

LIMITING PRESIDENTIAL TERM OF OFFICE IN INDONESIA: A DEMOCRATIC PERSPECTIVE

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ABSTRACT. *Following the amendment of the 1945 Constitution, Indonesia became one of the countries that adopted presidential government system in which the president is directly elected by the people. The interesting thing that is still hitherto controversial is the limitation of presidential term of office for no more than two periods. Our review of various literatures illustrates that there is no standard exemplar to limit or not to limit the period that must be applied in a country that adheres to presidentialism. Furthermore, if it is associated with democracy, the limitation of presidential period will cause contradiction especially with president's accountability in which the president is directly elected by the people. Based on this, we conducted a study using qualitative method with historiography approach that aims at knowing how the periodisation of presidential term of office in Indonesia viewed from a democratic perspective. This article argues that the model of presidential period limitation for at maximum two periods must be carried out by adding the length of service to more than five years and requiring an interlude between the first and the second period. The modelling can anticipate the tendency of power abuse by incumbent while maintaining people's support for the legitimacy of the president.*

Keyword: *constitution; democracy; limiting power; periodisation; presidentialism.*

ABSTRAK. Pasca amandemen UUD 1945, Indonesia menjadi salah satu negara yang menganut sistem pemerintahan presidensial yang mana pengisian jabatan presiden dilakukan melalui pemilihan langsung oleh rakyat. Hal yang menarik yang hingga kini masih kontroversial dari amandemen tersebut adalah pembatasan kekuasaan presiden selama tidak lebih dari dua periode. Tinjauan terhadap berbagai literatur memberikan gambaran bahwa perlu atau tidaknya kekuasaan tersebut dibatasi berdasarkan periodisasi bukanlah suatu ketentuan baku yang harus diberlakukan dalam suatu negara yang menganut sistem pemerintahan presidensial. Di sisi lain, Jika dikaitkan dengan demokrasi adanya pembatasan kekuasaan presiden secara periodisasi akan menimbulkan pertentangan terutama dengan pertanggungjawaban politik presiden pada saat presiden dipilih langsung oleh rakyat. Berdasarkan hal tersebut, penulis melakukan kajian melalui metode kualitatif dengan pendekatan historiografi dengan tujuan untuk mengetahui bagaimana periodisasi kekuasaan presiden di Indonesia dilihat dari perspektif demokrasi. Artikel ini berargumen bahwa model pembatasan masa jabatan presiden selama dua periode harus dilakukan dengan catatan menambah tahun masa jabatan lebih dari lima tahun dan terdapat masa jeda jabatan antara periode pertama dengan periode kedua. Pemodelan tersebut dapat mengantisipasi kecenderungan penyalahgunaan kekuasaan oleh calon petahana sekaligus menjaga dukungan demos terhadap legitimasi presiden.

Kata kunci: konstitusi; demokrasi; pembatasan kekuasaan; periodisasi; presidensialisme.

INTRODUCTION

Since the fourth amendment of 1945 Constitution, many experts stated that the government system adopted by Indonesia was a pure presidentialism (Radjab in Ghoffar, 2009). One of the assumptions is based on the way that the presidential position is elected directly by the people. Before the amendment, the presidential position was elected by the People's Consultative Assembly (*Majelis Permusyawaratan Rakyat* or MPR) as the highest state institution. One of the authority held by MPR at that time was to elect president and vice president. Therefore, the government system in Indonesia was considered

to be not purely presidentialism (mixed). This way of election tended to represent parliamentary characteristics to which the president chosen by MPR must submit, obey and be responsible to the institution as it happened in parliamentary system.

Although at that time MPR had a strong position, in reality its power construction did not appear as such. During the Old and New Order, MPR was under the shadow of the president's power. During the Old Order, for example, the Provisional People's Consultative Assembly (*Majelis Permusyawaratan Rakyat Sementara* or MPRS) issued a Decree of MPRS No. III/MPRS/1963 regarding the appointment of President

Sukarno to be the Great Leader of Indonesia Revolution and it allowed him to become a lifelong President of Republic of Indonesia. Whereas during the New Order period, MPR was unable to create opportunity for (an) other presidential candidate besides President Suharto. The MPR's incapacity towards president both in the Old and the New Order was due to the strong power of the president, especially in determining the position of MPR members. MPR members became dependent on the will of the president and were unable to exercise their power optimally.

From the description above, we conclude that the political changes in electing presidential position which was originally by the MPR to be directly elected by people is not necessarily to realise the pure presidential government system in Indonesia. Substantially, these changes are based on the historical roots of Indonesian politics, both in the Old and the New Order, which in fact had constructed president's power to be stronger than that of MPR as the institution who inaugurated him.

Another interesting change stipulated in the amended 1945 Constitution is the limitation of presidential period of office through a periodisation of maximum two periods. Previously, the original 1945 Constitution did not explicitly state the period length of the president and only stated that the president was elected every five years and after that he could be re-elected for the same term of office. In practice, this provision was used by the New Order Regime to perpetuate its power for more than six periods (32 years) consecutively. The emergence of restrictions on the periodisation of presidential power into two periods in the amendment is considered a powerful mechanism to prevent the power to be held too long by someone who can potentially create a tyranny.

Although the provision was considered to be part of the presidential period limitation, we consider that limiting presidential period in Indonesia through periodisation was not based on the root of the problems that actually occurred in Indonesia. Many opinions state that the contents of the amendments were strongly influenced by the presidential government system of the United States. The presidential term of office which is limited to only two periods is similar to those applied in the government system in the US. In fact, if we compare the history of the

periodisation of presidential office in the US and Indonesia, there actually appear differences, both in history and background. The limitation of period in the US was initiated by a constitutional convention based on the refusal of the first President of the US, George Washington, to become president for the third time. The rejection was because he considered that government that lasted too long would give someone too much power. While in Indonesia, the period limitation is often associated with political trauma of the New Order regime. Another difference between the US and Indonesia is that the presidential election in the US is carried out directly by the people, while in Indonesia it was carried out by MPR.

Thus, when Indonesia now is implementing presidential election directly by the people, there is absolutely no relevance at all between the historical background and the issuance of provisions that the presidential office is limited to only two periods. The periodisation also tends to conflict with the democracy principle which gives freedom to people to determine political condition within the country. Even in the US, the application of this model has been a debate. President Harry Truman, Dwight Eisenhower and Ronald Reagan, for instance, argued that the maximum limitation of two periods of presidential position was contrary to people's freedom to choose the president they wanted (Indrayana, 2014).

In the context of Indonesian politics, there are some previous studies which are relevant to this research. A study conducted by Yudhistira (2020) entitled "Limitation of the Presidential Term as an Effort to Avoid Abuse of Power", for instance, uses a statutory approach, a historical approach and a conceptual approach. The background of his study begins with the possibility of the abuse of authority and the emergence of authoritarianism in all countries that recognize presidentialism. The result of the study shows that the 20 countries that adhere to the presidential system most widely use *the Only One Re-election* and/or *No Re-election* system. This because these systems are considered to be able to easily limit the presidential term of office and also can determine the fixed government so that the possibility to abuse power can be minimised. Meanwhile, the *No Immediate Re-election* and *No Limitation Election* system are

used by a country that allows its president to rule for a long time without any restrictions to run for president so that the possibility of abuse of power might occurs.

Another research that is also related to this research is a study conducted by Efriza (2016) that concludes that the theoretical assumption of Mainwaring and Piliang is proven in this study, by looking at the fact of the tension in the power relations between the President and the Indonesian Parliamentary (DPR), which is caused by a combination of presidential and multi-party system. Deadlocks or even hung parliamentary did not occur during Susilo Bambang Yudoyono (SBY)'s administration and Joko Widodo (Jokowi)'s administration, and even it could not be categorized as problematic because there was no conflict between the two institutions but only political tension caused by differences of opinion and due to the roles and the function of the DPR in supervising the executive. According to him, this can happen due to: 1) the style of governing of the President tends to be politically accommodative; 2) weak party institutions and tendencies to be pragmatic make political parties use nomadism as a political strategy, and it leads to the formation of power cartelisation; and 3) there is a mechanism for mutual consent and periodic consultation between the President and the DPR regarding the construction of the constitution and legislation which can break the deadlock.

Based on the above background, we can distinguish that this study does not only compare the construction of restrictions on presidential power in each country, but also examines how the ideal model of limiting power in the presidential government system in Indonesia is based on political and democratic developments in Indonesia, especially after the amended 1945 Constitution. In doing so, we seek to examine the periodisation on presidential office in Indonesia using historiography that is based on political history in Indonesia from a democratic perspective. The results of this study are also expected to be useful to add the reference of teaching materials and scientific research, especially in the subjects of constitution and democratic studies. Practically, this research is expected to be able to contribute specifically related to institutional development and democracy in Indonesia. This study was carried

out descriptively with the aim to find out the history of limiting presidential authority through periodisation of power in Indonesia, how it is put into practice, how it is viewed from a democratic perspective, and how the ideal model of power limitation in government system in Indonesia based on its development of democracy.

METHOD

We used qualitative approach in examining how the periodisation of presidential office in Indonesia by using historiography approach. The reason for using this approach is because this topic is a phenomenon which is not widely known and is considered to be a unique and specific case that occurred in the past. To obtain the required data, the research used descriptive-analysis method which is to describe complex social reality through simplification and classification by utilizing concepts that can explain a social phenomenon analytically (Vredenburg, 1983). In doing the field research, we used historiography method to deepen the case which happened in the past. Similar to study case method, the research focused on specific and unique case to obtain a more detail information and to understand the related general topic.

The data source was divided into two, which were primary and secondary data sources. Primary data was obtained directly and/or through interviews with informants while secondary data was a written source which is obtained from books, scientific magazines, archival data sources, and official documents captured through literature. The data was collected through as follows:

1. Literature study, which was done by searching for written sources, such as books, press reports, various opinions and analysis on them, and other documents related to the research phenomenon
2. In-depth interviews with informants who were able to provide extensive and in-depth information about the objects studied, especially the academics. Informants were selected according to the data needs without any number of restrictions as stated by Neuman (2015) that the adequacy of the data was achieved when sufficient data was collected so that there was saturation.

Interviews with informants were carried out using interview guideline that had been prepared in advance.

Data and information collected by various instruments will become raw data. Not all raw data were transferred to the research report, but rather they were selectively organised, sorted, managed and synthesised. So the data obtained in the field as “raw” material can be reduced and arranged more systematically so that the findings and the discussions are easier to control. To check data validity, we used triangulation whose technique uses other source outside the data for checking purposes or as a comparison to the data. Triangulation with sources means comparing and checking the degree of trust in information obtained through time and different tools in qualitative research (Maleong, 2006).

Constitution and Presidentialism

Both political scientists and constitutional law experts commonly agree that the classifications of constitution which are credible to determine a political system in a country can be divided into two systems, i.e., presidentialism and parliamentary. These classifications, nevertheless, are not only limited by the two mentioned systems, in many cases, there are also practices that combine and intersect between both of them, such as semi-presidentialism and semi-parliamentary. To discuss more deeply, in parliamentary system, the government has some central traits in which it has two executive institutions, which are the executive who runs and holds responsible for the governmental administration, and the executive who does not. The former is led by the cabinet or ministers, while the latter is led by the head of state, such as a king for a kingdom or a president for a republic. The accountability of the latter executive is held by the former executive. Thus, there are two concepts of the executive whereby ‘the real executive’ is the executive who runs and holds responsible for the governmental administration and ‘the nominal executive’ is the executive who does not.

Furthermore, in a parliamentary system, the cabinet or the ministers hold responsible to the head of the house, while the head of state does not. It means that the real executive can be impeached by the house. In practice, there are various systems of parliamentary, such as monarchy parliamentary

and republic parliamentary. There is also a parliamentary system in which its ministers are forbidden to be members of parliament like in Netherland. On the other hand, the British parliamentary system requires ministers as members of parliament (*ex-officio*). We can also find federal parliamentary system such as in India, Canada and Malaysia, and unitary parliamentary systems such as in Singapore and Italy.

Meanwhile, presidentialism system only uses an executive in which the function of head of government (chief executive) and head of state are hold by one hand and one person (single executive). The executive in presidentialism does not hold responsible to the house but to the people who has directly elected him or her through, for instance, electoral college in the US (Manan, 1999).

After the amendment of the 1945 Constitution, many scholars argue that Indonesia has applied a pure presidential system. One of them is Dasril Radjab (2005) who points out several reasons of the argument, which are:

- a. The president is a head and at the same time a head of government who leads and executes daily administration.
- b. The president and the vice president are directly elected by the people, thus they do not hold responsible to the house (parliament).
- c. The president and the house are institutionally equal so the president does not have an authority to dismiss the parliament.
- d. The president appoints and dismisses ministers.
- e. The president completes his or her duties and authorities for five years or in a certain fixed term which is regulated by the constitution.

As for the focus of this research, the regulations that limits the length of presidential office have been basically clear, both theoretically and normatively. A constitution determines that the power of a president depends on the people who elected him or her. A president’s authority is also limited by a fixed term regulated by the constitution (whether four years or five years). Moreover, commonly in the countries that apply pure presidentialism, their parliament can limits president’s authority by controlling the execution of government led by the president.

An interesting thing in presidentialism is that president’s authority is also limited by

a democratic system called 'periodisation' of presidential term of office. Similar to the US or in Indonesia, a president and a vice president can only take the office at maximum two periods and cannot be nominated and elected anymore. According to the theoretical debate on limiting presidential term of office, there is no credible argument stating that a presidential term of office in a presidential system must be limited, whether at maximum once or twice. Notwithstanding, if we look at the history of periodisation of presidential term of office, it can be tracked from the US' history when at the beginning it started from an unwritten convention.

There are some constitutional conventions in the US, such as the political party system and the mechanism of electing president and vice president through party's convention. In the 1787 Constitution of the US, president and vice president take office for four years, and there is no regulation about the limitation of term of office that a president can be re-elected. It was firstly initiated when George Washington, the first US President, refused his nomination for the third time to the office because it contradicted with the democratic government that he aspired. Since then, there were nobody from the next presidents who nominated himself for the third period. This unwritten habit made every US President limits their term of office at maximum twice consecutively. Nevertheless, this convention was trespassed by Franklin Delano Roosevelt who was elected four times sequentially (1932, 1936, 1940 and 1944). Since the convention was broken, the idea to regulate in write the limitation of presidential term of office emerged, which was stated in the Amendment XXII in 1951. In the amended constitution, presidential term of office is regulated at maximum two periods sequentially (Ruyanti, 2009). Through this amendment, it can be said that the efforts to limit presidential term of office was derived from a political convention, specifically in the US and did not necessarily become a central characteristic of presidentialism.

Critiques on Liberal Democracy and Efforts to Control the Elites

The main idea in limiting president's power is basically influenced by the emergence of critiques from democrats on the practice of liberal democracy and the fear of the emergence

of elites who cannot be controlled by the people (Good, 2003). This because in presidentialism, president's power is directly sourced from the people, whereby the parliament stands equally with the executive in functioning control. Legitimacy that is directly gained makes a president is always seen as a representation of power for the people, so he or she can take control and executes the governmental administrations. One of the most important critiques from democrats on the practice of liberal democracy is that how the presidential system, under the democratic regime, can regulate president's accountability who has a powerful legitimacy. If a presidential term of office is not limited, one could say, a person (or elites) can control and dominates a whole country, as Good puts in:

Three groups of 'insider' were highly advantaged: the very rich, who can finance their own costly campaigns; 'legacies' or 'inheritors', such as the sons or wives of presidents; and incumbents, who can exchange the power of their office for campaign contributions (2003: 156).

Therefore, in order to create a better accountability of a president, it needs efforts from the people to control the elites so the country will never be trapped by any authoritarian regime. This not to deny that in the political realm there will always be political elites who control resources, power or social class, but it is still necessary to create a government which can prevent an unfair relation that only advantages the elites and omitting the control of the people (Good, 2003). In the context of the US, hence, there is no special law in the constitution that gives privilege to president and vice president for having a lower accountability from the other citizens (Horowitz, 2001). Thus, models of constitution that enables the idea of periodisation and re-election can be an effective political instrument to examine public's consent and president's accountability at the same time.

The idea of limiting presidential term of office emerged as a critique of Juan Linz on presidentialism arose, in which, for him, the presidential system tends to be unstable compared to parliamentary system (Mainwaring & Shugart, 1997). One of the deficiencies of presidentialism, according to Linz, is that the fixed term owned by president is seen to be static and, hence, not

compatible with the nature of democracy that needs flexibility and accountability. Thus, in presidential system, the process of re-election is always negatively seen since it is prone to be abused by incumbent president who utilise his or her power within the fixed term. This can be proven in various young-democratic countries, where president has authority, the more the government has conflict potential.

Even though, Linz's critique on presidentialism was refuted by Mainwaring and Shugart (1997) who argue that presidential system which applies fixed term gives accountability higher than that of parliamentary system, since the voters can consider president's performance in a clear measure of time (fixed term), thus, in the perspective of participatory democracy, the people can evaluate the extent to which a government's success through the process of re-election: if he or she is eligible enough for re-election or not. Though there are some negative perspectives and pessimism on presidentialism, such as Linz's critique earlier, the process of re-election in presidential system can be seen as a control mechanism on the executive's accountability to the people.

Constitutional Dilemma in Democratic Perspective

Seen in the light of democratic point of view, limiting president's term of office can potentially cause some problems. Using the idea of 'general will' conceived by Rousseau, the amendment of the 1945 Constitution held by a few of political elites at the beginning of democratisation 1998 in Indonesia can be seen as an instrument in which, to some extent, contradicts with the will of people. For Rousseau, individuals should be involved directly in formulating law, including the constitution, whereby they themselves are bound and regulated. As he points out, 'the ruled should be the rulers' (in Held, 2006: 45). Given this theoretical framework, hence, constitution or law products should represent involvement and will of people generally. In Rousseau's concept it is called 'general will', which is conceived as general concept of common good (Rousseau, 1968). In understanding the concept of general will, it is necessary to note that this concept is incomparable with 'will of all'. The concept of general will is also uncomparable with aggregative mechanism in the electoral

system since it much more focuses on creating constitutions or law that is obtained through common consensus and common good (Rousseau, 1968).

In achieving 'general will', it is important to consider, what Rousseau calls, 'super-majority' in the people, which the justification of common good is gained in the majority with full agreement (Schwartzberg, 2008). If the constitution is no based on general will, the consensus does not have a strong legitimacy. *Vice versa*, if the constitution is based on general will, any result of an election can be seen compatible to the will of people. Therefore, it is important to analyse and examine, whether the members of MPR in 1999 who amended the 1945 Constitution, especially in Article 7 on limiting president's term of office was based on general will, and not only on political traumatism of political elites on the Old or New Order's authoritarianism.

RESULTS AND DISCUSSION

Polemic on the Revision of Article 7 in the First Amendment of the 1945 Constitution in 1999

Historically, efforts on limiting president's term of office through periodisation started by revising Article 7 in the first amendment of the 1945 Constitution in 1999. The revision on this article explicitly regulated president and vice president's term of office and limited it only a change to be re-elected. Based on the research in *Risalah Perubahan UUD 1945 MPR RI* (Minutes of Assembly on the Amendment of the 1945 Constitution held by the MPR Republic of Indonesia), especially on the Meeting of Ad Hoc Committee III *Badan Pekerja* MPR RI on 7th of October 1999, there are some reasons that caused the amendment on that article.

Firstly, the initiative began as one of the representative of the Love Nation Democracy Faction (*Fraksi-Demorkasi Kasih Bangsa* or F-PDKB), Gregorius Seto Harianto (*Risalah*, 1999a: 45), discussed that changes to Article 7 were mandated by the MPR Republic of Indonesia Decree XIII/ 1998 concerning the Limiting of President and Vice President's Term of Office. This argument further saw that the limitation of presidential power is a legal implication of the existence of the MPR Decree, and therefore the agenda needed to be included

in the substance of the first amendment to the Indonesian constitution.

Secondly, the limitation of the term of office of the president and vice president was also due to the views in the Ad Hoc Committee III meeting which considered that the 1945 Constitution was too heavy executive so that the constitution too gave the president almost absolute power and negated the role of other state institutions, in particular viewed in *trias politica* approach, namely parliament and the Supreme Court. The same thing was stated by Surya Darma Ali and Chodijah H. M. Soleh (*Risalah*, 1999a: 138) as representatives of the Unity and Development Faction (*Fraksi-Persatuan dan Pembangunan* or F-PPP) who stated that the 1945 Constitution (pre-amendment) had given absolute power to the president as the executor of power so it has twice given birth two dictator-authoritarian leaders (Sukarno and Suharto). The power of the president who was not limited by the pre-amended 1945 Constitution was proven to be easily deviated by the holders of power. For instance, the abuse of power occurred when the Presidential Decree Sukarno issued in 1959 which could dissolve *Konstituante* (the Constituent Assembly), implemented Guided Democracy and made Sukarno the President for life. Mischievous was also occurred in the New Order era when Soeharto was always elected President for 32 years even though procedurally and formally the general election had been implemented.

Third, the heavy executive view was also reinforced by the viewpoint of Patrialis Akbar (*Risalah*, 1999a: 72) of the Reformation Faction (*Fraksi Reformasi*) which stated that the presidential term limitation can be seen as a starting point for re-functioning and strengthening other state institutions in *trias politica* to check and balance and the mechanism of control and supervision of executive power. Considering the pre-amendment of the 1945 Constitution tended to strengthen the executive and weakened the legislature, the revision of Article 7 could limit the power of the president and strengthen the legislature in accordance with its main tasks and functions. Thus, the demand for democratisation and also the political dynamics that occurred in the people could be in line with the amendment agenda to create a truly democratic climate.

However, there were polemics and differing interpretations of the Decision of MPR XIII/ 1998 concerning the Limiting on the Term of Office of the President and Vice-President of the Republic of Indonesia, both in Ad Hoc Committee III meetings and in the Plenary and Lobby meetings of the Commission C of the MPR Republic of Indonesia, who had duty to discuss the amendment of the 1945 Constitution. The question that always arose in the meeting, especially from the Groups Faction (*Fraksi – Utusan Golongan* or F-UG), was whether the presidential period is limited by a maximum of one time election was counted consecutively or could be intermittent. In the discussion, there were at least two interpretations. On one hand, the president and vice president can be re-elected for one period either consecutively or intermittently and maximally only have power for two periods. Meaning that after each of them has exercised power for two periods then they cannot be chosen for the same position afterwards forever. However, on the other hand, the interpretation of the Decision of MPR XIII/ 1998 can be understood that the president and vice president can be re-elected a maximum of one period and allow for re-election with the condition that there is a minimum gap of one period. These two interpretations were expressed by representatives of the Golkar Party Faction (*Fraksi – Partai Golkar*), Slamet Effendy Yusuf, at the Ad Hoc Committee III meeting on 9th of October 1999.

The emergence of the second alternative interpretation of the Decision of MPR XIII/ 1998 gave rise to debate and polemics during the meeting at that time. Interesting things were conveyed by Amin Aryoso (*Risalah*, 1999b: 204) from the Indonesian Democratic Party of Struggle Faction (*Fraksi – Partai Demokrasi Indonesia Perjuangan* or FPDIP) which stated that the former president or former vice president who had been elected for two periods still had political rights to be elected as leaders. This is mainly considering the quality of the human resources they have and the conditions of post-reform Indonesia that are still in the development stage, so that they need stability. However, the re-election process without limitation (unlimited re-election) is still with the terms and conditions a minimum gap of one period.

However, the interpretations that tended to advocate for human rights issues and also the

demands of *demos* appeared to be very minor in the meeting with the presence of various negative responses from all factions. The democratisation approach was more influential in the first process of amending this constitution. This can be seen from the consistent opinion of the majority of the factions in MPR who stated that the Decision of MPR XIII/ 1998 had a clear interpretation that the president and vice president's term of office, in the name of democratisation, were limited with maximum re-election for one period, either consecutively or intermittently. As stated by Khofifah Indar Parawansa (*Risalah*, 1999b: 303), the representative of the National Awakening Faction (*Fraksi – Kebangkitan Bangsa* or F-KB), at the Ad Hoc Committee III meeting, the presidential period limitation of a maximum of two periods could guarantee future circulation of elite and appropriate with what democracy wants. Therefore, the post-amendment of the 1945 Constitution must be able to demitologise the president and vice president as ordinary and not sacred positions. This is in line with Hatta Mustofa's argument (*Risalah*, 1999c: 681) from the Golkar Party Faction (F-PG) that the presidential period limitation is in line with the wave of democratization and also avoids the historical tendency that unrestricted presidential power is based on political experience in Indonesia had tendency to torment the people.

The Practice of Limiting President's Power through Periodisation in Indonesia

Since the ratification of the first amendment of 1945 Constitution on 19th of October 1999, formally through the provisions stipulated in Article 7 of the 1945 Constitution, the president's power has been limited to only two term periods. This provision began to take effect since Abdurrahman Wahid (Gus Dur) served as president in Indonesia. Although the president's power was limited to only two periods, Gus Dur in his tenure never held the position of president for two periods, even before the first period of his power was over, since he was impeached by MPR and only had power in less than two years. Likewise with his successor Megawati Soekarnoputri who took office from 23rd of July 2001 to 20th of October 2004 did not arrive in two periods due to losing the presidential election in 2004. The practice of limiting president's power

through periodisation was only implemented during the reign of Susilo Bambang Yudhoyono (SBY) and Joko Widodo (Jokowi). SBY who came to power from 2004 to 2009 subsequently was re-elected in 2009 until 2014. SBY could not nominate again as President in 2014 because he had gone through a term of office for two periods as stipulated in the constitution. Meanwhile, Jokowi took the presidential office for the second period after he was re-elected in 2019 General Election.

Nevertheless, there was an interesting thing since the enactment of the periodisation of presidential power since the presidency of Gus Dur until Jokowi. Both Gus Dur and Megawati Soekarnoputri came to power through the mechanism of elections carried out by MPR. Whereas SBY and Jokowi were the President in power by being directly elected by the people. Both the election model carried out by MPR and directly by the people are in principle the same that the presidential power in Indonesia can only be in power for up to two periods. Even though the pattern was equally applied to the different presidential electing models, it is worth looking at the history of why the presidential position in Indonesia must be limited to two periods. It was explained earlier that the background of the changes made in Article 7 of the 1945 Constitution was based on a reflection of the presidential power that occurred during the authoritarian New Order. Suharto, who was elected by the MPR since 1967, had been in power for 32 years without being able to be controlled by other institutions including MPR itself. The length of Suharto's rule gave enough time to strengthen his power to become an authoritarian regime. This was greatly realised by MPR which made changes to Article 7 of the 1945 Constitution. Provisions stipulated in the constitution as referred in Article 7 constitute a limitation of the Presidential period as well as the power of MPR which at that time still had the power to elect and appoint the president. By determinating limitation during the two terms of office, it is practical that both the president and MPR can no longer be elected and elect a president who has been in power for two periods.

If we look at the history, after the third amendment of the Constitution, the pattern of electing the President is no longer chosen and appointed by MPR, but directly by the people

through the mechanism of election. The direct election of president at the same time confirms the model of the government system adopted by Indonesia, which is pure presidential. Direct presidential election also eliminates the power of MPR to elect the president. Direct presidential election is also always associated with the expansion of people's participation in determining political positions as a form of strengthening democratic political system. For instance, since 2004 this provision has begun to be carried out by direct presidential election which in that year SBY won. Furthermore, with the same mechanism in 2009, the presidential election was directly re-implemented and again SBY obtained the most votes defeating other candidates. Until two periods of his tenure SBY finally had to stop his position as president and could no longer run again as a presidential candidate.

Periodisation of President's Power in Indonesia Viewed from Democratic Perspective

As stated earlier, the presidential system does not require that the presidential term of office must be periodically limited. The differences in applying periodisation of presidential term in each country are more likely to be based on its historical background and political development. Some countries such as Indonesia and the Philippines use periodisation of power as a response to the existence of authoritarian regimes that have ruled the country. While the US limited the President's period of power due to convention that developed and passed down through generations into a political habit that was considered good.

Although it is not an absolute requirement in presidentialism, many experts argue that the provision of limiting president's power in Indonesia through periodisation as stipulated in the Constitution is an effort to ensure that power, especially the power of the president, does not run arbitrarily. Quoting the opinion of Bagir Manan, an Indonesian constitutional and state law expert, he said:

If we talk conceptually about this, there are the practices which are strongly related to the principle of limiting power. One function of the constitution is to limit the power. These restrictions can be of various forms, limitation of power, limitation of term of

office or restrictions with certain conditions such as full age and others.

Why do you need restrictions? This goes back to the adage of Montesquieu that power contains greedy nature so people will just be happy to be not replaced and that power has a tendency to be misused. If Lord Acton said that power has absolute power and before that [argued] by Montesquieu that besides power it contains greedy nature, experiences indicate that anyone in power wants to properly add his power so that he could not be controlled [and] therefore this limitation is a part of the control system (Interview, 2018).

An opinion that is almost the same were stated by Nandang Deliarnoor, an Indonesian state law expert, who said:

It is important to limit power because if there is no limit to that power... [as] it was described by Lord Acton, 'power tends to corrupt, absolute power corrupts absolutely', absolute power tends to be completely misused. So that is why the term is limited, whether it is the president, the Supreme Court, the chancellor, the dean should also be seen from the idea of limiting his or her authority. For example, [when] you make a law, you cannot execute and control it at the same time, it is like absolute monarchy era. Making a law, carrying out the law, it must be arbitrary. So, [this is] to keep the abuse from happening (Interview, 2018).

Seen from the two opinions above, we conclude that the constitutional effort to limit the power of the president periodically aims so that president's power within a presidential system is not carried out arbitrarily. Power is not static and experiences have showed that anyone in power wanted to properly add to his power so he or she cannot be controlled. In the case of Indonesia, before Article 7 of the 1945 Constitution was changed, the president who was not restricted periodically became an authoritarian ruler. On the other hand, when the president is now elected directly by the people, then in addition to the constitution, the people also have the power to determine the nomination of political positions including the position of president. People who has sovereignty has the right to determine who deserves to be president in Indonesia. If studied

further, as if there is a conflict between the constitution which regulates the periodisation of the president's power and the people's will (general will) in democracy. This is not just an assumption, as in the US which is considered established in using this pattern, there have been criticisms raised by several presidents who have ruled the maximum limit of two periods of presidential term and it is contrary to people's freedom to elect the president they want.

To find out how far the two contradictions are above, Bagir Manan believes that:

There is no conflict between the constitution and democracy, precisely this limitation provides an opportunity for the people to check the government, whether the government is still true or not. [Let] people's democracy [work] so that the people [enable to] check it. The general election provides an opportunity for the people to check or control. Like I said, the only way for people to show their sovereignty is during general elections. Why these restrictions do not conflict with democracy? Because democracy provides an opportunity for everyone to occupy the same position, only one person. So the limitation gives the opportunity to the people to control the performance of the president and the government in general (Interview, 2018).

Given that argument, the constitution has basically provided space for the people to be able to check and control the power of the president through general election. In addition, the constitution also provides an opportunity for everyone to be able to occupy political positions that are not monopolised by just one person or one group.

Constructing an Ideal Model of Periodisation in Indonesian Political System Responding to the Contemporary Development of Democratisation

It has been stated earlier that the existence of provisions in the constitution governing the periodisation of president's power does not conflict with democracy, so it should also be reviewed here the appropriate model of periodisation responding to the development of democracy in Indonesia. Looking at various models of periodisation in various countries that adhere to presidential government system,

we can find many references in determining this model. In the Philippines, South Korea and Paraguay, for instance, the president is only given the opportunity to serve for only one period. Indonesia and the US adhere to limitation on two periods. In Argentina and Brazil, the president can hold two periods, and then be re-elected for two periods after a grace period. Whereas in China, they recently remove the limitation of two-period presidential term so the president can be run by a person without limits.

Likewise in Indonesia, even though the constitution has stipulated that presidential term is limited to only maximum two periods, many discourses to change this pattern are also voiced by academics or practitioners. Professor of Politics at the Indonesian Defense University, Salim Said, for instance, suggests that the laws governing the term of office of the Indonesian president need to be changed by promoting the idea that every person is only permitted to become a president once (Viva.co.id, 2018). This idea stands on the reason that the incumbents participating in the election will no longer use the excess facilities they have. Another opinion expressed by AM. Hendropriyono (Beritasatu.com, 2018) who suggests that the president and vice president only serve one period, but his or her term of office was extended to eight years. The reason for the extension of the term of office is because, according to him, the effectiveness of the presidential position has only been running for four years, in which the last year of his or her period within the cheme of five years will be busy with elections. Another interesting opinion is conveyed by an Indonesian political scientist, Siti Zuhro (Okezone, 2018), who argues that the presidential term of office is very unlikely for more than two periods, as he or she should only serve in one period. Unless there is an interlude after one time period, the candidate can only advance for the second period. The incumbent factor which always tends to be stronger becomes the basis of that thinking.

If we highlight the various opinions above, it is very logical to consider that the presidential term of office in Indonesia is only limited to one period. The first reason is based on the existence of a conflict of interest between the incumbent and the organisers of the election, namely the General Election Commission (*Komisi Pemilihan Umum* or KPU). The conflict that has

been arising due to the political polarisation in 2019 General Election recently also shows that presidential candidates from the incumbent, in nominating for the second time, could cause potential conflicts with the emergence of accusations of abuse of power coming from the challenger. Secondly, the reason is also drawn on the argument that incumbent participating in the election no longer uses the excess facilities he or she has and there are not candidates who always tend to be stronger than other. In relation to the length of one presidential term, Bagir Manan said that:

[In] many countries, [the length of] five years are generally accepted, as one of the administrative systems, especially in the economic field. In order not to misunderstand, we have an economic system that is usually [planned in every] five years, because if it is less than five years, it is too short and [if it is] more than five years [it] is too long. As someone said that the 25-year development is too long... because that year he or she will certainly not become a president again. Because the plans are to be run by a president, the five-year planning and implementation of the five years is considered as something rational, [hence] less than five years is too short, [and] more than five years is too long (Interview, 30 November 2018).

Another opinion that might be taken into consideration is the opinion of Siti Zuhro earlier who imposes a period of time for one term of office. This opinion according to the author is more logical compared to extending the term of office. In addition to reducing the problems related to the incumbent, a person's right to remain a president is still open and it provides at the same time an alternative for the people to compare and elect the best president.

CONCLUSION

The periodisation of presidential term of office applies differently in several countries depending on their historical context and also socio-political relations. Different contexts give rise to modeling how accountability of the executive power is regulated. In Indonesia, in particular, the flow of liberal democratization that strengthened in 1998 and the political trauma forced constitutional

amendments, especially regarding the limitation of the presidential term, which in the previous order was not limited. However, this restriction still raises several interpretations and polemics regarding the possibility of re-election after two periods in office if there is an interlude by other president or vice president. The emergence of discourse on the re-nomination of Jusuf Kalla as a candidate of vice president in the 2019 Presidential Election which emerged in early 2018, for example, shows that Article 7 of the amended 1945 Constitution is still legally debated. Moreover, the limitation of the two periods that takes place now, in some ways, can reduce the performance of the president, especially in the second period where there is no more political 'incentive' for him to be re-elected. This is exacerbated by the potential abuse of power for potential incumbents in facing the second-term general elections, making it difficult for potential challengers to be able to keep up with incumbents.

Based on the findings of the research, the constitution must still function as a political instrument to limit the power of the state with its citizens, so that limitation on executive power, in this case the president, must still be done to avoid the practice of absolute power. Furthermore, these restrictions must certainly consider several things, especially in the context of the implementation. First, the limitation of the presidential term of office must still provide a space for public accountability in the form of re-election for incumbents, which can be seen as a means of punishment and appreciation from citizens for the performance of their president during the first period. However, secondly, this re-election must also consider the potential for deviation and abuse of power by incumbents so that it is necessary to bring up a model that does not allow a president to actively participate in general elections simultaneously. Therefore, constitutional restrictions must continue to consider the president's accountability and citizen satisfaction for the performance of the president while, at the same time, avoiding abuse of power conducted by incumbents in the election process for their second period.

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