

Legal Certainty on Impeachment of the President and/or Vice President Judging from the 1945 Constitution

H. Muhamad Rezky Pahlawan MP

Student from the Doctoral of Law at Jayabaya University

Corresponding Author : H. Muhamad Rezky Pahlawan MP

202202026107@pascajayabaya.ac.id

ARTICLE INFO

Keywords: Legal, Impeachment, President, Vice President, Judging.

Received : 04 September

Revised : 12 September

Accepted: 26 September

©2022 Pahlawan : This is an open-access article distributed under the terms of the [Creative Commons Atribusi 4.0 Internasional](https://creativecommons.org/licenses/by/4.0/).



ABSTRACT

A state official's removal from office requires well-defined terms about the official's legal standing. The President of Indonesia has a pivotal role in any presidential system as the country's Head of State and Head of Government. To clarify the process for the dismissal of the President and/or Vice President, Articles 7A, 7B, 7C, and Article 8 were added to the 1945 Constitution. The MPR will conduct the impeachment procedure by a vote. There will be a negative impression of the procedure for removing the President and/or Vice President as a result of this. Verdicts from the Criminal Court on alleged breaches of the Criminal Law need either the affirmation of the Constitutional Court's authority or the passage of time.

INTRODUCTION

As a republic, Indonesia is governed centrally. In a democratic republic, the rule of law underpins the people's possession and exercise of sovereignty. Therefore, the Republic of Indonesia is a legitimate state. There is a foundational provision on this topic in the Constitution of the Republic of Indonesia, Year 1945. Article 1: Originality and Self-Sufficiency.

Two words, "the government," make up the government system. A system, as defined by Carl J. Fredritch, is "a whole made up of parts that have functional, both between the parts and the functional relationship to the whole, so that that relationship creates a dependency between the parts that, consequently, if one part doesn't work properly, it will affect the functioning of the whole." Overall, the term "government" can be understood in two ways, the first being its wide connotation, and the second being its restricted sense: The term "government" refers to the activities of the state in general, including the provision of services, the enforcement of laws, the protection of citizens, the promotion of economic growth, and the improvement of living standards, as well as the protection of national interests. So, the legislative, executive, and judicial branches make up what we mean by "government" generally. The executive branch is the sole part of government that is considered when talking about government and government in the restricted sense. As a result, it is possible to see the concept of the government system in a narrower meaning, as the system of executive government execution (Triwulan, 2006).

Typically, discussions of government structures often focus on the interaction between the national (or central) executive and legislative branches, with reference to the organizational form and structure of states. Constitutional design at the national level, typically based on one of two primary models plus one mixed model: the parliamentary system, the presidential system, or a hybrid of the two. Two common forms of government are the parliamentary and the presidential. The president in a presidential system is also the head of state, whereas in a parliamentary system, parliament is the center of power. They come from diverse places and times, which means that they will run the government in different ways.

It's great that Indonesia has been a sovereign nation for nearly seventy years. All natural consequences in state traffic demand that not only the unwritten law applies, but the law written as a guide in ensuring certainty, benefit, and justice for all citizens of the Republic of Indonesia, which, as a *rechtsstaat*, is in contradiction to the notion of the state power (*machtsstaat*), and which is required to realize the principles of the state's "*rechtssidee*" (Putra, 2016).

As the country's chief executive, the president has considerable influence and power. The president's position on culpability is not supported by the Constitution of 1945. However, the explanation of the Constitution as it stood in 1945 before the amendment contains the rule of presidential accountability, as described below. MPR has decided to establish a President and Vice President position. The MPR is the supreme lawmaking body, and the president must implement its legislative mandates in conformity with the GBHN. When the MPR appoints a President, that person assumes executive power and reports

back to the MPR. The president has all the authority and obligation to administer the government of the country (Bangun, 2020).

Before the 1945 Constitution was changed, Under the Mandate of the People's Consultative Assembly, the President had the dual role of head of state and top government administrator. Position of Institutional Work Procedures of the Highest State with/between High State Institutions, MPR Decree No. III/MPR/1978, Article 5. Refer to the Third Minimum Price Report of 1978 (MPR III) for the following:

- a) The President is responsible for carrying out the State policy established by the Constitution or the People's Consultative Assembly, and he must answer to the MPR for his actions both during and after his time in office.
- b) The president must answer for his actions in carrying out the State Policy as established the Constitution or the legislature before any court of law that has been formed for that purpose.

The MPR RI's rules and regulations were codified in Article 98 of the MPR Decree No. II/MPR/2000:

- a. The President's Accountability is Communicated at the Closing of the Membership of the MPR and the Special Session of the MPR Called for That Purpose.
- b) The Accountability of the President is Assessed by the MPR and the Assessment in the Form of an MPR Decree which contains Acceptance or Rejection of the Responsibility in Question.
- c) The president is ineligible for reelection in the next term if his or her accountability is rejected by the People's Consultative Assembly..
- d) During an MPR special session, the President has the opportunity to respond if his accountability is denied. The MPR may reject the response even if it is the correct one.

Decrees No. III/MPR/1978 and No. II/MPR/2000 of the MPR are null and void as of the date of the revision to the Constitution of 1945. The presidential and vice presidential responsibility structures were not located in the Constitution after its 1945 amendment. Presidents are no longer answerable to the MPR or seen as subservient thanks to a change made to the Constitution in 1945. During the President's tenure in office, the MPR cannot remove him from office due to a lack of confidence or for political grounds. By amending Articles 7A and 7B of the Constitution in 1945, the President may now be removed from office only by impeachment.

Most people think of an impeachment (indictment) as an allegation rather than a formal process. The Congress or any relevant legislative body has the authority and duty to impeach the President. Impeachment, in reality, is a risk that can be imposed on any participant in a constitutional system. At least dating back to Sukarno, Indonesia's first president, the impeachment procedure has been used to remove sitting presidents from office. With regards to the political ramifications of the PKI revolt that broke out on September 30, 1965. Finally,

President Soekarno passed the baton. General Suharto was his rank (Widya, 2022).

Preceding the conclusion of his time in office, President Abdurrahman Wahid was removed from office through the impeachment procedure in Indonesia the next year. This removal was solely due to liability that did not hold. The 20-month presidency of Abdurrahman Wahid was cut short after the country was rocked by the Bulog scandal, also known as Buloggate I, and later by two more memos from the DPR. The impeachment procedure is a complex interplay of legal and political procedures. Furthermore, this has never happened before in the history of any country, let alone a democracy like the United States, where the President has been impeached. Therefore, the Indonesian Constitutional Law System should have the highest hopes for research that integrates insights from a variety of academic fields, not only law. The preceding sets the stage for the author's planned discussion of the provisions of the 1945 Constitution of the Republic of Indonesia pertaining to the removal of the President and/or Vice President after a change in leadership.

THEORETICAL REVIEW

The Meaning of Impeachment

The president is subject to impeachment, which may lead to his removal from office. Indictment is the Indonesian version of the word "impeachment," which means "accusation" or "charge" in English. Assault No. 1 The British government first instituted the practice near the end of the fourteenth century; the United States Constitution formally recognized the practice in 1787. Few individuals in Indonesia are familiar with Impeachment at this point. Although the term Impeachment refers to the removal of a president through the impeachment process, there are still some who use it incorrectly. The term's connotation, however, is synonymous with impeachment or dismissal of the president included in the United States Constitution of 1945 (Pike, 2011).

Criminal justice against public officials before the senate, which is authorized to have carried out the indictment by issuing a "indictment letter," as described Impeachment is defined by Black's Law Dictionary as "a criminal action against a public official, before a quasi political court, launched by a written allegation termed articles of Impeachment." As the preceding discussion shows, "Impeachment" does not mean the physical removal of the president from office., but rather to an indictment against that person for breaking the norms and performing a heinous conduct worthy of removal from the presidency (Mahkamah Konstitusi Republik Indonesia, 2022).

As opposed to a regular court trial, an impeachment trial is a political trial, and as such, the punishments of detention and incarceration cannot be upheld. In cases where a public person (the president in this case) is shown to have made a mistake or to have violated the constitution, the trial (impeachment) is a check and balance possessed by the legislature. It's not always possible to remove a public figure through the impeachment process since accountability plays a crucial role in deciding whether or not an official can be removed from office. That is, senators and legislators are required to show up and play by the rules. Whether the

president or other public authorities can be removed depends on the decision of senators or parliamentarians (Mahkamah Konstitusi Republik Indonesia, 2022).

Impeachment Legal Basis

Article 24 c (2) of the Constitution of 1945 stipulates that if the House of Representatives issues an opinion that the President or Vice President has violated the Constitution, the Constitutional Court must issue a ruling on the matter.

Section 7A.

On the recommendation of the House of Representatives, the People's Consultative Assembly may remove the President or Vice President from office if they are found guilty of high treason against the state, corruption, bribery, or other major offenses during their tenure in office.

Section 7B.

- 1) Anyone has the right to call for the resignation of the President and/or the Vice President. If the Constitutional Court agrees with the House of Representatives that the President or Vice President has not committed betrayal of the state, corruption, bribery, major crimes against others, or shameful behavior, then that official will continue in office until the Court determines otherwise. The majority opinion in the House of Representatives is that the President and/or Vice President should be elected.
- 2) As part of its oversight responsibilities, the House of Representatives may look into whether the President has breached the law or is no longer fit to hold office. A request to the Supreme Court by the House of Representatives.
- 3) To amend the Constitution, a majority vote in a plenary session attended by at least two-thirds of the full number of Representatives is required.
- 4) The Constitutional Court must investigate, try, and issue a decision that is as fair as possible in light of the House of Representatives' ruling no later than ninety days after the House of Representatives submits a request. A majority of justices on the Constitutional Court sided with the people.
- 5) If the Constitutional Court rules that the President or Vice President has committed a crime, such as betrayal of the state, corruption, bribery, serious crimes against others, or a disgraceful act, the House of Representatives shall hold a session plenary to continue the proposal for the dismissal of the President and/or The Vice President.
- 6) The People's Consultative Assembly must meet no later than 320 days after receiving the House's proposal in order to make a judgment on it.
- 7) At least two-thirds of the People's Consultative Assembly's members must be present at a plenary meeting for any action to be taken against the President and/or Vice President after they have been given the opportunity to explain their position during that meeting, per Article 7 of the People's Consultative Assembly's ruling on the dismissal request.

By way of the Constitutional Amendment of 1945, the impeachment procedure is divided into two parts: The procedures for impeachment of a sitting president and/or vice president a. (Article 7A of the 1945 Constitution). How the President and/or Vice President may be removed from office (Article 7B of the 1945 Constitution) throughout their periods in office. According to a literal interpretation, this clause allows for the removal of either the President or the Vice President. Although they ran as a ticket in the same election (in accordance with Article 6A of the 1945 Constitution), any one or both of them may be removed from office if the need arises. The DPR is the entity that must officially initiate the termination process (impeachment). The DPR has to be detailed if it is to be used as justification for dismissing the President and/or Vice President.

Betrayal of the nation; corruption and bribery; other significant crimes are all listed as non-political reasons for dismissing the President or Vice President from office in the Constitution of 1945. Reasons for dismissal are specified in Article 10, paragraph 3 of Law No. 24/2003 about the Constitutional Court. There has been a d. shameful act and e. proven lack of suitability for President and/or Deputy President. Crime of corruption and bribery are specified by the Law, and any other serious crime is one that carries a penalty of prison of 5 (five) years or more. The Act defines treason as a crime affecting state security. Disgraceful behavior is any activity that lowers a person's status. Article 6 of the Constitution makes it clear that a person who has previously been qualified to serve as President or Vice President may no longer do so.

Impeachment Judgment and Process for Replacing the President

At least twice in Indonesia's history, the Vice President has taken over as President. To begin, Vice President BJ Habibie succeeded President Soeharto after the latter resigned on May 21, 1998. Second, Megawati Soekarnoputri became president in 2001 after her predecessor, Abdurrahman Wahid, was ousted from office by the MPR. The Supreme Court Chief Justice administered President BJ Habibie's oath of office in front of DPR officials. The MPR's Special Session had ordered President Abdurrahman Wahid to resign, therefore his following public presence constituted a gross defiance of official policy. Constitutional law scholars and experts have been debating this phenomena for some time. In removing KH Abdurrahman Wahid from office and invalidating MPR Decree Number VII/MPR/1999, Indonesia's highest court has effectively ended his presidency. The Court rules that severe violations of state direction occurred when the President refused to offer responsibility before issuing the Decree on July 23, 2001, and at the 2001 Special Assembly of the People's Consultative Assembly.

There was no session mechanism involved in BJ Habibie's sudden elevation to the presidency of Indonesia. The Special Session of the MPR issued an order dismissing President Abdurrahman Wahid from office. For a long period, this issue had sparked debate among constitutional law experts. On the same aircraft that President John F. Kennedy was assassinated on, Vice President Lyndon Johnson took the oath of office. After President Soeharto resigned on May 21, 1998, Deputy President BJ Habibie was quickly inaugurated in as President of the Republic of Indonesia. Any previous president who commits a crime while in

office may face criminal charges. In 2001, President Abdurrahman Wahid of Indonesia was impeached by the People's Consultative Assembly for failing to shoulder his responsibilities. In many countries, the vacancy of the Presidency is a phenomenon of state management, and this is especially true of those with a presidential form of government. In the event of the permanent incapacitation of both the President and the Vice President, it will take time, and not lightning speed, to find and install their replacements. When an ex-President or ex-Vice President commits a crime while in office, they may face criminal prosecution. The rationale behind this is to shield Indonesia's political and security systems from external interference. Former President Soekarno was never considered a suspect, accused, or defendant until after his death.

After his blood pressure soared to hazardous levels in 1999, Suharto skipped court for the first time. After that, ex-President Suharto allegedly ignored requests for his presence at the Attorney General's Office. He was released from the Prosecutor's custody after an independent medical panel determined that he was too ill to be shown to Court. The prosecution may have tried to have the Supreme Court to reverse the ruling, but it appears that Suharto will not face formal charges again. The procedure to remove President Abdurrahman Wahid from office began on February 1, 2001, when the DPR issued Decree Number: 33/DPR RI/III/2000-2001, owing to significant allegations of committing a crime (corruption) with the Bulog Yanatera money, with aid from the Sultan of Brunei. Abdurrahman Wahid, the president of Indonesia, was removed from office when he was found to have disobeyed the constitution (UUD 1945) and, more specifically, the state's stated policy. The investigation into the accusations against him is complete, but the judge has yet to hand down sentences in the corruption case.

In this regard, the United States Constitution is superior. The writer cannot fathom how the sentence will be legally implemented against him, without his agreement, unless it is explicitly written in the terms of the Constitution, which must explain the criminal offenses against the President who has committed crimes. The Senate's sole authority under the latter provision is to remove the political tribunal. In addition, once the President is no longer in office, he will be tried in a legal court and held to the same standards as any other citizen.

METHODOLOGY

One of the issues that will be examined is the methodology used in this study. The approach used in this study is the primary means by which the formulated problem and research objectives can be advanced to the level of scientific inquiry. The library research here is normative in nature (Library Search). A look at how the law has dealt with the issue of impeaching the president and/or vice president.

RESULTS

Legal Certainty on Impeachment of the President and/or Vice President Judging from the 1945 Constitution

By 1995, the Republic of Indonesia had become a more fully developed, rule-of-law-based democracy, as seen by the addition of Articles 7A, 7B, 7C, and 8 to its Constitution as part of its third amendment (3). It is not up for debate that the President and/or Vice President may be "dismissed" and "replaced." There are parallel attempts being made to guarantee that the President and/or Vice President will have legal certainty. What we mean when we say "impeachment" or "impeachment" is the same thing as when we say "dismissal" or "impeachment."

To begin, the word "termination" is used throughout the Republic of Indonesia's 1945 Constitution. Termination, in terms of its etymology, derives from the word "stop," which is modified by adding various affixes (affix), first in the form of a prefix: "pe" and "pem," and then by adding the suffix "suffix an," which signifies an attempt to direct someone not to do anything to another person. A "stopping" interpretation, on the other hand, can originate either from within the "autonomous" personal self or as a result of compulsion from outside the "autonomous" personal self. Within the Republic of Indonesia's 1945 Constitution, the term "stop" appears thirteen (13) times; at least eight (8) of these references are directed toward the President and/or Vice President. As a result, Article 8(1) and Article 8(2) of the 1945 Constitution of the Republic of Indonesia were amended and added on 9 November 2001 and 10 August 2002, respectively, to reflect changes to the People's Consultative Assembly and the powers of the state government (2). Figure 1 depicts this to show how it works.

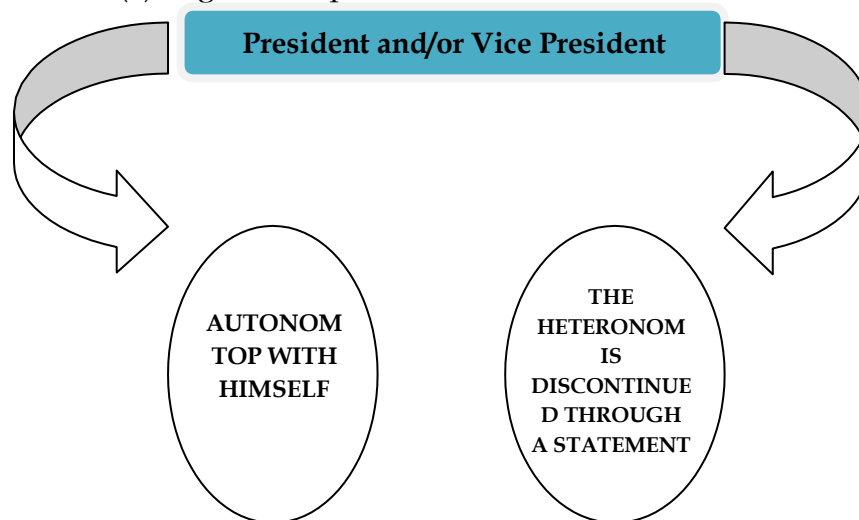


Figure 1. Autonom and Heteronom President and/ or Vice President

The Constitutional Court of the Republic of Indonesia must examine, adjudicate, and decide the viewpoint (impeachment) of the House of Representatives in order to remove the President and/or Vice President from office during his term in office (based on the a minimum of 2/3 of the members

of the HoR who were prevalent in the plenary session participated by at least 2/3 of the total members of the HoR).

To a lawyer's eye, it may seem to violate the concept of *nebis in idem* when a person is being tried in two (2) different courts for the same subject matter. Because of the principle of separation of powers, which is more explicitly emphasized in Chapter IX Judicial Power of the 1945 Constitution of the Republic of Indonesia, Article 24, Article 24A, Article 24B, Article 24C, and Article 25 all make clear that the Corruption Court and the Constitutional Court have different roles to play. The mission of the Corruption Court is to safeguard "good governance," defined as a system of government free from corrupt activities including bribery, collusion, and favoritism, by criminal prosecution and punishment. Meanwhile, the Constitutional Court's job is to protect the Constitution from being tampered with in any way. The results may be shown in Table 1.

Table 1. Impact of the Legal Process on the President and/or Vice President

Number	Justice Criminal	Jurisdiction Constitution	Impact
1.	Declaring valid and convincing the President and/or Deputy The president committed a crime	Declaring valid and convincing the President and/or Vice President commit a crime	The President and/or Vice President shall be punished and potentially dismissed
2.	Declaring legal and convincing the President and/or Vice President to commit a crime	Declaring that it is not legally proven and convincing the President and/or Vice President to commit a crime	The President and/or Vice President shall be punished and not dismissed
3.	Declaring that it is not legally proven and convincing the President and/or The Vice President takes action criminal	Declaring that it is legal and convincing the President and/or Vice President to commit a crime	The President and/or Vice President are not sentenced and have the potential to be dismissed
4.	Declaring that it is not legally proven and convincing the President and/or The Vice President takes action criminal	Declaring that it is not legally proven and convincing the President and/or Vice President to commit a crime	The President and/or Vice President are not convicted and have no potential to be dismissed

The term "Impeachment" is not as popular in everyday conversation as it is in scholarly circles. According to Hamdan Zoelva, during the 1999-2002 (four

times), some people have proposed that the term "impeachment" be used in lieu of the phrase "dismissal" in Articles 7A and 7B of the 1945 Constitution of the Republic of Indonesia. This, however, was shot down on the grounds that the term was not commonly used in either academic or legal contexts. This may also affect the necessity of revising the provisions connected to the usage of the word "stop" (inconsistency in the use of statutory legal language) (Zoelva, 2014).

Academics are more likely to use the term "impeachment" because it more accurately conveys the concept. According to Hamdan Zoelva, "impeachment" has a more precise connotation than "dismissal" does in both the legal and intellectual spheres. The word "azala," from which "impeachment" is derived, can indicate either "to isolate, put apart, separate, and seclude" or "to dismiss, discharge, recall, and remove" (from office). That's why we have impeachment proceedings: to get rid of a president who has done something to warrant his ouster from office (Zoelva, 2014).

Martin Basiang of the Law Dictionary states that the word "impeachment" derives from the English verb "impeach," meaning "to accuse" or "to accuse (of wrongdoing)"; the corresponding Dutch words are "aanklagen," meaning "to accuse," and "beschuldigen," meaning "to accuse." (Basiang, 2009). The term "impeachment" refers to a parliamentary indictment of a public officer or head of state for alleged criminal behavior or constitutional violations (beschuldigin or aanklacht in Dutch).

Thus, impeachment and impeachment both refer to the process/effort/mechanism (method) carried out by parliament, notably the House of Representatives (U.S.) and the House of Commons (U.K.). The People's Consultative Assembly (the Senate in the United States and the House of Lords in the United Kingdom) dismisses or terminates the allegations or charges against the President and/or Vice President after receiving a decision from the judicial body authorized to examine, hear, and decide on the allegations or charges, and then summons the President and/or Vice President to appear before it (an extraordinary legislative checks and balances principles).

DISCUSSION

Early dismissal of presidents Soekarno, Suharto, Bacharuddin Jusuf Habibie, and Abdurrahman Wahid is a recurring theme in Indonesian constitutional history, spanning from 1945 to 2015. After the constitution was amended (1999-2002), particularly the third amendment (3) on November 9, 2001 to the 1945 Constitution of the Republic of Indonesia, the regulation concerning the dismissal of the President and/or Vice President was enacted as an affirmation of commitment to avoiding previous mistakes in the interpretation of the constitution in the Republic of Indonesia. Indonesia. Article 7A and 7B of the Republic of Indonesia's 1945 Constitution state that the President as Head of State and Head of Government and the Vice President are both directly elected by the people and can only be removed from office by the People's Consultative Assembly on a proposal from the House of Representatives that has been submitted to the Constitutional Court for investigation, prosecution, and a decision that the President and/or Vice President have committed a crime.

The Constitutional Court is required to investigate, have a hearing, and make a ruling in the most unbiased way feasible within ninety days of receiving the case once it has been submitted (a normal day and not a working day). The Constitutional Court's ruling is binding at both the preliminary and appellate levels of the legal procedure (final and binding: Article 24C of the 1945 Constitution of the Republic of Indonesia). If the Constitutional Court finds the President and/or Vice President guilty in the sense of being proven, as required by Article 7B paragraph (5), the DPR may propose that they have violated the law (criminal and/or constitutional) and/or do not meet the requirements as President and/or Vice President (incompetent). If the Constitutional Court determines that the DPR has not established its case, the MPR cannot accept the DPR's recommendation that they hold a Plenary Meeting with "Dismissing the President and/or Vice President" on the agenda.

After receiving a request from the DPR, the MPR must conduct a session within thirty days (weekdays) if the Constitutional Court finds that the President and/or Vice President have breached the law or no longer fit the qualifications to become President and/or Vice President. After giving the President and Vice President an opportunity to explain their positions, the MPR calls a Plenary Meeting with "Dismissal of the President and/or Vice President" on the agenda, which must be attended by at least two-thirds of the MPR members and approved by a simple majority of those present. It is possible to impeach either the President or the Vice President, or both, according to the "and/or" construction (see Article 7B paragraph (7) of the 1945 Constitution of the Republic of Indonesia). Any actions taken by the President or Vice President should be discussed at the Plenary Meeting. The Constitutional Court shall accept, hear, and rule on any criminal charges against the President or Vice President, regardless of whether the criminal court has jurisdiction to investigate, trial, or provide a verdict.

The Constitutional Court's participation in the process by which the President and/or Vice President may be removed from office is an excellent illustration of the concept of balance and control of power "checks and balances principles" among high state institutions. To wit, Law No. 8 of 2011 modifying Law No. 24 of 2003 creating the Constitutional Court and Regulation No. 21/PMK/2009 of the Constitutional Court pertaining to Guidelines for Proceedings in Deciding the Opinion of the DPR Concerning Alleged Violations of the President and/or Vice President. In the event of the following infractions of law during the President's or Vice President's periods in office, the People's Consultative Assembly, with the advice of the House of Representatives, may vote to remove them from office:

- 1) Treason against the state (similar to the Article I, Section 2 (5), Section 3 (6), and Section 4 (...) Treason, Bribery, or other high Crimes and Misdemeanors;)
- 2) The corruption (refer to):
- 3) Taking bribes;
- 4) Committing other serious crimes;
- 5) Engaging in reprehensible behavior.

Also, they've already been disqualified as President or Vice President. It is clear from comparing the two constitutions that there are several ways to get rid of the President and/or the Vice President. In the Republic of Indonesia, there are two (2) legal grounds for impeachment: having committed a crime (such as treason against the state, corruption, bribery, other serious crimes, and disgraceful acts) and having lost the qualifications to serve as President and/or Vice President (or being deemed incompetent). Law No. 24 of 2003 concerning the Constitutional Court, State Gazette of the Republic of Indonesia of 2003 No. 98, Supplement State Gazette of the Republic of Indonesia No. 5234, as amended by Law No. 8 of 2011 concerning Amendments to Law No. 24 of 2003 concerning the Constitutional Court, State Gazette of the Republic of Indonesia of 2011 No. Constitution of the Republic of Indonesia No. 21 Years un 2009: Procedures for the House of Representatives to Adopt a Resolution Regarding Alleged Violations.

CONCLUSIONS AND RECOMMENDATIONS

In the first place, "Indonesia is a state of law," as stated in Article 1 paragraph 3 of the Constitution of the Republic of Indonesia of 1945 (henceforth referred to as the 1945 Constitution of the Republic of Indonesia), therefore the law plays a crucial role in the constitutional system. A state official's dismissal must be based on clear and specific agreements on their legal status in order to avoid any doubts in a court of law. The President of the Republic of Indonesia is also the Head of Government, a vital role in any presidential government. Although this kind of study has been conducted before, the authors here hope that their efforts will help readers get a better grasp of the Republic of Indonesia's Regulations for the Dismissal of the President and/or Vice President. In the third amendment (3) to the Constitution of the Republic of Indonesia, from 1945, Articles 7A, 7B, 7C, and Article 8 were introduced to outline the process for the dismissal of the President and/or Vice President. These steps are being taken to make sure that the process for removing and replacing the President and/or Vice President is based in law and cannot be interpreted in different ways. This topic is similar to others that aim to provide legal certainty to a President and/or Vice President.

Second, the President or Vice President will be impeached by a vote of the MPR if the Constitutional Court finds that the President or Vice President has been found guilty of breaching the law or is no longer able to become President or Vice President. This paints an inaccurate picture of how the President and/or Vice President of the Republic of Indonesia may be removed from office. In other words, it doesn't matter if the Constitutional Court determined that it wasn't proved, but the Tipikor ruled that it was, or if the "Corruption Court" ruled that the President and/or Vice President weren't guilty of corruption or bribery, but the Tipikor ruled differently. Therefore, in order to confirm the provisions in the 1945 Constitution of the Republic of Indonesia as the fifth amendment, either the authority of the Constitutional Court must be acknowledged or the Decision of the Criminal Court for alleged breaches of the Criminal Law must be awaited (5). We should all have a look at this if we are serious about improving the Republic of Indonesia's constitutional structure.

FURTHER STUDY

One of the study's drawbacks is that it doesn't go further into the process by which the President and/or Vice President may be removed from office under the 1945 Constitution after the Amendment. While the Impeachment of the President and/or Vice President Judgment is based on the Constitution of 1945, it is possible that it may be revised in the future to reflect changes in Indonesian law. Impeachment of the President and/or Vice President is a sub-focus of this study, and its inclusion will reinforce the overall findings.

ACKNOWLEDGMENT

The writer appreciates the assistance of others in writing this piece. The writers would also want to extend their gratitude to the journal's publishers.

REFERENCES

- Bangun, Z. (2020). *Sistem Ketatanegaraan Indonesia*. Bandung: Yrama Widya.
- Basiang, M. (2009). *Law Dictionary First Edition*. Indonesia: Red&White Publishing.
- Ketetapan MPR No. II/MPR/2000 tentang peraturan tata tertib MPR RI.
- Ketetapan MPR No. III/MPR/1978 tentang Kedudukan Hubungan Tata Kerja Lembaga-Lembaga Tertinggi Negara dengan/ antar Lembaga-Lembaga Tinggi Negara.
- Ketetapan MPR No.IV/MPR/2001 Tentang Pengangkatan Wakil Presiden RI.
- Mahkamah Konstitusi Republik Indonesia. (2022). *Laporan Penelitian Mekanisme Impeachment dan Hukum Acara Mahkamah Konstitusi*. http://www.mahkamahkonstitusi.go.id/public/content/infoumum/penelitian/pdf/KI_Impeachment.pdf.
- Peraturan Mahkamah Konstitusi Nomor 21/PMK/2009 tentang Pedoman Beracara Dalam Memutus Pendapat DPR mengenai Dugaan Pelanggaran Presiden dan/atau Wakil Presiden.
- Pike, O.L. (2011). *Constitutional History of The House of The Lords*. Jakarta: Sinar Grafika.
- Putra, P.S. (2016). Pemberhentian Presiden Dan/ Atau Wakil Presiden Republik Indonesia Pasca Amandemen UUD NRI Tahun 1945. *ADIL: Jurnal Hukum*, 7(1), 76-89.
- Triwulan, T. (2006). *Pokok-pokok Hukum Tata Negara*. Jakarta: Prestasi Pustaka.

Undang-Undang Dasar 1945.

Undang-Undang Nomor 8 Tahun 2011 tentang Perubahan Atas Undang-undang Nomor 24 Tahun 2003 tentang Mahkamah Konstitusi.

Undang-undang Pembentukan Peraturan Perundang-undangan, UU No. 12 Tahun 2011, LN. No. 82 Tahun 2011, TLN. No. 5234.

Widya, U. (2022). Pemberhentian Presiden Dan/Atau Wakil Presiden Dalam Undang-Undang Dasar Negara Republik Indonesia 1945 Pasca Perubahan. *Renaissance*, 7(1), 194-208.

Zoelva, H. (2014). *Impeachment Presiden Alasan Tindak Pidana Pemberhentian Presiden Menurut UUD 1945*. Jakarta: Konstitusi Press.