahkamah Konstitusi No. 117/PUU-XX/2022/2022 (Decision of the Constitutional Court Judge No. 117/PUU-XX/2022/2022). Retrieved from Indonesian Constitutional Court