



Constitutional Disobedience Be the Reason for the Impeachment of the President and/or Vice President During the Term of Office

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ABSTRAK

The dismissal of the President and/or Vice President is a legislative authority involving the DPR, MPR, and the Constitutional Court (MK) to address constitutional or legal violations. This study examines constitutional defiance by the President/Vice President and the reconstruction of the ideal mechanism for their dismissal. With a normative legal approach, this study concludes that reporting violations can be done by citizens or organizations because sovereignty lies in the hands of the people. Reconstruction of the ideal mechanism is suggested through national legal reform based on Pancasila values, including the preparation of special procedural law for the dismissal of the President/Vice President that is adjusted to the amendments to the 1945 Constitution.

PENDAHULUAN

Indonesia is a unitary state in the form of a republic. Sovereignty is in the hands of the people and is carried out by a mechanism involving three institutions, namely the People's Representative Council (DPR), the Constitutional Court (MK), and the final result is entirely by the People's Consultative Assembly (MPR) and is implemented according to the 1945 Constitution of the Republic of Indonesia (UUD 1945). The Republic of Indonesia is a state of law, it can be understood that the state of law in question is a state that upholds the supremacy of law to uphold truth and justice, and there is no power that is not accountable (Susilo, 2006). The unitary state of the Republic of Indonesia is a State of Law (Rechstaat) not a State of power (Machstaat). Thus, the state is obliged to uphold the supremacy of law as one of the pillars of state politics. Reality shows that the law is sometimes defeated by other forces, such as political power (Sulistiani, 2018). The dismissal of the President and/or Vice President is one of the authorities held by the legislative institution as a form of parliamentary control function over the actions of every public official who has been mandated by the people through the constitution to carry out their duties and obligations. If during his term of office the public official commits a violation that has been regulated by the constitution or applicable positive law, then the person concerned can be faced with a dismissal process that leads to the dismissal of the person concerned from his position (Mulyosudarmo, 1997). Many people from experts and the general public understand that the mechanism for dismissing the President and/or Vice President is the resignation, cessation or dismissal of the president or other high-ranking state official from his position. In the context of the mechanism for the process of dismissing the President and/or Vice President during the term of office itself, it is an accusation or indictment first, so that the process in question focuses more on a flow or process and does not have to end with the dismissal or removal of the president from his position (Zoelva, 2015). Regarding the reasons for the dismissal of the president by the MPR, Article 7A of the 1945 Constitution regulates as follows:

“The President and/or Vice President may be dismissed during their term of office by the People's Consultative Assembly upon the recommendation of the People's Representative Council, either if they are proven to have committed a violation of the law in the form of treason against the state, corruption, bribery, other serious crimes, or disgraceful behavior or if they are proven to no longer fulfill the requirements as President and/or Vice President.”

From the text of this article, it can be concluded that the dismissal of the president by the MPR is carried out upon the recommendation of the People's Representative Council (DPR). Based on Article 7A of the 1945 Constitution, there are 2 (two) reasons why the president can be dismissed during his term of office, namely (Zoelva, 2005). Several essences of thought both from the legal aspect and the problem of the state's imperfection to the point of causing disobedience to the constitution are the reasons for dismissing the President

and/or Vice President during his term of office, namely in the Constitutional Court Decision No. 98/PUU-XVI/2018 for anyone who does not carry out the Constitutional Court's decision, it is said to be in Disobedience to the Constitution. The oath of the President and Vice President when they were inaugurated was to uphold the 1945 Constitution which is also a Constitution. When Law No. 11 of 2011 concerning Job Creation was enacted, many protests were received and even a judicial review of the Formal Lawsuit was submitted to the Constitutional Court. In short, the Constitutional Court accepted the lawsuit in Constitutional Court Decision No. 91/PUU-XVII/2020 which in essence stated that Law No. 11 of 2011 concerning Job Creation is conditionally unconstitutional, the conditions referred to here must be corrected by the law makers, namely the DPR and the President, within a maximum of 2 years. Thus, Law No. 11 of 2011 concerning Job Creation no longer has binding power even though it is still valid for 2 years of revision. Because it has no binding power, the President instead instructed the Minister of Home Affairs to issue Instruction of the Minister of Home Affairs No. 68 of 2021 which in essence orders all Provincial, Regency/City Governments to continue to refer to Law No. 11 of 2011 concerning Job Creation. (Reason 1) At the same hearing, the Court also decided eleven other cases related to the judicial review of the law, namely Cases Number 87, 101, 103, 105, 107, 108/PUU-XVIII/2020, and Cases Number 3, 4, 5, 6, 55/PUU-XIX/2021. All of these cases were declared inadmissible. This is because the Job Creation Law has been declared conditionally unconstitutional as stated in Decision Number 91/PUU-XVIII/2020. So that the material review of the Law is no longer relevant to continue the examination because it has lost the object of the application.

Worse, the President instead of formally improving Law No. 11 of 2011 concerning Job Creation together with the DPR instead made Perpu No. 2 of 2022 even though there is no element of compelling urgency. (Reason 2) The element of compelling urgency is regulated in Article 22 of the Constitution and Constitutional Court Decision No. 138/PUU-VII/2009, including such as there is no law that can solve the problem quickly, there is a law but it has not been able to solve the problem, and/or a legal vacuum but cannot wait for the normal legislative process. Still on the consideration of the Perpu where it is very forced like thousands of articles that are made as if they have been prepared, it seems very well prepared just to trick the re-emergence of Law No. 11 of 2011 concerning Job Creation by taking shortcuts. The Perppu is a regulation in lieu of a law, but what law is being replaced? because the Job Creation Law has been declared unconstitutional and has no binding power and must be revised in the legislative process. The reason for the impact of the war abroad is that prices have increased, even though in terms of territory, economy, and politics, it has very little influence on Indonesia. The President has clearly committed Constitutional Disobedience because he did not carry out what the Constitutional Court requested to revise Law No. 11 of 2011 concerning Job Creation with the legislative process of the DPR and the President and meaningful participation of the Community. In fact, he made a Perppu that had no Community participation and the DPR in this case could only give a decision of agreement or disagreement

that was thick with politics. Regarding Constitutional Disobedience, even though he has clearly committed constitutional disobedience, it is still difficult to stop him during his term of office. The difficulty referred to above is that based on Article 7A of the 1945 Constitution, the president and/or vice president can only be dismissed during their term of office if they “commit treason against the state, corruption, bribery, other serious crimes, or disgraceful acts or if they are proven to no longer meet the requirements as President and/or Vice President.” There is no element that regulates constitutional defiance. The strong political mechanism in the MPR can eliminate the legal process at the Constitutional Court even though the president has been declared guilty from the results of the DPR's opinion submission first.

The DPR numbered 575 who were present in the proposal for dismissal during the term of office by at least 2/3, meaning that 383 members were present and approved by at least 2/3, meaning that 255 members were present. Submitted to the Constitutional Court and then the Constitutional Court decided to accept the proposal for dismissal and confirmed the President's elemental violation actions as stated in Article 7A of the Constitution. The DPR submitted a proposal based on the Constitutional Court's decision to the MPR. The MPR, which consists of the DPR with 575 members and the DPD with 136 members, totaled 711 MPR members who were required to be present by at least 3/4, meaning that at least 533 members were present with approval by at least 2/3, meaning 355 members. If you look at the number of members in the MPR, which is 355, more than those proposing dismissal in the DPR, which is 255 members, it is possible that the DPR's proposal which was preceded by the Constitutional Court's decision (legal process) can be ignored through the voting scheme in Article 7B number (7) of the 1945 Constitution (political process). Therefore, it is necessary to have the first ideal reconstruction related to the element of constitutional defiance included in the element of violation as stated in Article 7A of the 1945 Constitution and the process in the MPR Article 7B number (7) of the 1945 Constitution should no longer be political but must immediately execute the results of the DPR's proposal based on the Constitutional Court Decision which confirms the violation of the president and/or vice president that occurred so that the paradigm of the MPR as the highest institution does not exist so that it is not the same as the 1945 Constitution before the amendment when President Soekarno and President Abdurrahman Wahid were dismissed. In Article 7A, one of the requirements for the president and/or vice president to be dismissed is bribery, even though bribery is one of the acts of corruption (Law 22 of 2001 in conjunction with Law 31 of 1999) where corruption has also been mentioned in Article 7A. Article 7B number (5) if the Constitutional Court confirms the DPR's proposal, the DPR is obliged to hold a plenary session to forward the proposal to the MPR. However, this article does not explain at the latest when, because it will create a long and uncertain political process. In Article 197 of DPR Regulation No. 1 of 2020, it is not stated at the latest. The current mechanism is that the proposal to dismiss the president and/or vice president can be submitted by the DPR to the MPR only by first submitting a request to the Constitutional Court to examine, try, and decide on the DPR's opinion that the president and/or vice

president have committed a violation of the law in the form of treason against the state, corruption, bribery, other serious crimes, or disgraceful acts; and/or the opinion that the president and/or vice president no longer meet the requirements as president and/or vice president. Based on the description of the background above, the problem in this study can be formulated as how the President and/or Vice President's defiance of the constitution is carried out and how the ideal reconstruction of the dismissal of the President and/or Vice President during his term of office on the grounds of defiance of the constitution.

TINJAUAN PUSTAKA

Theory of the Rule of Law

The term rule of law was pioneered by A.V. Dicey, a famous British scholar. This term is used to describe the understanding that it is the law that actually governs or leads in a country, not humans or people. This concept grew and developed in Anglo-American countries (Hamzah, 2016). Slightly different from Dicey, F. Julius Stahl stated that there are 4 (four) important elements of a state of law, (Asshiddiqie, 2004), namely Protection of human rights, Division or separation of powers to guarantee human rights, Government based on law, State administrative justice. The Pancasila State of Law is better understood as a state of law that bases its ideals on what is contained in Pancasila. In the explanation of the 1945 Constitution, it is stated that Pancasila is a legal ideal or rechtsidee. As a legal ideal, Pancasila is in a position that covers the applicable basic law. Pancasila as the highest norm that determines the basis of the validity (legitimacy) of a legal norm in the legal norm system of the Republic of Indonesia.

Integrative Legal Theory

This integrative legal theory is formulated based on the skeptical attitude of the community towards the handling of legal cases in Indonesia, with the conclusion that legal practitioners have forgotten and ignored the noble values of Pancasila as the nation's ideology and are trapped in a "normative contract" that has been inherited by the Kelsenian school. This integrative legal theory was inspired by Posner in his book "Frontiers of Legal Theory" which states that this legal theory uses an external perspective of the legal discipline (Atmasasmita, 2012). This leap in integrative legal theory suggests that the Indonesian legal system should include jurisprudence as one of the elements in the structure or hierarchy of legislation. Bureaucratic engineering related to the system of norms and behavior will be effective if it is based on the instillation of values. Legal norms are the concretization of these values, which in turn are manifested through behavior. This means that both the normative system (positive law) and the behavioral system still need to be engineered to be full of values that must include Pancasila.

Theory of Authority

Authority comes from the basic word authority which is interpreted as the authority, rights and power possessed to do something. Authority is what is called formal power, power comes from legislative power (granted by law) or from executive administrative power. Authority which usually consists of

several authorities is power over a certain group of people or power over a field of government. Within authority there are authorities (*rechtsbevoegdheden*). d. According to S.F. Marbun, authority and authority must be distinguished. Authority (*authority gezag*) is power that is formalized both over a certain group of people and over a certain field of government in its entirety. While authority (*competence, bevoegdheid*) only recognizes certain fields. Thus, authority means a collection of authorities (*rechtsbevoegdheden*). So, authority is the ability to act which is granted by statutory regulations to carry out legal relations (Hidjaz, 2010).

METHODOLOGY

Research method is a way or path or process of examination or investigation that uses logical analytical reasoning and thinking (logic), based on certain postulates, formulas and theories of a science (or several branches of science), to test the truth (or verify) a hypothesis or theory about certain natural phenomena or events, social events or legal events (Hartono, 1994). Research is a scientific activity based on certain methods, systematics and thoughts that aim to reveal the truth, systematically, methodologically, and consistently, which requires analysis and construction of the data that has been collected and processed. (Soerjono, 2007). Legal research is conducted to find solutions or legal issues that arise (Marzuki, 2005).

The type of research that will be used in this research is normative legal research, namely, research conducted on legal principles, legal rules in the sense of values (norms), concrete legal regulations and legal systems (Mertokusumo, 2004).

The research approach is the entire activity in research starting from the beginning to the end (Marzuki, 2005). The approaches used in legal research are the statute approach, case approach, historical approach, comparative approach, conceptual approach, sociological and philosophical approach (Ibrahim, 2005).

The research specifications used in writing this dissertation are descriptive analytical. Descriptive analysis is a method used to describe a condition or situation that is happening or ongoing, the purpose of which is to provide the most accurate data possible regarding the object of research so that it is able to explore things that are ideal, then analyzed based on legal theory or applicable laws and regulations.

In this study, the researcher used primary legal materials, namely legal materials that have general binding power or have binding power on interested parties. Secondary Legal Materials, namely legal materials that provide explanations for primary legal materials. Tertiary Legal Materials, namely legal materials that provide explanations for primary and secondary legal materials.

RESEARCH RESULT

Based on the results of the Researcher's research, the realm of constitutional law is one of the branches of law that has a strong relationship with the political branch, considering that the objects of constitutional law and political science are relatively the same. The Pancasila State recognizes humans as individuals or citizens who have rights and freedoms, but at the same time

recognizes that by nature humans are also social creatures who cannot be human if they do not live with other humans. The concept of balance like that, Pancasila is not an adherent to the concept of individualism that absolutizes individual rights and freedoms, but also not an adherent to the concept of collectivism that wants to equate all humans without respecting individual rights and freedoms. Through the context of the Unitary State of the Republic of Indonesia, the idea of division of powers is adopted. Among the branches of state power that exist, they are not separated at all, but there is a relationship and cooperation between one branch of state power and another branch of state power. There is a checks and balances mechanism between the branches of state power that exist in Indonesia. In the context of the dismissal of the President and/or Vice President, it is illustrated below:



Figure 1. The Context of the Dismissal of the President and/or Vice President

Based on the image above, it can be understood as follows:

- That the institutions directly involved in the mechanism for dismissing the President and/or Vice President in Indonesia are the DPR, MK and MPR.
- The institutions holding the status of inquisitorial institution in the process are the DPR and MK.
- The MK has the authority to examine and try the DPR's decision to be followed up by the MPR which holds full power to dismiss the President.

The MK is a new state institution that was born after the amendment to the Constitution, namely the MK, Article 24 paragraph (2), which reads as follows (Ni'matul Huda, 2010):

“Judicial power is exercised by a Supreme Court and judicial bodies under it in the general judicial system, religious judicial system, military judicial system, state administrative judicial system, and by a Constitutional Court.”

The concept of constitutional court cannot be separated from the thoughts of Hans Kelsen, an influential legal scholar of the 20th century. As an influential legal scholar, Kelsen was asked to draft a constitution for the Republic of Austria in 1919. When formulating the Austrian constitution, Kelsen believed that the constitution should be required as a set of legal norms that are superior to ordinary laws and must be enforced responsibly, so Kelsen designed a special court separate from ordinary courts to control laws and annul them if they are found to be contrary to the Constitution (Siahaan, 2012). However, regarding the

obligation of the Constitutional Court to provide a decision on the opinion of the DPR regarding alleged violations by the president and/or vice president who have committed violations of the law, this authority does not state that the Constitutional Court is a first and final level court and its decisions are binding. The Constitutional Court is only placed as one of the mechanisms that must be passed in the process of dismissing the president and/or vice president. So the constitutional obligation of the Constitutional Court is to prove from a legal perspective whether or not the alleged violations of the law by the president and/or vice president are true. Anyone can file a case at the Constitutional Court as long as they meet the criteria set by law. Therefore, the applicant must meet certain legal standing requirements so that they can become an applicant at the Constitutional Court. It is further stated that the applicant is a legal subject who meets the requirements according to the law to file a constitutional case application with the Constitutional Court (Asshidiqqie, 2006).

According to the researcher, all kinds of disobedience that have been carried out above constitute a denial of the "Presidential and/or Vice Presidential Oath", Article 9 clearly regulates the Presidential and Vice Presidential oaths which read as follows: "Before assuming office, the President and Vice President swear according to religion, or promise solemnly before the People's Consultative Assembly or the People's Representative Council", the oath states firmly that the President and Vice President swear "By Allah" to uphold the Constitution and implement all laws and regulations as honestly as possible.

The presidential oath of office is as follows: "By Allah, I swear that I will fulfill the obligations of the President of the Republic of Indonesia as well and fairly as possible, upholding the Constitution and implementing all its laws and regulations as straight as possible and serving my homeland and nation." This means that the President and Vice President have solemnly sworn or promised to comply strictly with all legal provisions, including the provisions contained in the form of regulations set by the President himself, such as PP and Presidential Decree.

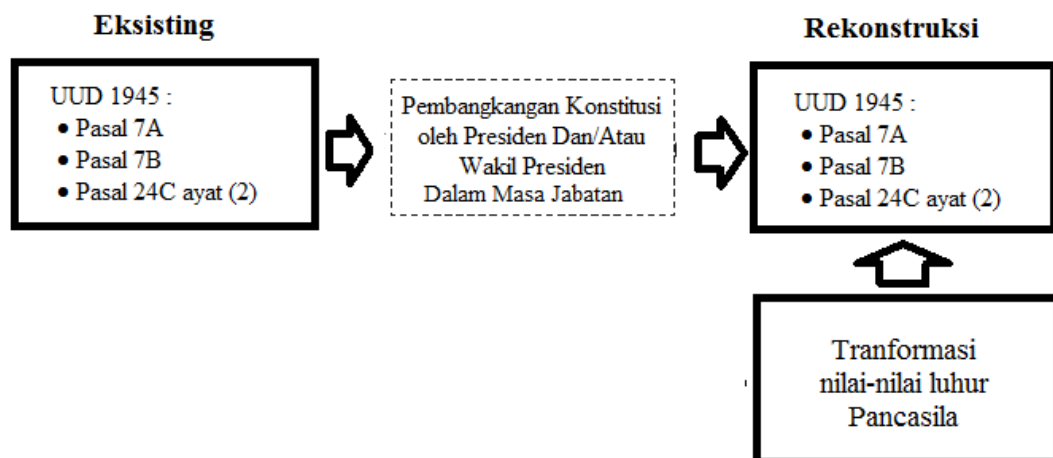


Figure 2. The Provisions Contained in the Form of Regulations Stipulated by the President such as PP and Presidential Decree

Based on the picture above, it is appropriate that the formation of the 1945 Constitution of the Republic of Indonesia makes Pancasila the spirit by transforming the values of Pancasila in it. Pancasila is the best philosophical value system owned by the Indonesian people as a basis and reference for social, national, and state life. This transformation is done by means of a step-by-step transformation of the fundamental norms of the state (*Staatsfundamentalnorm*) into legal norms, so that the importance of Pancasila in overseeing the goals of the state can be realized through the reconstruction of a number of articles in the 1945 Constitution. If the President does not agree with its contents, for example because it is considered outdated, then with his authority, the President can change the contents of the regulations in accordance with applicable procedures. However, once a norm has been determined to be a legally valid legal document, then from that moment on the President is required to obey all provisions stipulated in the regulation. This means that if the President violates the regulations he himself has set, it means that the President has violated his own oath of office (Asshiddiqie, 2005). The basis for assessing whether the power granted by the people is used in accordance with the purpose for which the power was granted is highly dependent on the standards of norms that have been set, both written and unwritten, philosophically the existence of accountability rests on; there is no space and time for the holder of power not to be accountable for all uses of power; and accountability means that there is a limitation of power by the norms that apply in society. Based on the description above, the final and binding power of the Constitutional Court's decision which has been regulated through laws and regulations, does not have a strong impact in practice. The weakening of the final and binding nature of the Constitutional Court's decision is evident from the existence of disobedience to the Constitutional Court's decision. Disobedience or non-compliance with the Constitutional Court's decision is often carried out by the addresses, namely State Institutions with executive power together with the legislature which are the makers of laws. Disobedience carried out by the executive and legislative powers is a setback in the implementation of the Constitutional Court's decision, which should require State Institutions to uphold and implement the decisions issued. This disobedience is also considered increasingly critical because there is no sanction that is imposed and imposed on the addresses who disobey the Constitutional Court's decision.

DISCUSSION

The implementation of Pancasila values is increasingly declining. The decline in the implementation of Pancasila values is increasingly visible when the TAP MPR No. II/MPR/1978 concerning Guidelines for the Understanding and Practice of Pancasila (*Ekaprasetya Pancakarsa*) is no longer valid with the issuance of TAP MPR No. XVIII/MPR/1998. Concerning the Revocation of the Decree of the People's Consultative Assembly of the Republic of Indonesia Number II/MPR/1978 concerning Guidelines for the Understanding and Practice of Pancasila (*Ekaprasetya Pancakarsa*) and the Stipulation on the Affirmation of Pancasila as the State Philosophy. TAP MPR No. II/MPR/1978 contains guidelines on how to practice the values of Pancasila which are generally known as the

Guidelines for the Understanding and Practice of Pancasila (P4) which is a guideline for life in society and the state for every Indonesian citizen. Dismissal of the President and/or Vice President During His Term of Office on the Ground of Constitutional Disobedience according to Gerhard, is a unique legislative decision, which can only be carried out within a framework limited by the constitution. There are at least 3 (three) models of presidential impeachment trials in the constitutions of various countries, namely:

- a. A two-level trial process by the people's representative institution such as in the United States;
- b. A three-level trial process, namely in addition to the people's representative institution, it must also be with a decision by the judiciary such as in Germany, France, and South Korea; and
- c. A mixed model, namely a two-level trial process but involving the judiciary in the middle of the impeachment process such as Indonesia and Russia.

The process of dismissing the President and/or Vice President during his term of office is dominated by political institutions. The requirements for submitting a request from the DPR to the Constitutional Court can only be carried out with the support of at least 2/3 of the total number of DPR members present in a plenary session attended by at least 2/3 of the total number of DPR members.

These requirements are not easy to fulfill because usually the composition of DPR members in the majority comes from the winning party and its coalition partners. Therefore, the DPR cannot act arbitrarily to demand the dismissal of the President and/or Vice President during their term of office without the support of at least 2/3 of its members (Sutiyoso, 2010). Although the DPR must first ask the Constitutional Court to decide on the allegation, the problem that arises then is to what extent the Constitutional Court's decision is effectively enforced to order the dismissal of the President and/or Vice President if it is proven that a violation of the law has been committed as stated in the constitution. This is important because there is not a single provision in the 1945 Constitution or other provisions of the Laws and Regulations that require the MPR to comply with and effectively implement the Constitutional Court's decision. Regarding defiance of the constitution or constitutional disobedience, even though it has clearly violated the constitution, it is still difficult to dismiss during the term of office. The difficulty referred to above is that based on Article 7A of the 1945 Constitution, the president and/or vice president can only be dismissed during their term of office if they "commit treason against the state, corruption, bribery, other serious crimes, or disgraceful acts or if they are proven to no longer meet the requirements as President and/or Vice President." In terms of the regulation of impeachment in the 1945 Constitution, there is no element that regulates constitutional defiance.

Added to this, the strong political mechanism in the MPR can eliminate the legal process at the Constitutional Court even though the president has been declared guilty from the results of the DPR's opinion submission first. For example, currently the DPR has 575 members present in the proposal for dismissal during the term of office, at least 2/3, meaning that 383 members are sufficient and approved by at least 2/3 of those present, meaning that 255 members are sufficient.

Submitted to the Constitutional Court and then the Constitutional Court decides to accept the proposal for dismissal and confirms the President's elements of violation as stated in Article 7A of the Constitution. The DPR submits a proposal based on the Constitutional Court's decision to the MPR. In the MPR which consists of the DPR with 575 members and the DPD with 136 members, a total of 711 MPR members must be present at least 3/4, meaning at least 533 members must be present with at least 2/3 approved, meaning 355 members. If we look at the number of members in the MPR, which is 355, it is more than those proposing dismissal in the DPR, which is 255 members, it is possible that the DPR proposal which was preceded by the MK decision (legal process) can be ignored through the voting scheme in Article 7B number (7) of the 1945 Constitution (political process).

Thus, it is necessary to have the first ideal reconstruction related to the element of constitutional defiance included in the element of violation as stated in Article 7A of the 1945 Constitution and the process in the MPR Article 7B number (7) of the 1945 Constitution should no longer be political but must directly execute the results of the DPR's proposal based on the Constitutional Court Decision which justifies the violations of the president and/or vice president that occurred so that the paradigm of the MPR as the highest institution does not exist so that it is not the same as the Constitution before the amendment when President Soekarno and President Abdurrahman Wahid were dismissed. In Article 7A, one of the requirements for the president and/or vice president to be dismissed is bribery, even though bribery is one of the acts of corruption (Law Number 22 of 2001 concerning Gas and Petroleum Jo. Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption) where corruption has also been mentioned in Article 7A. Article 7B number (5) if the Constitutional Court approves the DPR's proposal, the DPR is obliged to hold a plenary session to forward the proposal to the MPR. However, this article does not explain the latest time, because it will create a long and uncertain political process. In Article 197 of the DPR RI Regulation No. 1 of 2020 concerning the Rules of Procedure, it is not stated when the latest time is.

The constitutional system with 3 (three) branches of power including the executive, legislative, and judiciary, if examined, can cause problems related to interpretation as well as the weak point of the amendment to the 1945 Constitution. The dilemma of the single interpretation of the 1945 Constitution is caused by the text of the article which also provides room for multiple interpretations. The three branches of power, which are of course regulated in the Indonesian constitution, can be briefly described. Executive power is held by the President. As regulated in Article 4 paragraph (1) of the 1945 Constitution, namely "The President of the Republic of Indonesia holds government power according to the Constitution". This means that executive power is held by a President. So that the branches of power are not divided into other branches of power and the person fully responsible for executive power is the President.

Article 20 paragraph (1) of the 1945 Constitution stipulates that "The People's Representative Council holds the power to form laws. Based on Article 20 paragraph (1) of the 1945 Constitution, the institution specifically appointed by the

1945 Constitution as the holder of power in the legislative field is the DPR. This means that the DPR positions itself institutionally and constitutionally in carrying out tasks related to legislative functions.

Meanwhile, the process of change with the addendum system, namely maintaining the structure of the original text of the 1945 Constitution, while the changes are by inserting or inserting the new text into the original text. The consequence is that there is no reduction in the essence of the structure of the chapters, but only an insertion in the structure of the chapters and articles using an alphabetical system.

CONCLUSIONS AND RECOMMENDATIONS

The defiance of the constitution by the president and/or vice president is basically defiance of the 1945 Constitution. Based on the results of the Researcher's research, it was revealed that the defiance of the constitution by President Joko Widodo during his term as the seventh President of Indonesia from October 20, 2014 to October 20, 2024 included the KPK's intervention regarding the Setia Novanto case, the involvement of President Joko Widodo and the Chief Justice of the Constitutional Court Anwar Usman in making Decision Number 90/PUU-XXI/2023 concerning the age limit for presidential and vice presidential candidates, and nepotism in the Constitutional Court, which is contrary to the noble values of Pancasila. 2. The ideal reconstruction of the dismissal of the president and/or vice president during his term of office on the grounds of defiance of the constitution is through the transformation of the noble values of Pancasila. In this regard, the noble values of Pancasila become the guidelines for the legal system concerning legal institutions. Based on this, the changes in Article 7A of the 1945 Constitution become: "... has committed a violation of the law "or disobedience to the constitution" in the form of treason against the state, corruption, bribery, other serious crimes, or reprehensible acts "that are contrary to the noble values of Pancasila" ". In other words, the noble values of Pancasila that currently exist are realized into reality (*das sein*) in the constitutional aspect in Indonesia.

ADVANCED RESEARCH

It is necessary to create a regulation for the dismissal of the President and/or Vice President with the fifth amendment to the 1945 Constitution, considering a number of findings of defiance of the constitution by President Joko Widodo during his term as President of Indonesia from October 20, 2014 to October 20, 2024 that were not touched by law. It is necessary to create a regulation in the form of a Procedural Law that regulates the process of dismissing the President and/or Vice President. In addition, there needs to be a comprehensive study regarding how defiance of the constitution can also be applied in the dismissal of all State Institution officials without exception.

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