

SETTINGS COMPARISON ACTING PRESIDENT IN INDONESIA AND OTHER COUNTRIES THAT ADOPT A PRESIDENTIAL SYSTEM OF GOVERNMENT

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Abstract

This research aims to examine further regulations regarding the provisions of Article 8 paragraph 3 of the 1945 Constitution of the Republic of Indonesia. The Republic of Indonesia declares itself to be a legal state, which means that all aspects of the state must be based on the rule of law. On the other hand, the President of the Republic of Indonesia acts as both head of state and head of government, which indicates the nature of a presidential republic. Therefore, the position of President cannot be vacant because this position is so important and central. The research method used in this research is qualitative method with normative juridical analysis, namely explaining the legal norms that should be fulfilled (*das sollen*) compared to the current situation (*das sein*). This research is also descriptive in nature, namely by describing the existence of a legal vacuum in the field of state administration, especially filling the position of interim president in Indonesia and its relationship with the threat of emergencies. The country's constitution regulates how to fill the vacancy in the presidential position in the event that the President and Vice President are permanently absent at the same time. However, this provision must be further regulated through laws and implementing regulations based on law. Twenty-two years have passed since the last amendment to the constitution but there is no legal regulation regarding this matter even though this situation is a threat and could result in a state of emergency status in the country. To facilitate the consideration and formulation of filling the position of president, the author presents a comparison with several countries so that it can be used which one is most suitable for the conditions of the Republic of Indonesia.

Keywords: *Republic, President, Presidential, State of Emergency*

INTRODUCTION

Since since day proclamation its independence the Indonesian nation has state form his country as a unitary state in the form of republic . Modern republics usually chaired by one person named as The President of the Republic of Indonesia also said his leadership as The president who holds power based on people's sovereignty Throughout Indonesian history , has happened several times change constitution from The 1945 Constitution became The 1949 Constitution of the Republic of the United States of Indonesia become The Provisional Constitution of 1950 and finally return Again to The 1945 Constitution is based on Decree President July 5, 1959. The Republic of Indonesia which is currently This hold on to The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) , then do amendment as many as 4 (four) times (last 2002) , and at the moment This position The President of the Republic of Indonesia is elected directly by the people through election general since 2004 based on the provisions of Article 6A of the 1945 Constitution of the Republic of Indonesia which reads :

President and Vice President chosen in One partner in a way directly by the people. So since moment That President and Vice President chosen as One package and selected directly by the people and not by the Assembly People's Consultative Assembly again like formerly . Position The President of the Republic of Indonesia is position very very important Because The President of the Republic of Indonesia does not only as Head of state but also the Head Government . So many the power that he has have it arranged in regulation legislation as well as many state institutions and commissions that culminate in a way centralistic to President so that his position No may empty . In a way simple task main President as an executive body is not considering , but rather carry out The law that has been determined by the legislative body , in in practice executive power No only consists of from implementation Constitution only , but also to maintain order and security , both within or abroad . President as head government is peak from institutions the state executive , agencies and commissions established by the state,

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the Indonesian National Armed Forces , the National Police , and the Attorney General 's Office. authority held President very much Lots as regulated in the 1945 Constitution of the Republic of Indonesia which will later explained more carry on through regulation legislation , including :

- 1) President hold power state government
- 2) President submit design Constitution
- 3) President set Regulation Government For operate Constitution
- 4) President hold power highest over the Army, Navy, and Air Force
- 5) President with DPR approval can state war , make peace and agreement with other countries
- 6) President can state condition danger
- 7) President lift ambassadors and consuls as well as accept placement ambassadors of other countries
- 8) President give pardon , rehabilitation , amnesty , and abolition
- 9) President give title , mark services , and other signs honor
- 10) President appoint and dismiss Ministers
- 11) President entitled set Regulation Government Replacement Constitution in matter about urgent need
- 12) President submit budget and revenue state spending And other authorities of the President that are regulated in regulation legislation other .

Absence President and Vice President result in emptiness leadership dangerous executive the existence of the Republic of Indonesia because state operations are run by the executive . The state of affairs This Already can categorized as condition emergency . If reviewing to history of Indonesia, the state of the country without President and Vice President This Once happen when Aggression Dutch Military II on December 19, 1948. At that time President Soekarno and Vice President Mohammad Hatta were arrested and exiled by the Dutch to Bangka. Minister of Welfare Syafrudin Prawirangera, who was then That is in Sumatra taking the initiative establish Government The Republic of Indonesia Emergency (PDRI) in Bukittinggi . Therefore Therefore , the Republic of Indonesia needs to be involved constitution organize and anticipate if happen state of the country without existence President and Vice President in a way simultaneously .

Article 8 paragraph 3 of the 1945 Constitution of the Republic of Indonesia states : that If President and Vice President No can operate his position in a way simultaneously then the one who carries it out position President are the Minister of Foreign Affairs, Minister of Home Affairs and Minister of Defense together which is also known in the world of science law in Indonesia as triumvirate (three series). Far before arranged in the provisions of the 1945 Constitution of the Republic of Indonesia, regulations about implementation position President in matter President and Vice President prevented still regulated by the Assembly Post- People's Consultative Assembly General Election of 1971. Through Decision Meeting 5th Plenary Session on March 22, 1973, session general MPR stipulates Provisions Assembly People's Consultative Assembly No. VII/MPR/1973 concerning Condition The President and/ or Vice President of the Republic of Indonesia is prevented from performing his duties . Based on Article 5 paragraph 2 of MPR Decree No. VII/MPR/1973 , it is stated that :

Since President and Vice President prevented remains , then the Ministers are in charge position Minister of Home Affairs, Minister of Foreign Affairs and Minister of Defense- Security in a way together carry out Position Stakeholders Temporary The office of the President , which is regulated his work determined by the relevant Ministers .

After the reformation, the 1945 Constitution experienced amendment until four times no except rule about stakeholders position President Meanwhile , in the 4th amendment in 2002 it was agreed the provisions of Article 8 paragraph 3 of the 1945 Constitution of the Republic of Indonesia which reads :

If the President and Vice President die , resign , or are dismissed or No can do his obligations during his term of office in a way simultaneously , the executor task presidency are the Minister of Foreign Affairs, Minister of Home Affairs and Minister of Defense together.

At the latest three tens day after that , the Assembly The People's Consultative Assembly organizes hearing For choose President and Vice President of two couples candidate President and Vice President proposed by the party political pairing candidate The President and Vice President reach voice most first and second in election general before , until end of his term of office .

MPR Decree No. VII/MPR/1973 now his status revoked and declared No valid based on Article 1 number 3 of MPR Decree No. I /MPR/2003 concerning Review Regarding the Material and Legal Status of the Decree Assembly Temporary People's Consultative Assembly and Decree Assembly People 's Consultative Assembly of the Republic of Indonesia 1960 to with 2002 .

Arrangement more carry on about implementation position President in matter President and Vice President prevented by three Ministers until moment This Not yet there is , even though position The President of the Republic of Indonesia is very important Because President hold power as head of state and also head government . Twenty - two years passed since amendment Lastly, the 1945 Constitution of the Republic of Indonesia mandates need existence arrangement stakeholders position temporary President by three Ministers but Not yet Once There is initiative For made Constitution as arrangement more continued Article 8 paragraph 3 of the 1945 Constitution of the Republic of Indonesia as provisions of Article 10 paragraph 1 letter a of the Law Number 12 of 2011 also mandates formation Constitution For arrange more carry on something material in Constitution .

Formulation Problem

Based on the description that has been writer convey previously , then Meaning from study This is For answer problem that is :

- a. How history from emergence draft filling position President temporary in a way triumvirate through three Ministers?
- b. How comparison arrangement filling position President temporary between Indonesia and other countries that adhere to system presidential ?

METHOD

Research methods used in study This is study qualitative in nature juridical normative that is explain the legal norms that should be fulfilled (das sollen) compared with current situation happened (das sein). Primary sources come from from The 1945 Constitution of the Republic of Indonesia and regulations Indonesian legislation , as well as constitution and regulations laws of other countries. Source secondary originate from books , opinions experts , journals , and research relevant previous research . this is also of a nature descriptive that is with method describe condition existence emptiness law in the field of state administration in particular filling position president while in Indonesia and its relationship with threat condition emergency . In addition , research this also uses approach historical and studies comparative . Historical studies with compare arrangement stakeholders position president temporary based on history law Indonesian state administration . Meanwhile studies comparative that is with compare rule filling position president temporary between Indonesia and other countries, especially the republic presidential.

RESULTS AND DISCUSSION

1. History of its Emergence Draft Charging Position President Temporary

After ratification The 1945 Constitution on August 18, 1945, then arrangement the government of the Republic of Indonesia including President referring to to constitution this . At the time that's it , the settings still very simple that is If President died , stopped , or No can do his obligations during his term of office , he replaced by the Vice President until finished time (Article 8 of the 1945 Constitution).

First the first time arranged provision about officials who hold office position President temporary if President and Vice President both of them No There is is Constitution Number 7 of 1949 concerning Appointment Acting Caretaker Position President of the Republic of Indonesia . Provisions Constitution the arrange as following:

1. If the President and Vice President of the Republic of Indonesia die , they will stop or No can do his obligations during his term of office , then The Chairman of the House of Representatives carries out obligation That until There is provision about replacement stakeholders position President .
2. If the Chairman of the House of Representatives does not can also run obligation that , then He replaced by Deputy Chairman of the House of Representatives .

When Soekarno was elected as President of the Republic of the United States of Indonesia and Mohammad Hatta as Prime Minister of the Republic of the United States of Indonesia (both must based in Jakarta). Therefore that , the Republic of Indonesia (domiciled in Yogyakarta) as one of the states from the Republic of the United States of Indonesia (RIS) occurred emptiness peak power executive , so Mr. Assat as Chairman Central Indonesian National Committee /KNIP (institution temporary before the House of Representatives was formed) act as stakeholders position President of the Republic of Indonesia from 27 December 1949 to 15 August 1950. Change provision stakeholders position President Then happen with ratification Constitution Number 29 of 1957 concerning Officials Who Execute Work The President's Office , If the President Dies, Terminates or Unable to attend , while the Vice President is absent or Impeded . Article 1 of Law No. 29 of 1957 states :

- 1) In the case of the Vice President No There is or prevented , then If President absent , the Chairman of the House of Representatives carries out work position President daily .
- 2) In the case of the Vice President No there is , then If President died , stopped or No can do his obligations during his term of office , the Chairman of the House of Representatives carries out work position President until There is President .

When running position President temporary this time , the Chairman of the House of Representatives is not may use right or do his obligations as Chairman / member of the People's Representative Council (Article 2 paragraph 1 of Law No. 29 of 1957). After Decree President on July 5, 1959 (Presidential Decree Number 150 of 1959) which stated that the Republic of Indonesia was back to the 1945 Constitution from the 1950 UUDS, then need There is regulation new For replaces Law No. 29 of 1957 because the UUDS 1950 as the foundation Already No valid again . Therefore that , on March 23, 1960 it was published Regulation Government Replacement Constitution Number 1 of 1960 concerning Officials Who Execute Work The President's Office , If the President Dies, Terminates or Unable to attend , while the Vice President is absent or Prevented .

Different with provisions of Law No. 29 of 1957, Article 1 of Government Regulation in Lieu of Law No. 1 of 1960 regulates that :

- 1) In the case of the Vice President No There is or prevented , then If President prevented , First Minister operate work position President daily .
- 2) In the case of the Vice President No there is , then If President died , stopped or No can do his obligations in his term of office , First Minister operate work position President until There is President .

If Law No. 29 of 1957 states that Chairman of the DPR as holder position President after death President and Vice President, then in Government Regulation in Lieu of Law No. 1 of 1960 appointed the First Minister as stakeholders position President temporary after death President and Vice President.

History of its formation draft arrangement stakeholders position President while the one in the form of triumvirate happen after end of the reign President Soekarno who then replaced by the President Suharto . Replacement government This in a way official happen through hearing Assembly Provisional People's Consultative Assembly (MPRS) on March 27, 1968 with issuance MPRS Decree No. XLIV/MPRS/1968.

After The 1971 General Election and the formation of Assembly People's Consultative Assembly , through hearing plenary Assembly People's Consultative Assembly (MPR) on March 22, 1973, the MPR determined Provisions Assembly People's Consultative Assembly No. VII/MPR/1973 concerning Condition The President and/ or Vice President of the Republic of Indonesia is prevented from attending .

Consideration the creation of MPR Decree No. VII of 1973 mentioned in the preamble weigh that is :

- a. that man as human servants of God nature nothing escape from obstacles and tests life , which among other things can in the form of something obstacles caused by existing things outside his ability , so that No can carry out dharma, work and obligations in his life daily Good in a way still and For temporary time ;
- b. that such a situation That when concerning self President and/ or Vice President have wide-ranging national impact and influence as well as in , then must be There is certainty the laws that govern in things like That until happen ;
- c. that Article 8 of the 1945 Constitution only determine when President Passed away , stopped or No can do his obligations during his term of office , he replaced by the Vice President until finished time ;
- d. that need existence Provisions Assembly People's Consultative Assembly results The General Election of July 3, 1971 which regulated necessary provisions taken in matter President and/ or Vice President prevented as expansion carry on according to law and law nature for the sake of understanding and practice life democratic -constitutional state based on Pancasila and the 1945 Constitution .

Based on MPR Decree No. VII of 1973 there are two articles that need to be noticed namely Article 3 and Article 5:

Article 3.

- 1) In terms of President prevented meanwhile , then President assign the Vice President For carry out tasks President .
- 2) If in the matter referred to in paragraph (1) of article this , Vice President in condition prevented , then President pointing a Minister for carry out tasks President .
- 3) Term time assignment / appointment as referred to in paragraph (1) and (2) of article This is determined by the President

Article 5.

- 1) In terms of President and Vice President prevented still , Assembly People's Deliberation in time no later than One month after President and Vice President prevented still Already organize Special Session of the Assembly For pick and lift The President and Vice President, whose term of office end in accordance with term of office The President and Vice President he replaced .
- 2) Since President and Vice President prevented still . then the Ministers are in charge the positions of Minister of Home Affairs, Minister of Foreign Affairs and Minister of Defense- Security in a way together carry out Position Stakeholders Temporary The office of the President, which is regulated his work determined by the relevant ministers .
- 3) Stakeholders Temporary Position President carry out work daily President until The President and Vice President are elected by the Assembly hold his position

In the provisions of two articles on can known that there is difference condition appointment stakeholders position President while . If the President and Vice President prevented temporary in a way simultaneously , then President will pointing one Minister for operate task President . Meanwhile If President and Vice President prevented still in a way simultaneously, then stakeholders position President temporary held by three Ministers together .

After the end of the New Order, the spirit of reform was realized , among other things with amendment 1945 Constitution . Session the 4th amendment to the 1945 Constitution in 2002 then set change Article 8 reads into 3 paragraphs , with adopt rule from MPR Decree No. VII of 1973 so that Article 8 of the 1945 Constitution of the Republic of Indonesia reads as following :

Article 8

- 1) If the President die , quit , be dismissed , or No can do his obligations during his term of office , he replaced by the Vice President until his term of office has expired .
- 2) In terms of happen vacancy of the Vice President , no later than in time six tens day , Assembly The People's Consultative Assembly organizes hearing For electing the Vice President of the two candidates proposed by the President .
- 3) If the President and Vice President die , quit , be dismissed or No can do his obligations during his term of office in a way simultaneously , the executor task presidency are the Minister of Foreign Affairs, Minister of Home Affairs and Minister of Defense together .

At the latest three tens day after that , the Assembly The People's Consultative Assembly organizes hearing For choose President and Vice President of two couples candidate President and Vice President proposed by the party political pairing candidate The President and Vice President reach voice most first and second in election general before , until end of his term of office . Previously, the settings stakeholders position president temporary use Constitution For arrange more carry on provisions of Article 8 of the 1945 Constitution, but after amendment 2002 stakeholders position president temporary arranged in Constitution . Therefore cargo material stakeholders position President temporary now arranged in the 1945 Constitution of the Republic of Indonesia, then based on Article 10 paragraph 1 letter a of the Law Number 12 of 2011 concerning Formation Regulation Legislation , regulations more carry on from material The Basic Law in matter This about the provisions of Article 8 paragraph 3 of the 1945 Constitution of the Republic of Indonesia must arranged with Constitution .

2. Comparison Arrangement Charging Position President Meanwhile, between Indonesia and other countries that adopt the system Presidential

a. Countries with System Presidential

System Presidential is system the government that started develop after independence of the United States . According to Clinton Rositter there is bullet points important to show principle system government presidential that is :

- 1) Power executive is branch separate powers from legislative
- 2) Branches of power executive will led by one President
- 3) President No chosen through the parliamentary process
- 4) President will have a definite term of office , and only Can dismissed Because violate articles impeachment like crime level height and deeds despicable
- 5) President can chosen return For the period that has passed restricted
- 6) President get his authority through arrangement straight inside constitution
- 7) President No will limited by conditions agreement a council in execute his authority

The Republic of Indonesia as a country that claims operate system government presidential need For review other constitutional laws that are also presidential For get consideration in Indonesian constitutional law . Therefore, the author serve several countries that implement system government presidential especially about rule delegation to stakeholders position president temporary .

a.1. United States of America

Arrangement stakeholders position president while in the United States arranged in its constitution , as well as arranged more carry on in Presidential Succession Act 1947 which explains that if President of the United States in condition :

- Becomes incapacitated
- Dies
- Resigns
- Is unable to hold office
- Is removed from office

Then the position President will replaced by officials following This in accordance the order that is :

1. Vice President
2. Speaker of the House (Chairman of the DPR)
3. President Pro Tempore of the Senate (Chairman of the Senate)
4. Secretary of State (Minister of State Secretary)
5. Secretary of the Treasury (Minister of Finance)
6. Secretary of Defense
7. Attorney General (Attorney General)
8. Secretary of the Interior (Minister of Home Affairs)
9. Secretary of Agriculture
10. Secretary of Commerce (Minister of Trade)
11. Secretary of Labor (Minister of Manpower)
12. Secretary of Health and Human Services
13. Secretary of Housing and Urban Development (Minister of Housing)
14. Secretary of Transportation
15. Secretary of Energy
16. Secretary of Education
17. Secretary of Veterans Affairs
18. Secretary of Homeland Security

a.2. Philippines

The Republic of the Philippines is one of the examples of countries with system government presidential system in Southeast Asia such as Indonesia. Therefore similarity system this , then the Philippines deserves made into example comparison law in Lots matter including arrangement stakeholders position President while . Inside the Philippine constitution which is also called with Saligang Batas Ng Pilipinas 1987 , arranged in Article VII Section 8: SEC 8. In the event of permanent disability, death, removal from office or resignation of the President, the Vice President shall become the acting President for the unexpired portion of the fixed term of office. In the event of permanent disability, death, removal from office or resignation of the President and Vice President, the President of the senate or, failing that, the Speaker of the House of Representatives shall act as President until elected and qualified the President or the Vice President.,Congress shall determine by law who shall serve as President in the event of the death, permanent incapacity, or resignation of the Acting President. He shall serve until the President or the Vice President shall be elected and qualified, and shall be subject to the same provisions of powers and disqualifications as those of the Incumbent President.

a.3. Türkiye

Turkey is a republic presidential system that implements election general President in a way directly . Settings replacement President during his term in office in the Turkish constitution arranged in Article 106 , namely :

Article 106

The President of the Republic may appoint one or more deputies after being elected.

If the presidential office becomes vacant for any reason, the presidential election shall be held within forty-five days. The Deputy President of the Republic of Turkey shall act as and exercise the powers of the President of the Republic until the next President of the Republic is elected. If one year or less remains for the general election, the election for the Grand National Assembly of Turkey shall be renewed together with the presidential election. If more than one year remains for the general election, the President of the Republic of Turkey shall continue to serve until the election date of the Grand National Assembly of Turkey. This period shall not be included in the presidential term with respect to the President of the Republic who completed the remaining period. Both elections shall be held together on the date of the general elections of the Grand National Assembly of Turkey. In cases where the President of the Republic is temporarily absent from his/her duties on account of illness or traveling abroad, the deputy president acts as the President of the Republic and exercises his/her powers. The deputies of the President of the Republic and the ministers shall be appointed from among those who are eligible to be a deputy and removed from office by the President of the Republic. The deputies of the President of the Republic and the ministers shall take oath before the Turkish Grand National Assembly as stated in the Article 81. If a member of the Grand National Assembly of Turkey is appointed as a deputy president or minister, he/she shall lose his/her membership.

a.4. Brazil

Brazil is also a country in South America which is in the form of a federal republic with system presidential . Arrangement replacement position The president in Brazil is regulated in Article 79-81 of the Brazilian Constitution which states as following :

Art 79

The Vice-President shall replace the President in the event of impediment and shall succeed him in the event of vacancy.

The Vice-President of the Republic, in addition to other powers conferred on him by complementary laws, shall assist the President whenever called on by him for special missions.

Art 80

In the event of impediment of the President and Vice-President, or a vacancy in the respective offices, the President of the Chamber of Deputies, President of the Federal Senate, and President of the Supreme Federal Tribunal shall be called successively to serve as President.

Art 81

If a vacancy occurs in the offices of President and Vice-President of the Republic, an election shall be held ninety days after the last vacancy occurred.

- 1) If the vacancy occurs during the last two years of the President's term of office, the election for both offices shall be made by the National Congress within thirty days after the last vacancy occurred, as provided by law.
- 2) In any of these cases, those elected shall complete the terms of office of their predecessors.

In the Brazilian system , the Vice President automatic will replace President . If President and Vice President prevented still so order the official who replaces President as as stated in Article 80.

a.5. South Korea

South Korea (Republic of Korea) is a country in East Asia which is a republic. republic with pattern government presidential Where President act as head of state at the same time head government . Regulation succession position The president in South Korea does not arranged with detailed in the constitution but arranged in the Government Organization Act (Statutes of the Republic of Korea) .

Article 11 (President's Administrative Supervisory Authority)

- 1) The President as the head of the Government shall direct and supervise the heads of all central administrative agencies, as prescribed by statutes.
- 2) If the President deems any order or disposition issued by the Prime Minister or the head of a central administrative agency unlawful or unjust, he/she may suspend or cancel it.

Article 12 (State Council)

- 1) The President as the Chairperson of the State Council shall call and chair the meetings of the State Council.
- 2) Where the Chairperson is unable to perform any of his/her official duties due to any extenuating circumstances, the Prime Minister, who is the Vice Chairperson, shall perform such duties on behalf of the Chairperson; where both the Chairperson and the Vice Chairperson are unable to perform the

official duties of the Chairperson due to any extenuating circumstances, the Deputy Prime Minister who concurrently holds the office of the Minister of Economy and Finance, the Deputy Prime Minister who concurrently holds office as the Minister of Education and a member of the State Council according to the order of precedence prescribed in Article 26 (1) shall perform such duties on behalf of the Chairperson.

Article 26 (Executive Ministries)

(1) The following executive Ministries shall be established under the control of the President:

1. Ministry of Economy and Finance;
2. Ministry of Education;
3. Ministry of Science and ICT (Information and Communication Technology);
4. Ministry of Foreign Affairs;
5. Ministry of Unification;
6. Ministry of Justice;
7. Ministry of National Defense;
8. Ministry of the Interior and Safety;
9. Ministry of Culture, Sports and Tourism;
10. Ministry of Agriculture, Food and Rural Affairs;
11. Ministry of Trade, Industry and Energy;
12. Ministry of Health and Welfare;
13. Ministry of Environment;
14. Ministry of Employment and Labor;
15. Ministry of Gender Equality and Family;
16. Ministry of Land, Infrastructure and Transport;
17. Ministry of Oceans and Fisheries;
18. Ministry of SMEs (Small and Medium-sized Enterprises) and Startups.

Setting model succession in South Korea is similar with the United States that is replacement stakeholders position President Already arranged order his officials in a long and clear list . If look at the provisions several countries with system government presidential above , the setting model stakeholders position President temporary with method triumvirate No found in countries that adhere to system presidential system . The system used generally is appointment or order successor (line of succession). In fact, countries that use method filling position temporary president with draft triumvirate is Austria. Even though Austria is a European country in the form of a republic with system parliamentary federal government . In Article 64 of the Bundes Verfassung Gezets (B-VG) mentioned that :

Article 64.

- 1) If the Federal President is prevented from exercising his duties, all of his functions are initially transferred to the Federal Chancellor. A stay in another member state of the European Union is not considered to be a reason for being prevented from exercising his duties. However, if the prevention lasts longer than 20 days, or if the Federal President is prevented from continuing to exercise his duties in accordance with Article 60, paragraph 6, the President, the second President and the third President of the National Council shall exercise the functions of the Federal President as a college . The same applies if the position of Federal President is permanently vacant.
- 2) The college is entrusted with the exercise of the function of the Federal President pursuant to paragraph 1 shall decide by majority vote. The President of the National Council shall chair the college and represent him in public.
- 3) If one or two of the Presidents of the National Council are prevented from attending, or if their position is vacant permanently, the College shall maintain a quorum even without their participation; if this result is in a tie, the vote of the President with the higher rank shall be decisive.
- 4) In the event of a permanent vacancy in the office of the Federal President, the Federal Government shall immediately order the election of the new Federal President; after the election, the College shall immediately convene the Federal Assembly to swear in the Federal President.

If We review a number of system replacement head of state in matter prevented remain in the countries above , then can withdrawn conclusion that countries with system presidential usually will determine direct officials replacement The President and Vice President are unable to attend still in form order officials , or pointing one official . Whereas system leadership triumvirate or collective rather found in federal parliamentary countries .

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Therefore that is the system currently used by the Republic of Indonesia This is unique and possible the only one in the world, because it is a presidential unitary republic but use method replacement leadership triumvirate or collective which is usually used by federal and parliamentary countries . The difference the Austrian triumvirate with Indonesia is in the Austrian triumvirate , the position president held by a council containing three leaders parliament whereas The Indonesian triumvirate is held by three Ministers. In addition , if review from the formulation of Article 8 of the 1945 Constitution of the Republic of Indonesia appears very many changes

Table 1

Changes in the Sound of Article 8 of the 1945 Constitution before and after amendment

Before the Change	After Change
Article 8 If the President died , stopped , or No can do his obligations during his term of office , he replaced by the Vice President until finished time	Article 8 1) If the President die , quit , be dismissed , or No can do his obligations during his term of office , he replaced by the Vice President until his term of office has expired . 2) In terms of happen vacancy of the Vice President , no later than in time six tens day , Assembly The People's Consultative Assembly organizes hearing For electing the Vice President of the two candidates proposed by the President . 3) If the President and Vice President die , quit , be dismissed or No can do his obligations during his term of office in a way simultaneously , the executor task presidency are the Minister of Foreign Affairs, Minister of Home Affairs and Minister of Defense together . At the latest three tens day after that , the Assembly The People's Consultative Assembly organizes hearing For choose President and Vice President of two couples candidate President and Vice President proposed by the party political pairing candidate The President and Vice President reach voice most first and second in election general before , until end of his term of office .

Formulation the contents of Article 8 paragraph 1 do not different with formulation original before change , only added the word " dismissed " because existence arrangement about impeachment President in other articles in the 1945 Constitution . Then the formulation of Article 8 paragraph 2 is affirmation that the President No happen emptiness Vice President position like moment President Soekarno who did not electing the Vice President replacement after Mohammad Hatta resigned himself in December 1956. Article 8 paragraph 2 is results from agreement the third session of the MPR to amend the 1945 Constitution (2001) after discussed at the sessions discussion change previously . Lastly , regarding Article 8 paragraph 3, the This is results from debate long from trials changes to the 1945 Constitution since 1999. At the beginning idea change had time it is proposed that stakeholders position President temporary is the leadership of the MPR, then changed again during the trial period year next become Speaker of the DPR, then changed Again become Chairman of the DPR as The President and the Chairman of the DPD as Vice President . Finally , at the session the fourth amendment to the 1945 Constitution 2002 decided that the formulation of Article 8 paragraph 3 is as has been mentioned , which can it is said adopt provision from TAP MPR No. VII/MPR/1973 which submitted power position President temporary to triumvirate of Minister of Foreign Affairs, Minister of Home Affairs, and Minister of Defense.

Regarding the delegation position President temporary here , there is difference opinion . Sri Soemantri is of the opinion that reason ministers the appropriate For replace President is :

1. Third minister the help president and vice president in operate duties and authorities . Therefore That they understand (considered understand) the ins and outs beluk affairs government .

2. The foreign minister comes inside implementer task presidency Because minister this is what runs political abroad everyday .
3. The interior minister goes inside implementer task presidency Because officials the control government
4. Minister of Defense enter in implementer task presidency Because officials This control political defense On the other hand , opinion different given by Bagir Manan in his book entitled The Presidential Institution, he have an opinion that :

Provisions governing the Minister of Home Affairs, Minister of Foreign Affairs, and Minister of Defense and Security carry out position Stakeholders Temporary Position President No right . Position President and Vice President is positions that are filled related with the people (elected by the MPR or chosen directly by the people), because that , substitute President and Vice President should from environment related positions with the people. For that , if President prevented whereas No there is a Vice President , President replaced by the Chairman of the MPR. If Vice President prevented replaced by the Speaker of the DPR. Filling This No nature while , but rather until expired term of office President or the Vice President who is replaced like arranged in Article 8 of the 1945 Constitution. The agreement that has been determined by the Assembly People's Consultative Assembly at the session the 4th amendment to the 1945 Constitution which finally more choose arrangement stakeholders position President temporary given to three Ministers compared to legislative like presidential countries in general , has become law positive that must be obeyed .

However , until moment This Not yet There is explanation law related with the position of the Triumvirate Ministers The position of Minister of the Triumvirate new arranged in level constitution , not yet arranged more carry on in Regulation Legislation under it . In fact , the Law Number 39 of 2008 concerning the Ministry of State, and Regulations President Number 47 of 2009 concerning Formation and Organization of State Ministries, only arrange about nomenclature ministry and not touch on The same very about position minister triumvirate . Other problems are also related with leadership triumvirate This is occurrence dispute between three minister triumvirate or they three of us as One unity with other state institutions , or also with the Coordinating Minister in normal conditions are more senior and overshadowing officials function coordination on third minister triumvirate . Another possibility that can be happen , exist party political or coalition party politics that nominates one of the from three minister triumvirate as candidate President or vice presidential candidate in hearing election President and Vice President in the MPR so that appear competition and disputes between all three .

Submission position President temporary to triumvirate make position The president who under normal circumstances is position single (eenman ambt) becomes position compound (samengesteld ambt). Regarding the matter This is Harun Alrasid's opinion :

They represent position No in a way individually , but in a way together . This means If will take decisions , all three must agree . A things that are not practical , because allows occurrence stagnation if one of you No agree or absent . Retrieval decision Can done more fast If stakeholders temporary position President only consists of on one person or in other words it is position single . Although nature collective collegial , three minister triumvirate should also own chairman . Some form collective collegial among them panel of judges and leadership DPR commission , stay own chairman . Therefore that , three minister triumvirate need determined Who the chairman so that there is clarity at the peak command government with hold on to taking decision taken from voice most between triumvirate . According to economical writer , so as not to seems biased in the formulation design Constitution For three minister triumvirate should initiated not by one from three triumvirate Ministries , but by the Ministry of State Secretariat so as not to There is view Miscellaneous from third ministry triumvirate .

Therefore that , for the Republic of Indonesia which is a state of law , the existence of emptiness law especially those concerning state administration in matter This filling position President while the one in progress empty is A threat to continuity the existence of the country itself . At the peak of peace and normal times power held by one person but in times of crisis and emergency peak power rather handed over to three people with No arranged more carry on position , division authority and duties . If you look at at a glance from the concept of leadership similar Indonesian triumvirate with belongs to Austria. However , the conditions between Indonesia and Austria are not can equated . Austria is a mainland country federal landlock covering an area of 83,879 km² while Indonesia is an archipelagic country shaped unity covering an area of 1,904,569 km². The extraction decision the highest held by three people at once for a country as vast and diverse as ours like Indonesia is not ideal. According to I , a more leadership model suitable For arrange triumvirate that is one chairman with two representatives. This is For accommodate so that there is clarity person who is take office as President but No violate the rules of Article 8 paragraph 3 of the 1945 Constitution of the Republic of Indonesia. Considering If must amend Article 8

paragraph 3 of the 1945 Constitution of the Republic of Indonesia to use system order line of succession will more difficult and troublesome . Setting model like this (President with two Vice Presidents) actually Already Once submitted in Indonesian history . At that time The Investigating Committee for Preparatory Work for Indonesian Independence (BPUPKI) has make something design Constitution the basis that will be used as base constitution when the Indonesian state was founded . At the BPUPKI meeting on July 13, 1945, the committee designer Constitution base has plan that the Republic of Indonesia will later can have two Vice Presidents . The provisions of Article 6 of the draft Constitution the basis of the idea Soepomo state :

- 1) If the President died , stopped , or No can do his obligations before finished time , he replaced by Vice President I, until finished time .
- 2) If Vice President I dies , resigns , or No can do his obligations before finished time , he replaced by Vice President II

Consideration determination this also takes into account condition emptiness position President is not condition normal so that the country in condition standby one . Holder power highest executives will also including take office as commander highest force armed beside must also secure and ensure the success hearing MPR special for election President and Vice President replacement as arranged in Article 50 to Article 55 of Law No. 17 of 2014. Therefore, the author suggest that in the future triumvirate arranged as following

Chairman	: Minister A
Deputy Chairman I	: Minister B
Deputy Chairman II	: Minister C

CONCLUSION

Charging stakeholders position President temporary arranged in Article 8 paragraph 3 of the 1945 Constitution of the Republic of Indonesia. Indonesia as a state of law is also based on provisions of Law No. 12 of 2011 concerning Formation Regulation Legislation must arrange more carry on about arrangement stakeholders position President temporary through law . Emptiness law in aspect state administration like This can it is said as threats , and threats can result in condition emergency . How to fill in position President while in Indonesia it is not like a republic other presidential systems that use method order replacement (line of succession) but use draft triumvirate (three series) which instead found in a federal parliamentary state . If we look at the conditions geographical and sociological aspects of Indonesia, regulation three Ministers as stakeholders position President temporary can use method One president with two vice presidents , or in matter This that is One chairman with two vice chairmen . The concept like This Actually Already Once appear on the design The 1945 Constitution before independence , but No agreed majority members of the Investigating Committee for the Preparation of Indonesian Independence (BPUPKI) at that time that . According to writer , concept This can considered return as method arrangement position president while by three Ministers so that they can accommodate provision from The 1945 Constitution of the Republic of Indonesia but still notice condition geographical and sociological aspects of Indonesia.

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