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Problems in interim presidency: A comparative constitutional perspective

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Abstract

The research relevance is determined by the diverse constitutional approaches adopted by countries worldwide to address the critical issue of succession in the event of concurrent vacancies in the positions of President and Vice President. The study aims to correctly determine the appropriate acting presidency during extraordinary situations to ensure the continual rule of government. A doctrinal research method alongside a comparative constitutional approach to explore the constitutions of various countries. The study determined that there are legitimized and bureaucratic actors who compete with each other to become acting presidents when the positions of President and Vice President are vacant in various parts of the world. Countries that use legitimacy actors generally use the Speaker of the House of Representatives/Senate (legislative) as the acting president, while countries that use bureaucratic actors generally use ministers (executive) as the acting

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president. Legitimate actors are the officials to become acting presidents due to their capabilities to ensure stability based on democratic legitimacy stability, backed by votes. The practical value of this article is that it can be a source of knowledge for constitutional drafters when amending/changing the constitution because it has aggregated the arrangements for presidential duty executors from world constitutions and contributes knowledge from Indonesian experience that can be considered as material for discussion of constitutional amendments/changes

Keywords:

president; acting president; government; constitutional comparison; presidentialism

Introduction

In the event of concurrent vacancies in the positions of President and Vice President, the concern regarding the succession to the vacant office arises. In this regard, it is necessary to explore the various options used by the constitutions worldwide. This analysis is necessary as the constitutions of different countries are of different models. Some set a legitimized actor (Speaker of the House of Representatives/Senate Chair) as the acting president, and some set a bureaucratic actor (minister/Prime Minister) as the acting president who temporarily replaces the President. This difference is to be explained in this study, which of the two is more ideal for serving as acting president.

The idea of the modern constitution as the basic framework of government is well established and inspires almost all constitutions in the world, as indicated by M. Loughlin (2010). M. Tushnet (2021) notes that the separation of powers was also accepted with modifications and became an important institutional element in maintaining constitutional democracy. S.B. Tillman (2022) studied the ongoing discourse surrounding this issue. He posits a compelling argument, suggesting that the Legitimacy Actor holds a distinct advantage over the acting presidency. According to Tillman, the election of Legitimacy Actor by the populace imbues the position of President with a unique legitimacy, as it reflects the will of the people. This stands in stark contrast to scenarios where the presidency is temporarily assumed by a minister, who lacks a direct mandate from the electorate. By exploring these dynamics, Tillman demonstrates the nuanced implications of different mechanisms for filling the presidential vacancy, ultimately contributing to the broader conversation on democratic governance and legitimacy. In contrast, A. Ghoffar (2020), in a dissertation, denotes ministers as proper acting presidents due to the preservation of the logic of government continuity and the firmness of the separation of powers to support bureaucratic actors as acting presidents. T. Raunio & T. Sedelius (2020) conducted a comprehensive analysis of power distribution between the president and the government within semi-presidential regimes. Their study, which focused on Finland, Lithuania, and Romania, highlighted the intricate dynamics shaping governance in these countries. The authors assert that the absence of formalized coordination mechanisms

proves advantageous for presidents, enabling them to proactively foster collaboration between the dual executive branches. This flexibility grants presidents the latitude to leverage unconventional influence and intervention in matters traditionally beyond their purview. By delving into these nuances, T. Raunio & T. Sedelius (2020) underscore the aspects of the interplay between institutional structures and executive behaviour within semi-presidential systems.

The study aims to explore the constitutions of various countries to determine the reason for these disputes in determining the acting presidency by analysing the clash between the supporters of bureaucratic actors and legitimacy actors. The study results can be used as a basic framework for evaluating state constitutions, especially in determining the acting presidency that replaces the President temporarily, shifting the focus from “who becomes the acting figure” to the overall contribution of the government stability. The core purpose of presidential duty is to run the administration of government in a stable and certain manner. Laws and constitutions aim to create a stable and certain government order towards the formation of a new government, which in the practical experience of many world countries is filled with uncertainty and certain surprising conditions.

Literature Review

While significantly contributing to the organization of power in constitutions, governmental studies insufficiently analysed the issue of vacancy in the permanent dual office of President and Vice president for “constitutional reasons”. J. Linz (1990) defines this as the interregnum period: a time when the government organization is leaderless. The interregnum period in the system of government is classified as terra incognita, which is still not widely studied and developed. In parliamentarism, the interregnum period is relatively not a crisis of government as it is resolved through political mechanisms in parliament directly. In contrast, under presidentialism – despite its advantage of the stability of government – the possibility of a vacant presidency/interregnum remains and flexibility in dealing with such situations is not a hallmark of presidentialism, so the constitution is forced to provide for automatic

succession of the President. The institutional implication of a vacancy in the office of the President is the ascension of an interim President (Henry, 1968). The interim President is responsible for the government until a new President is elected to form the government.

In the above-mentioned study, A. Ghoffar (2020) borrows heavily from criticisms of the 1947 Presidential Succession Act of the United States to defend ministers as acting presidents. Furthermore, A.R. Amar & V.D. Amar (1995), and S.G. Calabresi (1995) reject legitimate actors as interim presidents due to the “modern originalism” approach (Tillman, 2010). They argue that congressional involvement in the line of succession to the dual vacancy is unconstitutional because the Speaker of the House of Representatives does not fall within the category of “officers” referred to in the US Constitution. J. Fortier & N.J. Ornstein (2004) support the Stanford Trilogy on different grounds, emphasizing the political nuance that the Speaker of the House is likely to find it difficult to adapt to the executive party – which may be different – and fail to continue the continuity of government. Authors openly expressed their support for the foreign minister as the ideal figure in the first line of succession.

Methods and Materials

This study adopts a doctrinal research methodology, drawing from the framework outlined by P. Ishwara (2020), which involves an examination of written legal regulations governing specific categories. By scrutinizing these regulations, the research identifies emerging issues and establishes new legal precedents. To ensure comprehensiveness, a variety of techniques were employed to gather legal materials, encompassing both electronic and traditional library resources. The analysis undertaken in this study is predominantly descriptive, employing a multifaceted approach that incorporates historical, conceptual, statutory, and constitutional comparison methods, as noted by P.M. Marzuki (2012). By applying a wide array of analytical tools, the study aims to establish a comprehensive understanding of the legal landscape surrounding the subject matter. In its exploration of constitutional frameworks across the globe, this study relies on constitutional materials sourced from various countries through internet repositories. By leveraging these international resources, the study seeks to provide a comparative perspective that enriches the discourse on constitutional law and governance practices worldwide.

The core objective of this study is to scrutinize the statutory regulations that form legal governance. Utilizing an expansive collection of constitutional materials sourced from a multitude of nations, this investigation embarks on a thorough exploration of the complexities surrounding transitional presidencies, employing a

comparative constitutional approach. Through an examination of the constitutional frameworks present in diverse countries including Indonesia, the Philippines, Korea, Algeria, France, Poland, Romania, Mexico, Argentina, Brazil, Chile, Angola, Nigeria, South Africa, and Egypt, among others, this study describes the regulatory mechanisms that govern transitional presidencies. By traversing the constitutional landscapes of these nations, this study aims to cultivate a comprehensive understanding of how transitional presidencies are structured, regulated, and managed across different geopolitical contexts. Exploring the complex dimensions of these constitutions unveils a spectrum of approaches to addressing pivotal issues inherent in transitional presidencies, including the protocols for interim presidential succession, the delineation of executive powers and constraints amidst transitional periods, and the mechanisms for crisis resolution. Through comparative analysis, this study aims to illuminate both commonalities and divergences in constitutional strategies for managing transitional governance, thereby offering insights into effective governance practices and avenues for constitutional refinement within the context of transitional presidencies.

Results and Discussion

The President’s role as head of state and government is that of a “unified actor” whose duty it is to monitor and coordinate the acts of other actors so that they are following the President’s direction as the highest command in a country (Burkhardt, 2021). The President must be a good listener, showing empathy for local and societal problems as well as for global trends that will affect the nation (Dyzenhaus, 2012). The constitution creates a “framework for the government” with these duties (Saunders, 2021). The President’s powers are thus regulated to prevent abuse.

The Constitution forbids vacancy of the Presidency as the central and critical function of the state would be unfulfilled (Stevent, 1994). The government will be paralyzed, and the pattern of cooperation among state actors will be harmed; the Government’s commitment to society will fail if irresponsible actors do not immediately seize the momentum. As a result, many constitutions include a provision for an “Interim President”¹ if the positions of President and/or Vice President become vacant. The interim president is mandated by the constitution to lead the government, ensure the government’s stability (as far as feasible), and supervise the establishment of a new administration. Arrangements in times of crisis are designed to ensure stable and functioning rules (de Groof, 2020).

South Korea, Argentina, and Indonesia had a history of vacancies in the roles of President and/or Vice President, which were later filled by interim Presidents.

¹ Constitutions of the Republic of Indonesia. (1945, August). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/7987>.

South Korea had a vacancy in the post of President which was filled by a Prime Minister. South Korea did not have a Vice President due to impeachment in 2016 owing to claims of “chaebol” conglomerate abuse of influence (Kim, 2018). Argentina was similarly in a state of chaos from 2000 to 2003. Fernando de la Rúa retired from the presidency in 2001, a year before his Deputy, Carlos Alvarez. Since the positions of President and Vice President became vacant at the same moment, Senate Chairman Ramon Puerta was appointed as interim President (Corrales, 2002). Indonesia experienced a Presidency vacancy twice, namely when the Dutch military aggression II – President Sukarno and Vice President Hatta were detained – then “Sjafrudin Prawiranegara” formed the Emergency Government of the Republic of Indonesia. The transition from President Sukarno to President Soeharto began in 1966, with Soeharto becoming Acting President, followed by the withdrawal of State Government Power from President Sukarno and the election of Soeharto as Indonesia’s Second President in 1968.

These three cases were used as an inspiration for the analysis of preventive constitutionalism in different countries, whereby the constitution is supposed to provide methods for anticipating all possible problems in the future functioning of the government: Indonesia¹, Philippines², Korea Republic³, Algeria⁴, Azerbaijan⁵, France⁶, Poland⁷, Romania⁸, Bulgaria⁹, Mexico¹⁰, Argentina¹¹, Brazil¹², Chile¹³, Angola¹⁴, Nigeria¹⁵, South Africa¹⁶, Egypt¹⁷. Preventive constitutionalism demands constitutions to cover all possible future problems, including a vacancy in the positions of President and/or Vice President. The President and/or Vice President may be concurrently vacant, and the constitutions of several nations handled this situation and provided guidance on who would fill those positions, how long the interim President will hold office, and the

procedures for choosing a new President. Even though every constitution in the world has a provision governing the simultaneous vacancy of the offices of President and/or Vice President, a prominent fact was highlighted: the regulatory model is not uniformly structured, one of which is regarding who becomes interim President. The bureaucrat actor and the legitimacy actor are the two actors who serve as interim presidents in global state constitutions. This difference determines that each country’s constitution has an autonomous level of regulation and is not easily affected by different constitutional transfers in regulating politics (Gould & Pozen, 2022).

Since the bureaucrat actor previously served as a member of the executive power, in a familiar workplace and powers assigned, it is typical for bureaucratic actors to designate the Prime Minister or Minister as the interim President. This is done to project the image of the bureaucrat actor as a professional leader of an interim government. A country with a bureaucrat actor model does not care about legitimacy – whether the official has the people vote or not – in leading the interim government. Countries such as South Korea, Mexico, Azerbaijan, South Africa, and Chile use bureaucrat actors as interim presidents. The next interim president is filled by a legitimate actor, where the Chairman of the legislative power – by law – becomes the interim President and moves to the Presidential office. The use of legitimate actors prioritizes those elected by the people – as a manifestation of democracy, and the main characteristic of a presidential system – to lead the interim government until a new government is formed. Countries such as the Philippines, France, Poland, Romania, Bulgaria, Angola, Nigeria, Algeria, Egypt, Argentina, and Brazil have made legitimate actors as interim presidents.

The problem is to determine what influences/underlies the country’s choice of a bureaucratic actor or a

¹ Constitutions of the Republic of Indonesia. (1945, August). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/7987>.

² Constitutions of the Philippines. (1987, February). Retrieved from <http://www.officialgazette.gov.ph/constitutions/1987-constitution/>.

³ Constitutions of the Republic of Korea. (1987, October). Retrieved from <https://www.refworld.org/legal/legislation/natlegbod/1948/en/19949>.

⁴ Constitution of the People’s Democratic Republic of Algeria. (2016, February). Retrieved from https://adsdatabase.ohchr.org/IssueLibrary/ALGERIA_Constitution.pdf.

⁵ Constitutions of the Republic of Azerbaijan. (1995, November). Retrieved from <https://president.az/en/pages/view/azerbaijan/constitution>.

⁶ Constitutions of the Republic of France. (1958, October). Retrieved from https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank_mm/anglais/constitution_anglais_oct2009.pdf.

⁷ Constitutions of the Republic of Poland. (1997, April). Retrieved from <https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>.

⁸ Constitutions of the Republic of Romania. (1991, November). Retrieved from <https://www.wipo.int/wipolex/en/text/129513>.

⁹ Constitutions of the Republic of Bulgaria. (1991, July). Retrieved from <https://www.ilo.org/dyn/travail/docs/2499/Constitution%20of%20the%20Republic%20of%20Bulgaria.pdf>.

¹⁰ Constitutions of the Republic of the United Mexican States. (1917, February). Retrieved from https://www.oas.org/ext/Portals/33/Files/Member-States/Mex_intro_txtfun_eng.pdf.

¹¹ Constitutions of the Republic of Argentina. (1995, January). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/7070>.

¹² Constitutions of the Federative Republic of Brazil. (1994, July). Retrieved from <https://www.globalhealthrights.org/wp-content/uploads/2013/09/Brazil-constitution-English.pdf>.

¹³ Constitutions of the Republic of Chile. (2005, September). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/21145>.

¹⁴ Constitutions of the Republic of Angola. (1975, November). Retrieved from https://www.constituteproject.org/constitution/Angola_2010.

¹⁵ Constitutions of the Republic of Nigeria. (1999, May). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/5412>.

¹⁶ Constitutions of the Republic of South Africa. (1997, February). Retrieved from <https://www.gov.za/sites/default/files/images/a108-96.pdf>.

¹⁷ Constitutions of the Arab Republic of Egypt. (2014, January). Retrieved from https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session20/EG/A.HRC.WG.6.20.EGY_1_Egypt_Annex_4_Constitution_E.pdf.

legitimate actor as interim president, to determine what this choice is based on. Each nation has its criteria for choosing who serves as interim president, ranging from colonialism, the history of regimes and governmental conflicts, the influence of other constitutions, and the continuation of political stability, to competing political considerations and professional considerations.

Reflecting on Poland, France, and South Korea which are semi-presidential, the three countries have different patterns in filling interim presidents, Poland and France use legitimate actors while South Korea uses bureaucrat actors. It is also different in nations having presidential systems, such as Indonesia, the Philippines, Mexico, Argentina, and Brazil. Indonesia and Mexico have presidential systems that appoint bureaucrats as interim Presidents, whereas the Philippines, Mexico, and Brazil appoint legitimate actors as interim Presidents.

In case the interim President is also absent, some nations worldwide are developing hierarchical replacement options to avoid a power vacuum. For instance, if the positions of President and/or Vice President are unfilled, the Chairman of Congress would normally serve as the interim President. However, if the Chairman of Congress are to be missing as well, the Chairman of the Senate will then take over as interim President. Some only supply one, meaning that the Constitution can no longer specify who will be the interim President if the President-elect is also not present. These articles, present in the constitutions of the countries of the world, regulate the position of interim president, as the position held by a single person, as is the case with the president. Indonesia is the only country where the interim President is filled with multiple positions, namely Minister of Foreign Affairs, Minister of Home Affairs, and Minister of Defence (Article 8, section 3)¹.

Indonesia has extensively used both the presidential and parliamentary systems of administration over its history. The current goal of Indonesia is to enhance the presidential system by direct popular election of the President and Vice President. H. Küpper (2021) believes that the Indonesian presidential system is “pure presidentialism” – similar to the United States – which places the President as head of state and government in the same position as the President Indonesia no longer uses a Prime Minister so that the President becomes head of state and head of government, as is the pattern of the current moderate presidential system. Suppose the President and Vice President are vacant. In that

case, the position of interim President is transferred to the Minister of Foreign Affairs, Minister of Home Affairs, and Minister of Defence together, who are referred to by the 1945 Constitution of the Republic of Indonesia as “interim President”, synonymous with bureaucratic actors. Uniquely, Indonesia uses multiple positions in the composition of the interim President, a classic model – a contribution from the New Order regime – which was stated in MPR Decree VII/1973² and later adopted into the Constitution of the Republic of Indonesia³.

The question is whether the adoption is relevant to the current government system which is more characterized by a presidential system with the position of President receiving the people’s vote. In the history of the Indonesian government, the legitimate actor, the Speaker of the House of Representatives, was once made interim President as regulated in Law Number 7 of 1949⁴ and Law Number 29 of 1957⁵. Over time, this legislation was replaced with a new model, and now, with the assistance of bureaucratic actors, an interim President is in place. In this section, discuss how the position of interim President is defined in the constitutions of several nations throughout the world. This article will begin by outlining the main aspects of the interim President arrangement, starting with the pre-conditions, and continuing to the term and post-term. This article shows an “overall picture” of what material content is in global constitutions relevant to the interim President based on research of 17 world constitutions. First, the Constitution determines the pre-conditions that can cause the positions of President and/or Vice President to become vacant, starting from death, resignation, and termination. This provision is in the constitutions of 17 countries in the world, although the pre-conditions for each country are different. Second, the Constitution regulates “which” public official becomes interim President, whether using bureaucratic actors or legitimate actors. In the 17 world state constitutions – which are generally divided into bureaucrat actors and legitimacy actors – each position is filled by a different public official, for example, a bureaucrat actor: some are filled by the Prime Minister, and some are filled by ministers, while for the legitimization actor, some are filled by the chairman of the Congress or the chairman of the House of Representatives.

Third, if the interim President is also absent, the constitution calls for tier-based solutions. Not all nations have clauses like this; of the 17 constitutions

¹ Constitutions of the Republic of Indonesia. (1945, August). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/7987>.

² Resolution of the People’s Consultative Assembly No. VII/MPR/1973 “On the Absence from Duty by the President and/or Vice President”. (1973, March). Retrieved from <https://www.hukumonline.com/pusatdata/detail/lt50877ad385ba0/ketetapan-majelis-permusyawaratan-rakyat-nomor-vii-mpr-1973-tahun-1973>.

³ Ibidem, 1945.

⁴ Law of Republic of Indonesia No. 7 “On the Appointment of Temporary Holders of the Office of the President of the Republic of Indonesia”. (1949, December). Retrieved from <https://peraturan.go.id/files/uu7-1949.pdf>.

⁵ Law of Republic of Indonesia No. 29 “Officials Who Carry Out the Work of the Office of the President, If the President Departs, Quits or is Incapacitated, While the Vice President is Absent or Incapacitated”. (1957, October). Retrieved from <https://peraturan.bpk.go.id/Details/52475/uu-no-29-tahun-1957>.

studied, nine (the Philippines, South Korea, Algeria, Azerbaijan, Poland, Romania, Argentina, Brazil, Chile, and South Africa) offer substitute arrangements if the interim President (in the first place) is absent. The rest of 8 other countries only provide a single option for an interim President, which means, if the interim President is also absent, there is no replacement as stipulated by the constitution. The 7 countries are France, Bulgaria, Mexico, Angola, Nigeria, Egypt, and Indonesia. Indonesia had a good precedent in the past, which unfortunately was set aside in the 1945 Constitution of the Republic of Indonesia¹, namely when Hatta, ahead of the Emergency Government of the Republic of Indonesia in 1948, issued a multi-layered mandate to form an Emergency Government of the Republic of Indonesia. At that time, Hatta considered the probability of the instructions to Sja-froedin Prawiranegara being rejected or the Emergency Government of the Republic of Indonesia failing. Hatta provided an alternative by issuing the next mandate, via radiogram to Dr. Soedarsono, Palar, and Maramis who were then in New Delhi to form an exile government in India. Even though it was initiated and became a convention, the 1945 Constitution of the Republic of Indonesia did not include this regulatory model in expectation of an interim President who was also absent.

Fourth, the process of taking the oath of office for the interim President before entering office is governed by the Constitution. This procedure is required to establish when the term of the President and/or Vice President ends and the term of the interim President begins. This procession also serves as a moral accountability mechanism for the interim President, utilizing the concept of an oath to remain faithful to the Constitution. Fifth, The Constitution regulates the mechanism for selecting a new President and/or Vice President. In general, this election mechanism is divided into two forms, namely, elections that are directly elected by the people through a “special election” scheme and those that use an election mechanism through the legislature. There are countries such as Chile (Article 286)² and Brazil (Article 81)³, where the election mechanism is determined based on “when” the President’s position becomes vacant. If this occurs during the first two years of the term, elections will be held and if it occurs during the final two years of office, a Congress vote will be held.

Sixth, the Constitution specifies how long it takes for a new President to be elected. This structure has two legal ramifications. First, the legislation governing when a new President must be chosen limits the power of the President, especially the duration of office of the interim President in power and stipulates responsibility for the entity in charge of holding the Presidential election to hold it within the time frame specified by the constitution. Seventh, the interim President’s powers are limited by the constitution, which often prohibits the interim President from performing specific activities during the interim administration. Not all constitutions restrict powers; some countries equate interim presidents with presidents. Only five of the 17 nations have legislation restricting the authority of the interim President, notably Algeria, France, Mexico, Argentina, and Egypt.

The interim President’s seven governing clauses can serve as a foundation for “integrity testing of other nations” constitutions as well as that of Indonesia. Only two topics will be covered in this section: the interim President’s role and how the constitution defines it, including if a single model is employed or if a backup plan is in place in the event of the interim president’s absence. The countries that use bureaucrat actors as interim presidents include South Korea, Mexico, Azerbaijan, South Africa, Chile, and Indonesia. Of the six countries, only South Africa is a country whose President is elected through the National Assembly. South Africa, which has a strong parliamentary system, has no longer used a prime minister since 1984. South Korea, Mexico, Azerbaijan, Chile, and Indonesia have implemented direct presidential elections. In the mainstream approach to presidential thinking – with the President directly elected by the people – these countries are classified as presidential systems, but if we address the development of the presidential system, some of these countries combine it with parliamentary elements through the presence of prime ministers such as South Korea and Azerbaijan. Mexico and Chile are commonly referred to by scholars as semi-presidential. Indonesia has a purer presidential system that does not use a prime minister and makes the President the head of state and head of government. These countries have various bureaucratic actors to serve as interim Presidents (Table 1).

Table 1. Bureaucrat actor who rises to become interim president

Country	President Election	An alternative way is if the interim President is handicapped	Bureaucrat Actor Who Becomes Interim President
South Korea	Directly by the citizen	Exist	1. Prime Minister 2. State Council (Article 71) ⁴

¹ Constitutions of the Republic of Indonesia. (1945, August). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/7987>.

² Constitutions of the Republic of Chile. (2005, September). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/21145>.

³ Constitutions of the Federative Republic of Brazil. (1994, July). Retrieved from <https://www.globalhealthrights.org/wp-content/uploads/2013/09/Brazil-constitution-English.pdf>.

⁴ Constitutions of the Republic of Korea. (1987, October). Retrieved from <https://www.refworld.org/legal/legislation/natlegbod/1948/en/19949>.

Table 1, Continued

Country	President Election	An alternative way is if the interim President is handicapped	Bureaucrat Actor Who Becomes Interim President
Azerbaijan	Directly by the citizen	Exist	1. Prime Minister 2. Chairman of Milli Majlis (Article 101-105) ¹
South Africa	National Assembly	Exist	1. Minister 2. Chairman of National Assembly (Article 90) ²
Chile	Directly by the citizen	Exist	Minister (If absent, then the replacement is by the order of the minister) (Article 285) ³
Indonesia	Directly by the citizen	Nothing	Minister of Foreign Affairs, Minister of Home Affairs, and Minister of Defence (Article 18 ayat (3)) ⁴
Mexico	Directly by the citizen	Nothing	Minister of Home Affairs (Article 7, section 8) ⁵

Source: systematized by the authors

Following that, nations that employ legitimate actors as interim presidents tend to dominate more than bureaucratic actors, like the Philippines, Poland, Romania, Algeria, Argentina, Brazil, France, Bulgaria, Angola, Nigeria, and Egypt. These countries have a presidential system as their primary feature – that is, the President is directly elected by the people – and in semi-presiden-

tial nations where the Prime Minister serves as the head of government. Poland, Romania, France, Bulgaria, and Egypt are among the nations that distinguish between the President as head of state and the Prime Minister as head of government; even if these countries have a prime minister, the interim President is nominated as a valid actor who comes from legislative power (Table 2).

Table 2. Bureaucrat actor who rises to become interim president

Country	President Election	An alternative way is if the interim President is handicapped	Legitimate Actor Who Becomes Interim President
Philippines	Directly by the citizen	Exist	1. Chairman of the Senate 2. Chairman of the House of Representatives (Article 7, section 8) ⁶
Poland	Directly by the citizen	Exist	1. Marshal of the Sejm (Legislative) 2. Marshal of the Senat (Legislative) (Article 128-131) ⁷
Rumania	Directly by the citizen	Exist	1. Chairman of the Senate (Legislative) 2. Chairman of the Deputy (Legislative) (Article 98) ⁸
Algeria	Directly by the citizen	Exist	1. President of the Council of the Nation. 2. Chief Justice of Constitutional Court (Article 98) ⁹
Argentina	Directly by the citizen	Exist	1. Presidente Provisorio del Senado / Chairman of the Senate 2. Presidente de la Cámara / Chairman of the House of Representatives 3. Presidente de la Corte Suprema de Justicia / Chief Justice of the Supreme Court (Article 88) ¹⁰

¹ Constitutions of the Republic of Azerbaijan. (1995, November). Retrieved from <https://president.az/en/pages/view/azerbaijan/constitution>.

² Constitutions of the Republic of South Africa. (1997, February). Retrieved from <https://www.gov.za/sites/default/files/images/a108-96.pdf>.

³ Constitutions of the Republic of Chile. (2005, September). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/21145>.

⁴ Constitutions of the Republic of Indonesia. (1945, August). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/7987>.

⁵ Constitutions of the Republic of the United Mexican States. (1917, February). Retrieved from https://www.oas.org/ext/Portals/33/Files/Member-States/Mex_intro_txtfun_eng.pdf.

⁶ Constitutions of the Philippines. (1987, February). Retrieved from <http://www.officialgazette.gov.ph/constitutions/1987-constitution/>.

⁷ Constitutions of the Republic of Poland. (1997, April). Retrieved from <https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>.

⁸ Constitutions of the Republic of Romania. (1991, November). Retrieved from <https://www.wipo.int/wipolex/en/text/129513>.

⁹ Constitution of the People's Democratic Republic of Algeria. (2016, February). Retrieved from https://adsdatabase.ohchr.org/IssueLibrary/ALGERIA_Constitution.pdf.

¹⁰ Constitutions of the Republic of Argentina. (1995, January). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/7070>.

Table 2, Continued

Country	President Election	An alternative way is if the interim President is handicapped	Legitimate Actor Who Becomes Interim President
Brazil	Directly by the citizen	Exist	1. Chairman of Deputy 2. Chairman of the Senate 3. Chief Justice of the Supreme Court (Article 80) ¹
France	Directly by the citizen	Nothing	Chairman of the Senate (Article 7) ²
Bulgaria	Directly by the citizen	Nothing	Chairperson of the National Assembly (Article 97) ³
Angola	Directly by the citizen	Nothing	Chairman of the National Assembly ⁴
Nigeria	Directly by the citizen	Nothing	Chairman of the Senate (Article 136) ⁵
Egypt	Directly by the citizen	Nothing	Chairman of the House of Representatives (Article 160) ⁶

Source: systematized by the authors

According to the preceding definition, the actor who becomes interim President and the country's governing structure are linked. The type of governance used by a specific country has a significant impact on who becomes interim President. This is evident in the number of nations that employ mainstream presidential and semi-presidential thinking – with the principal character of the President being directly chosen by the people – which is controlled by a legitimate actor as interim President. South Korea, Azerbaijan, and South Africa have all set records. Even though South Korea has a Prime Minister, who is a reinstatement of the Vice President, who was removed in the fourth constitutional amendment in 1960. Although the Prime Minister is a member of the executive, their election nevertheless requires mandatory approval by the National Assembly (Article 63:1)⁷. Consequently, as he was chosen through a democratic process to serve in the National Assembly, he embodies the will of the people and has the capital of political support – not really a pure bureaucrat – who was appointed without elections.

Similarly, Azerbaijan, even though the Prime Minister serves as temporary President, utilizes an alternate legitimating actor, the Milli Majlis, when the Prime Minister is away. South Africa, like Azerbaijan, returns it to the National Assembly if the minister who serves as interim President is absent. All actors who serve as

interim presidents are inextricably linked to their connection with legislative power, either directly or indirectly; only Indonesia, Chile, and Mexico have interim presidents who are not linked to legislative power ties.

Interim President in the Trajectory of the Regime in Indonesia. Article 8A paragraph (3) of the 1945 Constitution of the Republic of Indonesia⁸ stipulates that if the President and Vice President are permanently absent at the same time – then the Minister of Foreign Affairs, Minister of Home Affairs and Minister of Defense “jointly” act as interim President in running the government until a new government is formed. Alongside the interim President in running the government, the People's Consultative Assembly holds a session to elect the President and Vice President from two pairs of candidates for President and Vice President proposed by the political party or combination of political parties whose candidate pair for President and Vice President received the first and second most votes in the previous general election, until the end of their term of office. In the candidacy process at the People's Consultative Assembly, candidates promoted by political parties before the People's Consultative Assembly convey their vision and mission to campaign before the People's Consultative Assembly.

¹ Constitutions of the Federative Republic of Brazil. (1994, July). Retrieved from <https://www.globalhealthrights.org/wp-content/uploads/2013/09/Brazil-constitution-English.pdf>.

² Constitutions of the Republic of France. (1958, October). Retrieved from https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank_mm/anglais/constitution_anglais_oct2009.pdf.

³ Constitutions of the Republic of Bulgaria. (1991, July). Retrieved from <https://www.ilo.org/dyn/travail/docs/2499/Constitution%20of%20the%20Republic%20of%20Bulgaria.pdf>.

⁴ Constitutions of the Republic of Angola. (1975, November). Retrieved from https://www.constituteproject.org/constitution/Angola_2010.

⁵ Constitutions of the Republic of Nigeria. (1999, May). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/5412>.

⁶ Constitutions of the Arab Republic of Egypt. (2014, January). Retrieved from https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session20/EG/A.HRC.WG.6.20.EGY_1_Egypt_Annex_4_Constitution_E.pdf.

⁷ Constitutions of the Republic of Korea. (1987, October). Retrieved from <https://www.refworld.org/legal/legislation/natlegbod/1948/en/19949>.

⁸ Constitutions of the Republic of Indonesia. (1945, August). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/7987>.

The process is described in Article 8 paragraph (3) of the 1945 Constitution of the Republic of Indonesia¹.

There is no provision in this article for how long the interim President will function as a government. The 1945 NRI Constitution does not explicitly state how long the government will exist; rather, it regulates the maximum limit of “when” the People’s Consultative Assembly must begin meeting to elect the President and Vice President, namely a maximum of 30 days calculated after the previous President and Vice President are both simultaneously vacant. The 1945 Constitution of the Republic of Indonesia only regulates when the session will “begin” – it does not regulate how many days the new President and Vice President will be elected, so it is open to the possibility that the interim President will lead the government for quite a long time (up to months or even years like Suharto).

In retrospect, the trajectory of the interim President regulation has undergone a series of model changes, followed by changes in the dynamics of the government system chosen. The composition of the interim President and the government system implemented at that time have a tight connection when considering history. In Law Number 7 of 1949² interim president is filled by the Chairman of the House of Representatives with the title “Pemangku Jabatan Presiden”. Next, in Law Number 29 of 1957³ Concerning officials Who Carry Out the Work of the President, If the President Dies, Resigns or is Absent, while the Vice President is Absent or Unavailable, interim president, The President is filled by the Chairman of the House of Representatives with the title “Pekerjaan Jabatan Sehari-hari”.

In Government Regulations In Lieu of Law Number 10 of 1960⁴ concerning officials who carry out presidential duties, if the president dies, resigns or is absent, while the vice president is absent or unavailable, the interim president is filled by the First Minister with the title “Pekerjaan Jabatan Presiden”. In the Decree of the Provisional People’s Consultative Assembly of the Republic of Indonesia No. XV/MPRS/1966⁵ concerning Election/Appointment of the Vice President and Procedures for Appointing Acting Presidents, the interim

president is filled by a person appointed by Sukarno through Supersemar-Suharto with the title “Pemegang Jabatan Presiden”. Lastly, in the Decree of the People’s Consultative Assembly Number VII/MPR/1973 of 1973⁶ concerning the Condition of the President and/or Vice President of the Republic of Indonesia being absent, the interim president is filled by the Minister of Home Affairs, Minister of Foreign Affairs and Minister of Defence simultaneously – and for the first time using the model of replacing 3 (three) positions simultaneously (Minister of Foreign Affairs, Minister of Home Affairs and Minister of Defense) with the title “Acting President”.

Historical Contribution, Problems and Future Proposals. The historical contribution that is maintained – even though there have been significant changes in the constitutional structure – is the composition of the interim President, namely the Minister of Foreign Affairs, Minister of Home Affairs and Minister of Defence who serve together. This was originally regulated in the Decree of the People’s Consultative Assembly Number VII/MPR/1973⁷ of 1973 concerning the Condition of the President and/or Vice President of the Republic of Indonesia being Unavailable, which at that time mandated the Minister of Home Affairs, Minister of Foreign Affairs and Minister of Defence to act as a substitute for the President in absence from office (MPR). M. Sri Soemantri claimed that the Decree of the People’s Consultative Assembly Number VII/MPR/1973⁸ judgment transferred the content of that provision to Article 8 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (Sri Soemantri, 2015). It is worth noting that, at the time, the President carried the People’s Consultative Assembly authority as the highest state institution – a feature of the parliamentary system. This system is still used in the 1945 Constitutional Amendments, which require popular sovereignty by having the people directly elect the President (presidentialism) but delegate the interim President to someone who is not directly elected by the people. In the official minutes of its preparation, Djalil Abdullah stated to

¹ Constitutions of the Republic of Indonesia. (1945, August). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/7987>.

² Law of the Republic of Indonesia No. 7 “On the Appointment of Temporary Holders of the Office of the President of the Republic of Indonesia”. (1949, December). Retrieved from <https://peraturan.go.id/files/uu7-1949.pdf>.

³ Law of the Republic of Indonesia No. 29 “Officials Who Carry Out the Work of the Office of the President, If the President Departs, Quits or is Incapacitated, While the Vice President is Absent or Incapacitated”. (1957, October). Retrieved from <https://peraturan.bpk.go.id/Details/52475/uu-no-29-tahun-1957>.

⁴ Substitute Government Regulations Act No. 10 “On the Official Running the President’s Job Office, if the President is Mandat, Quit, or Impeded, Being Vice-president is no or Hindrous”. (1960, March). Retrieved from <https://www.global-regulation.com/translation/indonesia/2972949/substitute-government-regulations-act-no.-10-of-1960.html>.

⁵ Decree of the Provisional People’s Consultative Assembly of the Republic of Indonesia No. XV/MPRS/1966 “On the Election/Appointment of the Vice President and Procedures for the Appointment of the Office of the President By the Grace of God Almighty”. (July 1966). Retrieved from <https://www.regulasip.id/book/11571/read>.

⁶ Resolution of the People’s Consultative Assembly No. VII/MPR/1973 “On the Absence from Duty by the President and/or Vice President”. (1973, March). Retrieved from <https://www.hukumonline.com/pusatdata/detail/lt50877ad385ba0/ketetapan-majelis-permusyawaratan-rakyat-nomor-vii-mp-1973-tahun-1973>.

⁷ Ibidem, 1973.

⁸ Ibidem, 1973.

Stemmotivering Fraction of Persatuan Pembangunan People's Consultative Assembly Republic of Indonesia General Session in March 1973, that "Thus, it requires regulations that have legal certainty, to overcome the vacuum in the state leadership, so that our Assembly has produced a Rantap (Rancangan Ketetapan) that regulates this matter, which we fully agree with. The sequence of officials who must appear if the President or Vice President is absent, whether permanent or temporary, starting from the Vice President up to the triumvirate of Ministers of Home Affairs, Foreign Affairs and Defence, is intended to prevent the absence of the country's highest leadership, something that must not happen for continuity of development"¹. According to Djalil Abdullah's opinion, at the People's Consultative Assembly Republic of Indonesia General Session in March 1973, the members were presented with mature material in the written Rantap, in the event of the President and Vice President's permanent absence. There was no in-depth discussion recorded in the minutes of the trial and Djalil Abdullah stated that Stemmotivering merely justified what was presented in the Rantap².

There are no other official state documents that can be traced, that can explain why the Minister of Home Affairs, Minister of Foreign Affairs and Minister of Defence replaced the President during his permanent absence, having regard to the entire series of results of the March 1973 MPR General Assembly and the composition of the Second Development Cabinet³, the only faction that discussed the point about the vacancy of the positions of President and Vice President was the Fraction of Persatuan Pembangunan. Due to this, to determine why the Minister of Home Affairs, Minister of Foreign Affairs and Minister of Defence act as substitutes for the President when if former is permanently unable to do so, requires an in-depth investigation through historical research for political context behind these regulations.

M. Sri Soemantri (2015) determined why the three ministries are to carry out interim President responsibilities, namely why three ministers are supposed to know secrets of government affairs – same for why bureaucrat actors can act as interim Presidents. Next, The Minister of Foreign Affairs is in charge of all foreign interactions and, more significantly, of maintaining the country's sovereignty in the international arena. The Minister of Home Affairs is seen as the controller of domestic government including regional government, and the Minister of Defence as the political controller of defence. M. Sri Soemantri noted a functional approach that omitted the political background of the rules. Al-

most identical to the People's Consultative Assembly Decree, the regulatory paradigm that establishes the Minister of Foreign Affairs, Minister of Home Affairs, and Minister of Defence as authorities to take exceptional action in "emergencies" is found in Article 75 of the Constitution of Indonesia⁴.

Through all of the political background that remains hidden beneath these regulations, the Minister of Foreign Affairs, Minister of Home Affairs and Minister of Defence who serve together, are still retained as interim President with an increase in level which was originally in the People's Consultative Assembly Decree to become the 1945 Constitution of the Republic of Indonesia. The problem is whether such a model is still relevant in contemporary constitutional structures. The 1945 Constitution of the Republic of Indonesia as a result of the 1999-2002 constitutional reform was the product of an agreement that was motivated to strengthen Presidentialism by conducting direct elections for the President as a form of popular sovereignty. The use of the Minister of Home Affairs, Minister of Foreign Affairs and Minister of Defence as interim President shows that the features of parliamentarism still exist in the Presidentialism of the 1945 Constitution of the Republic of Indonesia because it uses the element of "minister" as interim President as in the new order which, if the President and Vice President are vacant, is simultaneously filled by the Minister of the Interior, Home Affairs, Minister of Foreign Affairs and Minister of Defence together.

According to the historical trajectory of governance, Indonesia is in an ambiguous position to install a parliamentary or presidential form of government. Before the reform, numerous experts, such as M. Sri Soemantri (2015), noted that Indonesia used a hybrid system as the President was chosen by the People's Consultative Assembly, but the 1945 Constitution did not restrict the cabinet's accountability to parliament. After the reform, according to S. Sulardi (2012) and S. Isra (2018), even while there is a pledge to improve the presidential system through direct election of the President, parliamentary subtleties remain, such as not granting the President veto power over legislative initiatives submitted by parliament. The author believes that, although modern reforms have not yet fully embraced pure presidentialism, they are in the phase of "moving forward" towards presidential, or in Fitrah Asri's language, dominant towards presidential rather than parliamentary.

Interim President with the composition of the Minister of Home Affairs, Minister of Foreign Affairs and Minister of Defence who replaces the President runs

¹ Session of the People's Consultative Assembly on 24 March 1973 to Appoint Sri Sultan Hamengkubono IX as the 2nd Vice President of Indonesia based on the Decree of the People's Consultative Assembly no. X/MPR/1973. (1973, March). Retrieved from <https://onesearch.id/Record/IOS1.INLIS000000000054780>.

² Ibidem, 1973.

³ Ibidem, 1973.

⁴ Constitutions of the Republic of Indonesia. (1945, August). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/7987>.

the government, with a parliamentary nuance since the Minister of Home Affairs, Minister of Foreign Affairs and Minister of Defence are not directly elected by the people which is the main characteristic of the presidency – the President is directly elected by the people. Tracing the Comprehensive Draft Amendment to the 1945 Constitution of the Republic of Indonesia, we cannot determine a set reason why the Minister of Foreign Affairs, Minister of Home Affairs and Minister of Defence appear as interim President (Constitutional Court of Republic of Indonesia, 2010). The execution of the interim President duties by the ministers of foreign affairs, home affairs, and defence is not contested; throughout the formulation process, all participants justify one another and concur. The authors of the modification did not consider the 1945 Constitution of the Republic of Indonesia's new constitutional framework; instead, they simply copied and pasted the People's Consultative Assembly Decree Number VII/1973's¹ provisions into Article 8 paragraph 3 of the 1945 Constitution of the Republic of Indonesia².

Interim President will have to deal with several possible issues when using ministerial personnel who are not directly elected by the populace. F. Burkhardt (2020) described the main problems of the former government leader, among others, "the inability to direct and control agents" (Burkhardt, 2020), ministers' loyalty to the president as a protectionist appointment in exchange for support or the creation of an electoral coalition (Hollibaugh *et al.*, 2014). It is necessary to understand whether this loyalty is maintained after the replacement of the president and vice president. Within the bounds of rational reasoning, a "President" is unable to supervise and regulate the activities of its ministers, resulting in internal executive disputes, particularly when the President runs the government.

Ministers in government have the power to implement strategic initiatives in the short-term interests of the sector. The Cabinet of Ministers is uncontrollable, and many people can come to power in a short time. From a management perspective, it is important to assess whether the interim president has sufficient legitimacy and popular support to take strategic action and control the government. Legitimacy is crucial, (Dyzenhaus, 2012) and noted as a manifestation of the power of the constituent voters who support government action. When constituents are under a regime they did not choose, following Colón-Ríos (2012), it is constitutional illegitimacy (Colón-Ríos, 2012). Thus, political, and legal legitimacy are two inseparable aspects. The threat of lack of political legitimacy in carrying out presidential duties is very high even though legally the

1945 Constitution of the Republic of Indonesia requires ministers to carry out interim President. Adam Smith and Penelope Sue's potential for "government paralysis" may occur at a later date.

Apart from the legal framework for implementing the interim President which does not have the legitimacy of the people, this problem is further exacerbated by the 1945 Constitution of the Republic of Indonesia³ is not accommodative enough to deal with certain situations which result in paralysis of the government. It can happen, when the President and Vice President give an oath on October 20th, but the ministerial cabinet has not yet been formed. For example, shortly after the inauguration, it was discovered that the President and Vice President were affected concurrently, rendering them permanently inactive (death, terrorist attack, etc.). It is necessary to clarify the person who performs the role of interim president when the cabinet is not yet formed/inaugurated. The Minister of Home Affairs, Minister of Foreign Affairs and Minister of Defence cannot serve because they have not been legally appointed/sworn in (the cabinet has not yet been formed), while the previous ministries are also unable to carry out their duties because their term of office has expired at the same time as the term of office of the previous President.

This is a problem because, in the inauguration of the previous President and Vice President, there was always a "time lag" between the inauguration of the President and Vice President and the appointment of the cabinet. During President Susilo Bambang Yudhoyono's first period, he was inaugurated on October 20, 2004, at 10.00 WIB and the appointment of the ministerial cabinet was carried out in the afternoon. At the inauguration of Susilo Bambang Yudhoyono period II, the inauguration was held on October 20, 2009, then the cabinet appointment was carried out the following day October 21, 2009. In the era of President Joko Widodo period I, the President was inaugurated on October 20, 2014, and the appointment of the cabinet was carried out 1 week after the inauguration, namely on October 27. In the era of President Joko Widodo's period II, he was inaugurated on October 20, 2019, and then the cabinet appointment was carried out on October 23, 2019.

The rational choice to overcome these two problems, following the author's suggestion, is to make the Chairman of the People's Consultative Assembly the interim President. This one solution can directly address the weaknesses in the 1945 Constitution of the Republic of Indonesia. Firstly, politically, the Chairman of the People's Consultative Assembly is appropriate to serve as the interim President because they receive the people's votes directly and are elected through

¹ Resolution of the People's Consultative Assembly No. VII/MPR/1973 "On the Absence from Duty by the President and/or Vice President". (1973, March). Retrieved from <https://www.hukumonline.com/pusatdata/detail/lt50877ad385ba0/ketetapan-majelis-permusyawaratan-rakyat-nomor-vii-mp-1973-tahun-1973>.

² Constitutions of the Republic of Indonesia. (1945, August). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/7987>.

³ Ibidem, 1945.

general elections. In terms of legitimacy, the People's Consultative Assembly is strong and has political support – because, in general, based on Indonesian political history – the Chairman of the People's Consultative Assembly is a legitimate actor who comes from the parliamentary majority party thus when it changes office as interim President, they can ward off external political interference throughout the relatively short duration of their office. Even though they come from a legitimate actor, the Chairman of the People's Consultative Assembly is also experienced politically, which matters in leadership as they previously served and led the People's Consultative Assembly institution. Under robust political support from legislative political parties and the population at large, they successfully maintained control of the interim government and consolidated the People's Consultative Assembly, an additional state institution entrusted with the task of overseeing the inauguration of the new president. Second, when there is a vacancy for the President and Vice President right after their inauguration on October 20 – at the same time, a cabinet has not yet been formed so that the Minister of Foreign Affairs, Minister of Home Affairs and Minister of Defence have not yet been formed – the Chairman of the People's Consultative Assembly can replace as interim President. Long before the inauguration of the President and Vice-President on 20 October, the House of Representatives, the Regional Representative Council, and the People's Consultative Assembly were elected and inaugurated on 1 October, and the elected Chairman of the People's Consultative Assembly was inaugurated on 4 October. Therefore, when the President and Vice President are inaugurated, and a tragedy occurs that leaves the positions of President and Vice President vacant, the Chairman of the People's Consultative Assembly can take over the interim President. Thus, the constitution can guarantee the continuation of the government by giving this to the interim president thus, it can guarantee the stability of the government until a new government is formed.

Conclusions

The primary goal for a country facing a presidential and/or vice-presidential vacancy is to maintain governance. Continuing the government entails more

than simply ensuring that an interim President occupies the interim government. Even more, it also should guarantee the stability of administration and community interests. In international constitutions, there are two approaches for filling an interim president: bureaucratic actors and legitimate actors. This study argues, that, despite the existence of two actor models, the majority of countries show parliamentary involvement in filling the position of interim President, either directly through the legitimization of the actor from parliament who becomes interim President, or indirectly through the appointment and accountability of bureaucratic actors by the (previous) President through political mechanisms in parliament. Only Indonesia, Chile, and Mexico have interim presidents who are not in contact with the legislature.

Indonesia has a peculiarity, differing from other countries, namely the simultaneous interim Presidency of multiple positions (Minister of Foreign Affairs, Minister of Home Affairs and Minister of Defence). This is a contribution from the past, which was adopted from the Decree of the People's Consultative Assembly Number VII/1973 without a process of decontextualization and alignment with the current constitutional structure. As a result, the changes to the presidential system in the process of amending the 1945 Constitution of the Republic of Indonesia were difficult to make as the interim President faced a crisis of legitimacy and political support. The 1945 Constitution of the Republic of Indonesia also does not yet guarantee complete continuity of government, because the 1945 Constitution of the Republic of Indonesia does not provide a way out if the positions of President and Vice President become vacant, while the ministerial cabinet has not yet been formed. Future improvements can be made in one step, namely giving the position of acting President to the Chairman of the People's Consultative Assembly. Further research in this area could include a more in-depth study of the legal regulation of transition periods in other countries.

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Conflict of Interest

None.

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Проблеми інституту тимчасового президентства: порівняльна конституційна перспектива

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Анотація

Актуальність цього дослідження полягає в з'ясуванні різноманітних конституційних підходів, прийнятих країнами для вирішення критично важливого питання правонаступництва у випадку одночасного відкриття вакансій на посади президента й віцепрезидента. Ця стаття має на меті з'ясувати, хто повинен виконувати обов'язки президента в таких випадках, щоб уряд продовжував працювати. Для цього в статті використано доктринальний метод дослідження, доповнений порівняльним конституційним підходом до вивчення конституцій країн. Встановлено, що є легітимізовані та бюрократичні актори, які конкурують один з одним, щоб виконувати обов'язки президента, коли посади президента й віцепрезидента стають вакантними, у різних державах. Країни, які використовують легітимних акторів, зазвичай призначають спікера Палати представників / Сенату (законодавча влада) виконувачем обов'язків президента, натомість країни, які використовують бюрократичних акторів, здебільшого призначають міністрів (виконавча влада) виконувачами обов'язків президента. Легітимні актори – це саме ті посадові особи, які можуть стати виконувачами обов'язків президента, оскільки вони спроможні забезпечити стабільність функціонування уряду на підставі демократичної легітимності, що ґрунтується на голосах виборців. Практична цінність цієї статті полягає в тому, що вона може бути джерелом знань для розробників конституцій під час внесення поправок / змін до конституції, оскільки в ній узагальнено механізми виконання обов'язків президента за основним законом різних країн, а також доповнено досвідом Індонезії, який можна розглядати як матеріал для обговорення поправок / змін до конституції.

Ключові слова:

президент; виконувач обов'язків президента; уряд; конституційне порівняння; президенціалізм