

Juridical Analysis of Presidential Term Extension Through Constitutional Amendment

by Artikel 3

Submission date: 03-May-2024 01:18PM (UTC+0700)

Submission ID: 2369626051

File name: presidential_term_extension_through_constitutional_amandment.pdf (228.04K)

Word count: 5744

Character count: 30661

Juridical Analysis of Presidential Term Extension Through Constitutional Amendment

Rety Bella Octavya Zain¹, Catur Wido Haruni², Sholahuddin Al-Fatih^{3*}, Mohammad Al An'imat⁴
^{1,2,3}Faculty of Law, University of Muhammadiyah Malang, Indonesia
⁴University of Debrecen, Géza-Marton Doctoral School of Legal Studies, Hungary
*Corresponding: salfatih@umm.ac.id

Abstract

One of the content materials in constitutional amendment process is Article 7 of 1945 Republic of Indonesia Constitution concerning the President's term of office being limited to only two terms. During the era of President Joko Widodo's leadership, the issue of extending presidential term into three terms resurfaced. This study raises the main issues studied are, First, how is the legal politics of extending the President's term of office in terms of the Presidential Government System. Second, what is the urgency of President's term extension in terms of the Presidential System. This research is normative juridical research with legal materials. The approach method used is the statutory approach and the conceptual approach. This study uses a qualitative descriptive analysis technique. Based on the results of research and discussion, that First, legal politics in extending the presidential term of office, namely placing a place to filter leaders so they can advance in a direct democratic party has a logical consequence so that in a presidential system of government, the existence of political parties can certainly have an influence on support on every presidential policy taken. Second, the urgency of an extension of the term of office of President in terms of Presidential Government system, that there is no need to extend the term of office for three terms because it causes discontinuity regarding the terms of office of the President and Vice President in Indonesia in order to prevent authoritarianism. The advice from this paper is that the extension of the term of office of the President and Vice President is sufficient for 2 periods and there is no need for an extension of the term of office of the President for more than two consecutive terms, because it can lead to abuse of power.

Keywords: Extension; Term of Office; President; Constitution; Indonesia.

Abstrak

Salah satu materi muatan yang ada dalam proses Amendemen konstitusi yaitu Pasal 7 UUD Negara Republik Indonesia Tahun 1945 mengenai masa jabatan Presiden dibatasi dengan hanya dua kali periode. Pada era kepemimpinan presiden Joko Widodo isu memperpanjang masa jabatan presiden menjadi tiga periode kembali mencuat. Penelitian ini mengangkat pokok permasalahan yang dikaji adalah, *Pertama*, bagaimana politik hukum perpanjangan masa jabatan Presiden ditinjau dari Sistem Pemerintahan Presidensial. *Kedua*, apa urgensi Perpanjangan masa Jabatan Presiden ditinjau dari Sistem Presidensial. Penelitian ini merupakan penelitian yuridis normatif dengan jenis bahan hukum. Metode pendekatan yang digunakan adalah pendekatan undang-undang dan pendekatan konseptual. Penelitian ini menggunakan teknik analisis deskriptif kualitatif. Berdasarkan hasil dari penelitian dan pembahasan, bahwa *Pertama*, politik hukum di dalam perpanjangan masa jabatan presiden yaitu menempatkan bahwa wadah untuk menyaring pemimpin agar dapat maju dalam pesta demokrasi langsung memiliki konsekuensi logis agar dalam sistem pemerintahan presidensial, keberadaan partai

politik tentunya dapat memiliki pengaruh untuk dukungan terhadap setiap kebijakan presiden yang diambil. *Kedua*, urgensi Perpanjangan masa Jabatan Presiden ditinjau dari sistem Pemerintahan Presidensial bahwa adanya masa jabatan tiga periode tidak perlu diperpanjang karena menyebabkan ketidaksinambungan mengenai masa jabatan Presiden dan Wakil Presiden di Indonesia untuk dapat mencegah keotoriteran. Saran dari penulisan ini adalah perpanjangan masa jabatan Presiden dan Wakil Presiden sudah cukup menjadi 2 periode saja dan tidak perlu adanya perpanjangan masa jabatan Presiden lebih dari dua periode berturut-turut, karena dapat membawa kepada penyalahgunaan kekuasaan.

Keywords: Perpanjangan; Masa Jabatan; Presiden; Konstitusi; Indonesia.



This work is an open access article under the *Creative Commons Attribution-ShareAlike 4.0 Generic License*

A. INTRODUCTION

The Indonesian Constitution in the UUD of the Republic of Indonesia in 1945 contains a basic regulation in which there is a division of powers,^{1,2} which is in line with the theory written by Montesquieu which reads in the theory of *trias politica* is Legislative (Power in making laws), Executive (Power to implement laws) and, the judiciary (the power that is obliged to defend the law and has the right to give justice to its people) which are the three divisions of government power and sovereignty in the state.^{3,4}

The president and vice president in their leadership continuously have an effect in addition to hindering regeneration in management can also have opportunities that can be perverted. Opinion from HRT. Sri Soemantri⁵ in such a scope it is appropriate to the perspective that on the one hand the president and vice president have (given) authority, but on the other hand authority has a tendency that can be easily perverted if the authority is attached to the bridge. So, the Amendment to article 7 appears to be a force majeure. The current regulation (*ius constitutum*) is Article 7 of the Constitution of the Republic of Indonesia Year 1945 which stipulates "The President and Vice President may serve within a period of 5 years, and then re-election can be held for the same term of office in 1 term" but also does not deny the progressive idea of a presidential term in the future

Among the Indonesian people, there is an issue regarding the discourse of the term of office of the president and his deputy divided into three terms. In this idea can be proposed and

¹ Jovial Falah Parama and Sholahuddin Al-Fatih, "Kajian Yuridis Ambivalensi Pergeseran Independensi Komisi Pemberantasan Korupsi (Kpk) Ke Dalam Rumpun Lembaga Eksekutif," *Journal Komunitas Yustisia Universitas Pendidikan Ganesha Program Studi Ilmu Hukum* 4, no. 1 (2021): 57–65, <https://doi.org/10.23887/jatayu.v4i1.33024>.

² Ruhenda Ruhenda et al., "Tinjauan Trias Politika Terhadap Terbentuknya Sistem Politik Dan Pemerintahan Di Indonesia," *Journal of Governance and Social Policy* 1, no. 2 (December 8, 2020): 58–69, <https://doi.org/10.24815/gaspol.v1i2.18221>.

³ Ni'matul Huda dan Imam Nasef, *Penataan Demokrasi Dan Pemilu Di Indonesia Pasca Reformasi* (Jakarta: Kencana, 2017).

⁴ Indra Rahmatullah, "Rejuviasi Sistem Checks and Balances Dalam Sistem Ketatanegaraan Di Indonesia," *JURNAL CITA HUKUM* 1, no. 2 (December 2, 2013), <https://doi.org/10.15408/jch.v1i2.2992>.

⁵ Sri Sumantri, *Tentang Lembaga-Lembaga Negara Menurut UUD 1945*, Cetakan ke (Bandung: Citra Aditya Bakti, 1989).

can be rejected by anyone because it is a piece of democratic development so that it can become an aspired law because it often exists in the period of office which occupies two terms. Based on the researcher of the Indonesian Parliamentary Community Care Forum (FORMAPPI) Lucius Karus stated, the dynamic discourse for the time of office at the latest of the president is from 2 rounds to 3 rounds which was born at the end of the 6th presidential year of the Republic of Indonesia.⁶ Someone who used to be able to give opinions was Ruhut Sitompul who at that time was still serving as a Democratic cadre. In the era made by President Joko Widodo, the issue of expanding the extension of the presidential term to three terms once again raised, it was voiced by Amien Rais as the founder of the Ummat Party. This problem became so intense in society that it caused various weapons because until rarely there was no definite idea related to the period of serving President and Vice President with three rounds.⁷

Article No. 37 of the 1945 Constitution has stated that the way or procedure for changing the time of office of the president and vice president Article 26. Thus, the meaning contained in this case is not easy to do because basically the presidential term period must be in accordance with the needs of the nation and state. As in various countries, a presidential system is used which generally uses 2 periods but has a duration that can vary. And there are also four-year and five-year periods.

However, Indonesia according to article 7 of the 1945 Constitution that has been agreed is 5 years and for 2 periods. With the issue of the presidential term being three terms that always and continue to erode arises. Because of this, it underlies the author's desire to need to study more deeply, which in this case the author raises the title "Juridical Analysis of Presidential Term Extension Through Constitutional Changes" with the first problem formulation, how is the legal politics of Extension of the President period viewed from the Presidential Government System. And *second*, what is the urgency of extending the term of office of the President in terms of the Presidential Government system.

B. METHOD

Research methods will greatly affect the acquisition of legal materials in the research concerned so that they can be processed and developed optimally in accordance with scientific methods in order to achieve the formulated research objectives. According to Peter Mahmud Marzuki, legal research is a process to find legal rules, legal principles, and legal doctrines to answer the legal issues faced.⁸ The problem approach is the process of solving or solving problems through predetermined stages to achieve the objectives of research or writing. Based on the scope and identification of the problem as described, to comprehensively examine the subject matter, it will be traced using the type of normative juridical research (normative legal research), namely legal research that involves the analysis of applicable and relevant legal regulations towards the legal issue being studied.⁹ The approach methods used are the statutory

⁶ Reza Gunadha and Novian Ardiansyah, "Formappi Curiga Ada Peran Papol Di Balik Wacana Presiden 3 Periode," *Suara.com*, 2021.

⁷ Ardito Ramadhan, "Amien Rais Sebut Ada Skenario Jabatan Presiden Jadi 3 Periode," *Kompas.com*, 2021.

⁸ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2014).

⁹ Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Pemmasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (April 1, 2020): 20–33, <https://doi.org/10.14710/gk.2020.7504>.

approach (statute approach), concept approach (conceptual approach) and comparative approach (comparative approach).¹⁰

C. RESULTS AND DISCUSSIONS

1. Legal politics Extension of the Presidential term through the Presidential System

Legal Politics is a formal designator or boundary made for the basis for creating and implementing laws to achieve the goals of the state.^{11,12,13} It can also be referred to as a process of achieving state goals.¹⁴ In addition, legal politics is also an answer to doubts related to what law will be made on the official perspective of the state to achieve the purpose of the state.¹⁵ With this, legal politics contains 2 aspects that are interrelated, namely as the direction of the formation of laws or legal policies of state institutions in forming laws and at the same time is a tool to assess and investigate whether a law can be formed correctly or inappropriately through the composition of legal policy opinions in order to achieve a state goal.¹⁶

In the method of elections¹⁷ where it is directly held to decide the President and Vice President of Indonesia, Political Parties have placed election participants as stated in Article 6A paragraph (2) of the 1945 Indonesian Constitution which states "The pair of candidates for President and Vice President is proposed by a political party or a combination of political parties participating in the general election before the general election". In a democratic period where more than one party structure is used, political parties are also useful in order to sift stakeholders (close democratisation) so that they can be brought forward for immediate elections (*open democratisation*)¹⁸

The 1945 Constitution of the Republic of Indonesia explains where the position of head of state can only be carried out in 2 periods continuously with each period calculated with a period of 5 years. Where we already know that the Indonesian Constitution is not closed to changes because the regulations contained in Article 37 of the 1945 Constitution allow amendments if a reform opinion has been given at least one-third of the total MPR members, then the MPR convenes an assembly to amend the 1945 Constitution if filled with at least 2/3 of the MPR members and in order to provide decisions on amendments to provisions where contained in the Basic Law, then the MPR must be filled with at least 50% with the addition of one choice from all MPR people. MPR people include the DPR where in elections submitted by political parties in order to get a place to provide community representation and DPD comes from individuals. If the total MPR members for the 2019 to 2024 period include 575 DPR seats and 136 DPD seats.

¹⁰ Sholahuddin Al-Fatih and Ahmad Siboy, *Menulis Artikel Karya Ilmiah Hukum Di Jurnal Nasional Dan Internasional Bereputasi* (Malang: Inteligensia Media, 2021).

¹¹ Zainal Arifin Mochtar, "Antinomi Dalam Peraturan Perundang-Undangan Di Indonesia," *Hasanuddin Law Review* 1, no. 3 (December 2015): 316–36, <https://doi.org/10.20956/HALREV.V1I3.112>.

¹² Elfia Farida, "ARTI DAN RUANG LINGKUP POLITIK HUKUM DALAM TAKSONOMI ILMU," *QISTIE* 12, no. 1 (June 20, 2019), <https://doi.org/10.31942/jqi.v12i1.2708>.

¹³ Ichwan Ahnaz Alamudi and Ahmadi Hasan, "Politik Hukum Pembentukan Legislasi Bidang Ekonomi Syariah Di Indonesia," *JOURNAL OF ISLAMIC AND LAW STUDIES* 5, no. 1 (May 4, 2021), <https://doi.org/10.18592/jils.v5i1.4749>.

¹⁴ MD Mahfud, *Membangun Politik Hukum Menegakkan Konstitusi* (Jakarta: PT. Rajagrafindo Persada, 2012).

¹⁵ Zulfikar Zulfikar, "The Concept Of Islamic Law Thought Of Sayyid Sabiq In The Book Of Fiqh Sunnah (Analytical Study In Distinguishing Bid'ah And Ikhtilaf)," *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial* 8, no. 01 (May 2020), <https://doi.org/10.30868/AM.V8I01.2548>.

¹⁶ Nehru Asyikin, "Legal Politics of Bureaucratic Reform in Really Good Governance According to Prophetic Law," *Legality: Jurnal Ilmiah Hukum* 28, no. 1 (2020): 81–95, <https://doi.org/10.22219/ljih.v28i1.10393>.

¹⁷ Sholahuddin Al-fatih, "Electoral Regulation in Indonesia: Is It Modern Law?," *Unnes Law Journal* 6, no. 2 (2020): 205–16, <https://doi.org/10.15294/ulj.v6i2.41627>.

¹⁸ Janedjri, *Demokrasi Dan Pemilu Di Indonesia* (Jakarta: Konstitusi Press, 2013).

Legal politics in extending the presidential term of office places that the place to elect leaders in order to be ahead of the election immediately has a reasonable impact so that in the presidential system of government, the existence of political parties can have an effect in providing support for any presidential policy that is decided.¹⁹ In this scope, if you want a party for a state leader to serve for 3 terms, as previously reviewed, it is certainly not as baseless or unconstitutional, but in accordance with the path of the 1945 Constitution, namely the willingness to provide continuity in the period of President Jokowi's leadership within 3 periods can continue.²⁰

Behind the legal politics in the 1945 Constitutional Amendment, it will still return to the President himself whether he has the desire or willingness to be able to provide the continuation of state stakeholders, not to mention that until now President Jokowi has not explicitly shown no sign of not accepting such an agenda. As stated earlier by Soepomo where "... *What is very important in government and in the life of the State, is the spirit of the State organizers...*". Through this, it is fundamental to the will of the stakeholders of state who have been owned by the Head of State, hereby can automatically continue the term of office of the head of state for 3 terms or remain fixated on the existence of Article 7 of the 1945 Constitution at this time, which is only 2 periods.²¹

The limitation of the President's term of office to two leadership periods has several benefits, namely:

- a. Government stability can be maintained, the President is protected from the influence caused by changes in the political situation. for example, because the President and his cabinet lost the trust of the people and the people's representatives.
- b. Measurable and consistently planned development of the country without being distracted by political changes.
- c. Minimize power coups by the people (constitutional). Power that is not limited by a certain term of office can lead to a coup if it is felt that the power holder is not carrying out his duties properly. Unlike power that is limited by a certain time, power that is not limited by a certain time has no political responsibility to the people. So, the only way if it is discovered by the people that the ruler is not doing his job properly is to carry out a coup.
- d. Limiting the authoritarian behavior of a head of state. Because it departs from the absence of presidential term limits, the authoritarian attitude of the Head of State arises. Therefore, the limitation of the term of office of the Head of State has an impact on suppressing the authoritarian behavior of the Head of State.
- e. Closing the possibility of a Head of State to thirst for power and position.

The continuity of a government certainly cannot guarantee that it has welfare that can be realized. Seeing from the orba/new order period when President Soeharto served for a long period as president, the government increasingly saw the courage of its arbitrariness. In a very real case is the increasing practice of corruption, collusion and nepotism.²² In this case, it

¹⁹ Syahrul Ibad and Musdalifah Musdalifah, "Partai Politik: Tinjauan Strategi Dalam Meraih Dukungan Massa," *Publik (Jurnal Ilmu Administrasi)* 8, no. 2 (February 24, 2020): 89, <https://doi.org/10.31314/pjia.8.2.89-100.2019>.

²⁰ Riady Riady and Syugiarto Syugiarto, "Isu 3 Periode Masa Jabatan Presiden Dalam Sudut Pandang Demokrasi," *JURNAL POLINTER : KAJIAN POLITIK DAN HUBUNGAN INTERNASIONAL* 7, no. 2 (February 2022): 77–83, <https://doi.org/10.52447/POLINTER.V7I2.5433>.

²¹ Fiqih Cahya Pradana and Rosita Anggraini, "Analisis Fraaming Pemberitaan 'Jokowi 3 Periode' Dalam Portal Berita Online," *Inter Komunika: Jurnal Komunikasi* 7, no. 2 (April 2023): 52–68, <https://doi.org/10.33376/IK.V7I2.1915>.

²² Muhammad Awin Alaby, "MEMBUMIKAN NILAI PANCASILA PADA GENERASI BANGSA," *Gema Wiralodra* 10, no. 2 (November 2, 2019): 179–90, <https://doi.org/10.31943/gemawiralodra.v10i2.75>.

becomes a fear for the community if there really is another continuity of government. In a long tenure that has the potential to cause abuse of power,²³ because it is undeniable that later the head of state will always walk with those around him, both in official and unofficial circles.²⁴

Indirectly, because this can create massive oligarchic power, when the government is run by one circle, it can cause the emergence of government authority behavior. So, from this discourse, although the presidential term discourse is aimed at national development and development, it is feared that other discourses will cause permanence and power and can become political interests. For plans that are not implemented, it is better not to cause public concern and can cause negative impacts and fears of the community and can cause negative impacts and fears of the community because of the pros and cons of this discourse. The discourse on extending the president should also be agreed with the public and not violate the constitution.

2. The urgency of extending the term of office of the President is viewed from the system of Presidential Government

The regulation of presidential tenure as an effort to uphold the principle of constitutionalism, is a form of implementing the mandate of the constitution and constitutional ethics. The arrangement of presidential terms for / or enough two terms is not just restrictive. However, the spirit built during the 1945 Amendment of the Constitution was the desire to build a presidential power system that did not tend to *abuse of power*. The problem is the emergence of barriers and rejections related to the regulation of the term of office of the President as an effort to establish a basis in statehood. Since the era of president SBY to Jokowi, the discourse of increasing the presidential term has always been echoed. Of course, this is a violation of the constitution

The changing of the periodization period of the President and his Deputy in the provisions of Article 37 of the Constitution of the Republic of Indonesia Year 1945 has stated, namely:

Paragraph 1: "Proposals to amend the Articles of the Constitution may be scheduled in the session of the People's Consultative Assembly if submitted by at least 1/3 of the total members of the People's Consultative Assembly".

Paragraph 2: "Every proposal to amend the Articles of the Constitution shall be submitted in writing and clearly indicated the part proposed to be amended and the reasons."

Paragraph 3: "To amend the Articles of the Basic Law, the Session of the People's Consultative Assembly shall be held by at least 2/3 of the total members of the People's Consultative Assemblies".

Paragraph 4: "The decision to amend the Articles of the Constitution shall be made with the approval of at least fifty percent plus one member of the People's Consultative Assembly".

Paragraph 5: "Specifically related to the form of the Republic of Indonesia, amendments cannot be implemented".

Article 37 of the 1945 Constitution is the main foundation. Regarding legal issues and discourse, the term of office of the head of state and deputy head of state for three terms of office caused the birth of problems of groups that agreed and did not approve, but if correlated using the opportunities contained in the MPR which is a State Institution that makes changes to

²³ Cahya Maharani Cahya, "Konstitusionalisme Dalam Pembatasan Masa Jabatan Presiden," *Jurnal Rechten : Riset Hukum Dan Hak Asasi Manusia* 2, no. 1 (June 20, 2022): 14–20, <https://doi.org/10.52005/rechten.v2i1.53>.

²⁴ Juang Intan Pratiwi, Neneng Salama, and Siti Ulfah, "Pembatasan Masa Jabatan Presiden Di Indonesia," *Jurnal Rechten : Riset Hukum Dan Hak Asasi Manusia* 3, no. 1 (April 21, 2021): 18–26, <https://doi.org/10.52005/rechten.v3i1.23>.

the provisions in the provisions of article 7 of the 1945 Constitution related to the term of office of the President and his Deputy and complies with regulations where is contained in article 37 of the Constitution and the agreement of the community not to repeat the history of the past in this country, meaning that by regulation for the 2024 elections it is okay to be carried out

Because of the weakness in the Constitution, there was a constitutional change in 1945. One of the articles amended is the provision in article 7 of the 1945 Constitution. So, the provision was textually changed to "The President and Vice-President shall hold office for five years, and thereafter may be re-elected to the same office, for one term only." The changes to the Indonesian constitution also affect the rules limiting the term of office of the President. This influence can be seen from the comparison of presidential arrangements in the Indonesian constitution on the structure below:²⁵

Table 1. Presidential Period in The Indonesian Constitution

Constitution	Validity Time	Restriction Settings Presidential Term
1945 Constitution	Period I: August 18, 1945 – December 27 1949	There is an arrangement for the term of office of the President, which is contained in the provisions of article 7 of the 1945 Constitution which states that the President and his deputy state that the President and
	Period II: July 5, 1959 – October 19, 1999	His deputy Holds office for a period of 5 years, after which re-election can be made
RIS Constitution of 1949	December 27, 1949 – 17 August 1950	There are no regulations related to the term of office of the President.
1950 Constitution	August 17, 1950 – July 5, 1959	There are no regulations related to the term of office of the President

Deviation of authority in government, where there is authority that is fixed for one party or one institution only, causing abuse in the implementation of state governance activities. The head of state who holds authority as an executive has great authority.²⁶ This makes other state institutions unable to be of good use, because they are "co-opted" by executive authority. Legislative institutions where they should carry out checks or observations on executive authority,²⁷ but such observations cannot be carried out as they should, so that the head of state as the holder of executive authority can act according to his will. So that different state institutions seem to be sacrificed for their independence because of executive authority.

Although there have been many reforms, in order to achieve the goals of the new state constitutionally still requires various refinements in order to achieve a perfect government both in content and practically in state governance. Adnan Buyung Nasution also compiled the

²⁵ Bobi Aswandi and Kholis Roisah, "Negara Hukum Dan Demokrasi Pancasila Dalam Kaitannya Dengan Hak Asasi Manusia (HAM)," *Jurnal Pembangunan Hukum Indonesia* 1, no. 1 (January 29, 2019): 128, <https://doi.org/10.14710/jphi.v1i1.128-145>.

²⁶ Agustina Nurhayati, "Konsep Kekuasaan Kepala Negara Menurut Ketatanegaraan Islam," *Asas* 3, no. 2 (2011), <https://doi.org/10.24042/asas.v3i2.1657>.

²⁷ Yusuf Wibisono, "Penguatan Fungsi Pengawasan Dewan Perwakilan Daerah Dalam Rangka Proses Demokratisasi Di Tingkat Lokal," *Jurnal Ilmu Dan Budaya* 40, no. 56 (2018), <https://doi.org/10.47313/jib.v40i56.416>.

shortcomings through 2 types, including conceptual shortcomings and shortcomings in terms of legal construction.²⁸ Shortcomings from the conceptual side include the concept of nation which is positioned by the 1945 Constitution, which is an integralist picture of the nation, in addition to the shortcomings in terms of legal development is the convenience of the 1945 Constitution. With this simplicity, the implementation of the 1945 Constitution of the Republic of Indonesia which is further stated in the Law. This situation provides an opportunity for arbitrariness by regulators, as has happened to the Orba/New Order Government.

From the explanation above, the author disagrees regarding the extension of the term of office of the President because, it has been mentioned in the provisions of Article 7 of the 1945 Constitution which states that the term of office of a President and his deputy is five years and thereafter can be re-elected for a similar position. The extension of the term of office for someone to serve as President for more than two consecutive terms is a means that can lead to abuse of power. Preventing abuse of power is recommended. Seeing from the leadership of President Soeharto with no limit on the term of office of the President and the power of the Head of State where it was too long, and the absence of a *Check and Balance* system between state institutions, Suharto could serve for more than 30 years as President of the Republic of Indonesia. This makes the Indonesian government authoritarian. So, it can be concluded constitutionally that the term of office of the president and vice president should be bent or maximized can only occupy office for 2 terms

D. CONCLUSION

From the discussion above, it can be concluded that *first*, the legal politic in extending the presidential term of office, namely placing it as a place to screen leaders so that they can advance in democratic events directly has a logical effect so that in the presidential system of government the existence of political parties can definitely have an effect on support for each strategy of the head of state that is decided And *second*, The urgency of extending the term of office of the President is seen from the Presidential Government system that the existence of a 3-term presidential term is not needed because until now, the extension of the term of office for someone to serve as President from two consecutive terms is a suggestion that can bring abuse of power.

E. REFERENCE

- Al-fatih, Sholahuddin. "Electoral Regulation in Indonesia : Is It Modern Law ?" *Unnes Law Journal* 6, no. 2 (2020): 205–16. <https://doi.org/10.15294/ulj.v6i2.41627>.
- Al-Fatih, Sholahuddin, and Ahmad Siboy. *Menulis Artikel Karya Ilmiah Hukum Di Jurnal Nasional Dan Internasional Bereputasi*. Malang: Inteligencia Media, 2021.
- Alaby, Muhammad Awin. "MEMBUMIKAN NILAI PANCASILA PADA GENERASI BANGSA." *Gema Wiralodra* 10, no. 2 (November 2, 2019): 179–90. <https://doi.org/10.31943/gemawiralodra.v10i2.75>.
- Alamudi, Ichwan Ahnaz, and Ahmadi Hasan. "Politik Hukum Pembentukan Legislasi Bidang Ekonomi Syariah Di Indonesia." *JOURNAL OF ISLAMIC AND LAW STUDIES* 5, no. 1 (May 4, 2021). <https://doi.org/10.18592/jils.v5i1.4749>.
- Aswandi, Bobi, and Kholis Roisah. "Negara Hukum Dan Demokrasi Pancasila Dalam Kaitannya Dengan Hak Asasi Manusia (HAM)." *Jurnal Pembangunan Hukum Indonesia*

²⁸ Sunarso Sunarso, "MENGANGKAT KASUS POLITIK AKTUAL DALAM PEMBELAJARAN PENDIDIKAN KEWARGANEGARAAN," *HUMANIKA* 6, no. 1 (March 1, 2006), <https://doi.org/10.21831/hum.v6i1.3812>.

- 1, no. 1 (January 29, 2019): 128. <https://doi.org/10.14710/jphi.v1i1.128-145>.
- Asyikin, Nehru. "Legal Politics of Bureaucratic Reform in Really Good Governance According to Prophetical Law." *Legality : Jurnal Ilmiah Hukum* 28, no. 1 (2020): 81–95. <https://doi.org/10.22219/ljih.v28i1.10393>.
- Benuf, Kornelius, and Muhamad Azhar. "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer." *Gema Keadilan* 7, no. 1 (April 1, 2020): 20–33. <https://doi.org/10.14710/gk.2020.7504>.
- Cahya, Cahya Maharani. "Konstitusionalisme Dalam Pembatasan Masa Jabatan Presiden." *Jurnal Rechten : Riset Hukum Dan Hak Asasi Manusia* 2, no. 1 (June 20, 2022): 14–20. <https://doi.org/10.52005/rechten.v2i1.53>.
- Falah Parama, Jovial, and Sholahuddin Al-Fatih. "Kajian Yuridis Ambivalensi Pergeseran Independensi Komisi Pemberantasan Korupsi (Kpk) Ke Dalam Rumpun Lembaga Eksekutif." *Journal Komunitas Yustisia Universitas Pendidikan Ganesha Program Studi Ilmu Hukum* 4, no. 1 (2021): 57–65. <https://doi.org/10.23887/jatayu.v4i1.33024>.
- Farida, Elfia. "Arti Dan Ruang Lingkup Politik Hukum Dalam Taksonomi Ilmu." *QISTIE* 12, no. 1 (June 20, 2019). <https://doi.org/10.31942/jqi.v12i1.2708>.
- Gunadha, Reza, and Novian Ardiansyah. "Formappi Curiga Ada Peran Parpol Di Balik Wacana Presiden 3 Periode." *Suara.com*, 2021.
- Ibad, Syahrul, and Musdalifah Musdalifah. "Partai Politik: Tinjauan Strategi Dalam Meraih Dukungan Massa." *Publik (Jurnal Ilmu Administrasi)* 8, no. 2 (February 24, 2020): 89. <https://doi.org/10.31314/pjia.8.2.89-100.2019>.
- Janedjri. *Demokrasi Dan Pemilu Di Indonesia*. Jakarta: Konstitusi Press, 2013.
- Juang Intan Pratiwi, Neneng Salama, and Siti Ulfah. "Pembatasan Masa Jabatan Presiden Di Indonesia." *Jurnal Rechten : Riset Hukum Dan Hak Asasi Manusia* 3, no. 1 (April 21, 2021): 18–26. <https://doi.org/10.52005/rechten.v3i1.23>.
- Mahfud, MD. *Membangun Politik Hukum Menegakkan Konstitusi*. Jakarta: PT. Rajagrafindo Persada, 2012.
- Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana Prenada Media Group, 2014.
- Mochtar, Zainal Arifin. "Antinomi Dalam Peraturan Perundang-Undangan Di Indonesia." *Hasanuddin Law Review* 1, no. 3 (December 2015): 316–36. <https://doi.org/10.20956/HALREV.V1I3.112>.
- Ni'matul Huda dan Imam Nasef. *Penataan Demokrasi Dan Pemilu Di Indonesia Pasca Reformasi*. Jakarta: Kencana, 2017.
- Nurhayati, Agustina. "Konsep Kekuasaan Kepala Negara Menurut Ketatanegaraan Islam." *Asas* 3, no. 2 (2011). <https://doi.org/10.24042/asas.v3i2.1657>.
- Pradana, Fiqih Cahya, and Rosita Anggraini. "Analisis Framing Pemberitaan 'Jokowi 3 Periode' Dalam Portal Berita Online." *Inter Komunika: Jurnal Komunikasi* 7, no. 2 (April 2023): 52–68. <https://doi.org/10.33376/IK.V7I2.1915>.
- Rahmatullah, Indra. "Rejuvinasi Sistem Checks and Balances Dalam Sistem Ketatanegaraan Di Indonesia." *JURNAL CITA HUKUM* 1, no. 2 (December 2, 2013). <https://doi.org/10.15408/jch.v1i2.2992>.
- Ramadhan, Ardito. "Amien Rais Sebut Ada Skenario Jabatan Presiden Jadi 3 Periode." *Kompas.com*, 2021.
- Riady, Riady, and Syugiarto Syugiarto. "Isu 3 Periode Masa Jabatan Presiden Dalam Sudut Pandang Demokrasi." *JURNAL POLINTER : KAJIAN POLITIK DAN HUBUNGAN INTERNASIONAL* 7, no. 2 (February 2022): 77–83. <https://doi.org/10.52447/POLINTER.V7I2.5433>.
- Ruhenda, Ruhenda, Heldi Heldi, Hasan Mustapa, and Muhammad Andi Septiadi. "Tinjauan Trias Politika Terhadap Terbentuknya Sistem Politik Dan Pemerintahan Di Indonesia."

- Journal of Governance and Social Policy* 1, no. 2 (December 8, 2020): 58–69.
<https://doi.org/10.24815/gaspol.v1i2.18221>.
- Sari, Putri Kemala, Nila Trisna, and Phoenna Ath Thariq. “Analisis Yuridis Ketentuan Pasal 37 Undang-Undang Dasar 1945 Setelah Amandemen Tentang Prosedur Perubahan Undang-Undang Dasar Dalam Perspektif Demokrasi Konstitusional.” *Ius Civile: Refleksi Penegakan Hukum Dan Keadilan* 4, no. 2 (October 2020).
<https://doi.org/10.35308/JIC.V4I2.2694>.
- Sumantri, Sri. *Tentang Lembaga-Lembaga Negara Menurut UUD 1945*. Cetakan ke. Bandung: Citra Aditya Bakti, 1989.
- Sunarso, Sunarso. “MENGANGKAT KASUS POLITIK AKTUAL DALAM PEMBELAJARAN PENDIDIKAN KEWARGANEGARAAN.” *HUMANIKA* 6, no. 1 (March 1, 2006). <https://doi.org/10.21831/hum.v6i1.3812>.
- Wibisono, Yusuf. “Penguatan Fungsi Pengawasan Dewan Perwakilan Daerah Dalam Rangka Proses Demokratisasi Di Tingkat Lokal.” *Jurnal Ilmu Dan Budaya* 40, no. 56 (2018).
<https://doi.org/10.47313/jib.v40i56.416>.
- Zulfikar, Zulfikar. “The Concept Of Islamic Law Thought Of Sayyid Sabiq In The Book Of Fiqh Sunnah (Analytical Study In Distinguishing Bid’ah And Ikhtilaf).” *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial* 8, no. 01 (May 2020).
<https://doi.org/10.30868/AM.V8I01.2548>.

Juridical Analysis of Presidential Term Extension Through Constitutional Amendment

ORIGINALITY REPORT

8%

SIMILARITY INDEX

8%

INTERNET SOURCES

9%

PUBLICATIONS

1%

STUDENT PAPERS

PRIMARY SOURCES

- 1 Desi Fitriyani, Fitra Arsil, Winda Sari, Nurul Insi Syahrudin. "Masa Jabatan Presiden dan Wakil Presiden: Penambahan Pengaturan pada Keadaan Darurat dan Sirkulasi Periodisasi", *Ajudikasi : Jurnal Ilmu Hukum*, 2023
Publication 1%
- 2 jurnal.saburai.id
Internet Source 1%
- 3 voi.id
Internet Source 1%
- 4 Hendrik Salmon. "Construction of The Distribution of Government Authorities", *SASI*, 2023
Publication 1%
- 5 repository.radenintan.ac.id
Internet Source 1%
- 6 Elsan Yudhistira. "Pembatasan Masa Jabatan Presiden Sebagai Upaya Menghindari 1%

Terjadinya Abuse of Power", Al-Ishlah : Jurnal Ilmiah Hukum, 2020

Publication

7	ejurnal.ung.ac.id Internet Source	1 %
8	jurnalkonstitusi.mkri.id Internet Source	1 %
9	Alexandra Troitskaya. "Chapter 10-1 Limits of Constitutional Amendments: Russian Constitutional Court", Springer Science and Business Media LLC, 2021 Publication	1 %
10	discovery.researcher.life Internet Source	1 %
11	e-journal.iain-palangkaraya.ac.id Internet Source	1 %

Exclude quotes On

Exclude matches < 1%

Exclude bibliography On



Digital Receipt

This receipt acknowledges that Turnitin received your paper. Below you will find the receipt information regarding your submission.

The first page of your submissions is displayed below.

Submission author: Artikel 3
Assignment title: Sholahuddin Al Fatih 1
Submission title: Juridical Analysis of Presidential Term Extension Through Co...
File name: presidential_term_extension_through_constitutional_amand...
File size: 228.04K
Page count: 10
Word count: 5,744
Character count: 30,661
Submission date: 03-May-2024 01:18PM (UTC+0700)
Submission ID: 2369626051

E-ISSN: 2776-9674
ISSN : 2776-9259
ILREJ, Vol 3, No. 1, 2023

 INDONESIA LAW REFORM JOURNAL

Rety Bella Octavya Zain et. al.
Hal. 69-78

Juridical Analysis of Presidential Term Extension Through Constitutional Amendment

Rety Bella Octavya Zain¹, Catur Wido Harum², Sholahuddin Al-Fatih³, Mohammad Al An'imat⁴
^{1,2}Faculty of Law, University of Muhammadiyah Malang, Indonesia
³University of Debrecen, Géza-Marton Doctoral School of Legal Studies, Hungary
⁴Corresponding: saifuh@umm.ac.id

Abstract
One of the content materials in constitutional amendment process is Article 7 of 1945 Republic of Indonesia Constitution concerning the President's term of office being limited to only two terms. During the era of President Joko Widodo's leadership, the issue of extending presidential term into three terms resurfaced. This study raises the main issues studied are, First, how is the legal politics of extending the President's term of office in terms of the Presidential Government System. Second, what is the urgency of President's term extension in terms of the Presidential System. This research is normative juridical research with legal materials. The approach method used is the statutory approach and the conceptual approach. This study uses a qualitative descriptive analysis technique. Based on the results of research and discussion, that First, legal politics in extending the presidential term of office, namely placing a place to filter leaders so they can advance in a direct democratic party has a logical consequence so that in a presidential system of government, the existence of political parties can certainly have an influence on support on every presidential policy taken. Second, the urgency of an extension of the term of office of President in terms of Presidential Government system, that there is no need to extend the term of office for three terms because it causes discontinuity regarding the terms of office of the President and Vice President in Indonesia in order to prevent authoritarianism. The advice from this paper is that the extension of the term of office of the President and Vice President is sufficient for 2 periods and there is no need for an extension of the term of office of the President for more than two consecutive terms, because it can lead to abuse of power.

Keywords: Extension; Term of Office; President; Constitution; Indonesia.

Abstrak
Salah satu materi muatan yang ada dalam proses Amendemen konstitusi yaitu Pasal 7 UUD Negara Republik Indonesia Tahun 1945 mengenai masa jabatan Presiden dibatasi dengan hanya dua kali periode. Pada era kepemimpinan presiden Joko Widodo isu memperpanjang masa jabatan presiden menjadi tiga periode kembali mencuat. Penelitian ini mengangkat pokok permasalahan yang dikaji adalah, *Pertama*, bagaimana politik hukum perpanjangan masa jabatan Presiden ditinjau dari Sistem Pemerintahan Presidensial, *Kedua*, apa urgensi Perpanjangan masa Jabatan Presiden ditinjau dari Sistem Presidensial. Penelitian ini merupakan penelitian yuridis normatif dengan jenis bahan hukum. Metode pendekatan yang digunakan adalah pendekatan undang-undang dan pendekatan konseptual. Penelitian ini menggunakan teknik analisis deskriptif kualitatif. Berdasarkan hasil dari penelitian dan pembahasan, bahwa *Pertama*, politik hukum di dalam perpanjangan masa jabatan presiden yaitu menempatkan bahwa wadah untuk menyaring pemimpin agar dapat maju dalam pesta demokrasi langsung memiliki konsekuensi logis agar dalam sistem pemerintahan presidensial, keberadaan partai

Juridical Analysis of Presidential Term Extension Through Constitutional Amendment | 69