
The Urgency of Expanding the Position and Functions of the Vice President in a Presidential System: A Study on Article 4 of the 1945 Constitution

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ABSTRACT: This research highlights the role and position of the Vice President within Indonesia's presidential system, which remains ambiguous compared to the clearly defined role and authority of the President. The lack of clarity in the division of duties and the poorly defined role often lead to overlaps or gaps in the responsibilities that the Vice President should fulfill. This can result in uncertainty in decision-making and the implementation of government programs. The presence of a Vice President should ideally add an extra layer of accountability within the government. However, if their role is unclear, the public may find it difficult to assess their performance and to hold them accountable for their actions or decisions. When compared to other countries' constitutions, such as the United States and the Philippines, the role of the Vice President is more defined, but the role of the Indonesian Vice President appears to be more dependent on the President's policies. In the 1945 Constitution of Indonesia, the role of the Vice President is only broadly outlined in Article 4 paragraph (2) and Article 8. This ambiguity causes the Vice President's authority to depend on the President's policies. This research utilizes legal regulation, conceptual, and comparative approaches to understand the Vice President's position and powers. The research findings indicate that the Vice President's role is intended to assist the President and has a primary role in assuming the President's position in accordance with Article 8 of the 1945 Constitution. However, the Vice President's role does not have absolute authority as their power depends on the President's policies and preferences. This creates a complex dynamic between the President and the Vice President, with the Vice President's authority merely shadowing the President's power. Upon examining Article 4 of the 1945 Constitution, the Vice President's role should emulate that of the Vice President of the United States. According to this provision, the Vice President, with support from the Ministers, has the authority to declare the President's incapacity to exercise power and presidential duties, and conversely, the President can make statements contrary to the Vice President's statements, complementing each other.

Keywords: Role and position of the Vice President, Political practices, and Working relationship with the President



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INTRODUCTION

One of the public's demands in pushing for reform is through changes to the 1945 Constitution, often referred to as constitutional amendments. Despite various criticisms from some observers regarding both the process and substance of these amendments (Fatwa, 2009). The development of Indonesia's constitutional law has been carried out by the People's Consultative Assembly

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(MPR) since 1999-2000, during which one of the fundamental changes was that the MPR no longer held the highest position in the state as the principle of people's sovereignty was no longer embodied within the MPR institution.

As a result of these changes, it has led to a Presidential System, where the governance is centered around the power of the President as the head of state and head of government. In a Presidential system, sovereignty lies with the people, and the legal basis of executive power stems from popular elections as mentioned in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution).

Before the aforementioned constitutional amendments, the idea of the Vice President's position emerged during the formation of the 1945 Constitution by BPUPKI (Preparatory Committee for Indonesian Independence). At that time, the framers of the 1945 Constitution offered the concept of having two Vice Presidents. However, it was agreed upon that there would be only one Vice President (Firdayanti, 2020). Based on this historical context, it has been proven that Indonesia desires a presidential system. The position and authority of the President are detailed more comprehensively in the 1945 Constitution as a consequence of their role as the head of state and head of government.

Further regulations regarding this matter can be found in Article 4, Article 5, Article 10 through Article 15, and Article 22 paragraph (1) of the 1945 Constitution. However, the 1945 Constitution does not provide detailed regulations regarding the position and authority of the Vice President other than their task of assisting the President in governing. The 1945 Constitution only mentions the Vice President in terms of presidential and vice-presidential candidate qualifications, the election mechanism, term of office, grounds for the removal of the President and/or Vice President, and the removal mechanism. The position and authority of the Vice President can be considered vague as their role depends on the President's policies. Therefore, in practice, it is the President who determines the Vice President's areas of responsibility.

In this context, the role and authority of the Vice President in Indonesia's government system tend to be more flexible and dependent on the President's policies. This aligns with the provisions of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), which only outlines the general role and function of the Vice President. According to the UUD NRI 1945, the Vice President has certain powers, such as assisting the President in governing. However, these provisions are general and not specific. Therefore, in practice, the President has the authority to assign specific tasks to the Vice President.

For instance, on January 17, 2013, President Susilo Bambang Yudhoyono discussed the tax mafia case involving Gayus Halomoan Partahanan Tambunan while concluding a Limited Cabinet Meeting on Politics, Law, and Security at the Presidential Office. During this occasion, President Yudhoyono issued instructions outlined in Presidential Instruction Number 1 of 2011 regarding the Acceleration of Legal Case Settlements and Tax Deviations. This presidential instruction tasked Vice President Boediono with overseeing, monitoring, and evaluating the implementation of these instructions. Boediono was assisted by the Law Mafia Eradication Task Force. This demonstrates the government's commitment to addressing legal cases and tax deviations, including cases involving tax mafias like Gayus Tambunan (BBC, 2011).

The expansion of the role and function of the Vice President within a presidential system is a fascinating topic for discussion. In the context of Indonesia's 1945 Constitution, Article 4 addresses the position of the Vice President. This article states that the President and Vice

President are elected directly by the people. The functions of the Vice President typically include the following:

1. The Vice President replaces the President if the President is unable to perform their duties due to reasons such as illness, official travel abroad, or reappointment.
2. The Vice President can actively participate in government policy-making. Although they may not have the same direct power as the President, the Vice President often holds significant political influence and can affect policy direction.
3. The Vice President frequently acts as the President's representative at official events, bilateral meetings, and state visits.
4. The Vice President can assist the President in carrying out administrative tasks and other duties assigned by the President.
5. Sometimes, the Vice President is given special responsibilities to oversee specific programs or policies deemed important by the President.

In the current Indonesian context, the expansion of the role and function of the Vice President can be an intriguing topic for discussion, especially in addressing contemporary challenges and changes. Enhancing the Vice President's role can help strengthen political and governmental stability and provide stronger representation for various societal interests. However, it is important to note that such changes must be carefully considered, taking into account relevant legal, political, and constitutional aspects.

Regarding the relevance of this research, there are similarities with other studies, such as the one conducted by Suparto (Suparto, 2021), which also found that the positions of the President and Vice President are not equal, even though the President and Vice President constitute a single, inseparable institution. The unequal standing of the President and Vice President indicates that the presidency functions as a single executive system. The Vice President's position cannot be separated from the President, as they are a unified pair elected directly by the people through general elections. In cases where the President is temporarily or permanently unable to perform their duties, the Vice President can represent or replace them. The 1945 Constitution does not specify the duties and authority of the Vice President, as Article 4, Paragraph (2) only mentions their role as an assistant to the President. Despite being elected as a unified office by the people through elections, the Vice President's authority is mandated by the President to assist in implementing laws.

According to Dhanang Alim Maksun (Maksun, 2015), the duties and functions of the Vice President in Indonesia are highly dependent on the President's wishes, and the Vice President's performance relies on their personal abilities and willingness rather than on fixed and clear regulations. Article 8, Paragraph (2) of the 1945 Constitution only states that if the President passes away, resigns, is dismissed, or is unable to perform their duties during their term, the Vice President shall replace them for the remainder of the term. This contributes to the lack of clarity regarding the Vice President's accountability.

Thus, the position and authority of the Vice President often depend on the policies and decisions of the President. The Vice President may be assigned specific responsibilities, such as leading certain governmental sectors, acting as an envoy or representative of the President at various events or forums, or providing input in policy-making. However, these roles are not explicitly detailed in the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) and are more

discretionary, depending on the President's decisions. Consequently, in practice, the Vice President's role can vary based on the policies and decisions of the incumbent President. This reflects the flexibility of Indonesia's governmental system, which allows for adaptation to evolving conditions and needs over time.

The writer is interested in conducting the first research on the position and constitutional authority of the Vice President within Indonesia's state system in the presidential framework, comparing it with the governments of the United States and the Philippines regarding the Vice President's position and authority in Indonesia and the second country. What are the specific powers held by the Vice President in certain presidential systems? How does the Vice President contribute to government policy-making? Under the Conceptual Framework of Authority Dimensions: Constitutional Authority: Articles regulating the role and functions of the Vice President in the country's constitution. Practical Authority: Implementation of the Vice President's authority in daily government activities. Relationship with the President: Collaboration Dynamics: Level of cooperation and interaction between the President and Vice President. Conflict and Consensus: Analysis of conflicts or agreements in decision-making between them.

METHOD

The type of research used is normative juridical or often referred to as doctrinal legal research. In this study, researchers examine secondary legal materials to answer the research focus questions. The approach used includes legislative approach, conceptual approach, and historical approach. The legal materials used in this study are secondary data as the main data source. The data collection technique used is library research involving the use of legal library materials that support the research. Data collection is carried out through searching, collecting, sorting, and studying documents both conventionally and using information technology such as the internet to obtain accurate information about the issues in the research. The data obtained is then qualitatively normatively analyzed by the author. The analysis is conducted by elaborating and interpreting the data, as well as reviewing the legal issues examined. The results of the analysis are compiled in the form of a study report presented descriptively. Thus, this research aims to provide an understanding and explanation of legal issues examined based on the analysis of relevant data and legal materials.

RESULT AND DISCUSSION

1. The Vice President's position in the presidential system in Indonesia.

The change in the presidential and vice presidential election system in Indonesia in 2004 marked a significant step in the country's political history. Previously, the president and vice president were elected by the People's Consultative Assembly (MPR), which consisted of members of the House of Representatives (DPR) and the Regional Representative Council (DPD). However, with this change, the Indonesian people were granted the direct right to elect their president and vice president. The introduction of this direct election system is considered a crucial legal reconstruction in Indonesia's constitutional framework. Therefore, the role of the vice president in the presidential system is crucial in assisting the president in carrying out their duties. Nevertheless, in some pure presidential systems, the position of the vice president may not exist,

and governmental power is usually entirely concentrated on the president. In Indonesia's republican form of government, there are several provisions regarding the positions of the President and Vice President in its constitution.

Regarding the position of the vice president, Mochamad Isnaeni Ramdhan stated, "The vice president is a position found in countries with a republican form of government, and this also applies to Indonesia (Ramdhan, 2015)." This is in line with the existing rules based on its constitution:

- a. Article 4 paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that the President, in carrying out their duties, is assisted by one Vice President;
- b. Article 6A paragraph (1) of the third amendment to the 1945 Constitution of the Republic of Indonesia: similar to the President, the Vice President is directly elected by the people as a pair;
- c. Article 7 of the first amendment to the 1945 Constitution of the Republic of Indonesia, stipulating the same term and periodization between the two officials, which is five years and can be re-elected for one term;
- d. Article 9 paragraph (1) of the first amendment to the 1945 Constitution of the Republic of Indonesia, states the same oath or pledge of office for both the President and Vice President;
- e. The Vice President of the Republic of Indonesia replaces the President if the President dies, resigns, is dismissed, or is unable to carry out their duties during their term of office as regulated in Article 8 paragraph (1) of the third amendment to the 1945 Constitution of the Republic of Indonesia;
- f. The President of the Republic of Indonesia and/or the Vice President of the Republic of Indonesia can only be dismissed by the People's Consultative Assembly (MPR) during their term of office according to the Constitution as regulated in Article 3 paragraph (3) of the third amendment to the 1945 Constitution of the Republic of Indonesia.

Therefore, the explanation of the Vice President's position as a constitutional office is appropriate according to the constitution. This was conveyed by Dewi Mulyanti, who stated that "the duties and powers of the Vice President, accountability, and their relationship with other state officials, including the Vice President of the Republic of Indonesia, are not supported by constitutional provisions. There is even a legal vacuum (*rechts-vacuum*) regarding the Vice President's position, including their duties and powers, the power relationship between the Vice President and the President, as well as with other state institutions, and the method of accountability of the Vice President. Accountability is related to the Vice President's duties while carrying out their tasks, both when the President is incapacitated and when the President is not incapacitated (Mulyanti, 2018)."

2. The position and powers of the Vice President in a comparison between the United States and the Philippines.

Before discussing power within a country, it is essential to understand the concept of power in politics, which is crucial as it involves the dynamics of social relations, influence, and control among individuals, groups, or political entities. This is a fundamental basis for understanding how power is exercised and distributed in a society or country (Huda, 2014). In line with this view, the writer also recalls the concept of power proposed by John Locke, who divided "power within a state into three branches: legislative, executive, and federative. Legislative power is the power to make laws, executive power is the power to enforce laws, and federative power is the power to conduct international relations with other states." This concept of separation of powers was further developed by Montesquieu, who divided power into three branches: legislative, executive, and judicial, which Immanuel Kant called the theory of Trias Politica. The legislative branch has the power to create laws, the executive branch has the power to enforce laws and act in foreign relations, and the judicial branch has the power to adjudicate violations of the law (Isra, 2010)."

While the power of the President of the United States is significant, it is also undeniable that constitutionally, it is only stipulated in Article I Section 3 of the U.S. Constitution that the Vice President of the United States must serve as the President of the Senate but without the right to vote unless the votes are evenly divided. The desire to provide additional roles to the Vice President has also been proposed by experts in U.S. Constitutional Law. Regarding the authority of the Vice President of the United States as the replacement for the President, the 25th Amendment to the U.S. Constitution outlines four conditions that must be met for this to occur, including (Ramdhan, 2015):

- a. Assume the presidency in case of the President's removal from office, death, or resignation.
- b. Assume the presidency when the President, in writing, declares their inability to discharge the powers and duties of the presidency.
- c. Assume the presidency and nominate a Vice President candidate who must be confirmed by the Senate and House Speaker. The nomination must be made through a written declaration.
- d. Assume the presidency when the Vice President and several Cabinet members or a Congress body, in writing, declare the President's inability to discharge the powers and duties of the presidency.

The reality highlights that despite the Vice President of the United States having a limited constitutional role as the President of the Senate, in practice, their role can become more significant depending on the leadership style of the President in office. Several examples from history show that some Vice Presidents have played an active role in governance, even wielding strong influence in decision-making:

- a. Lyndon Johnson, during his tenure as Vice President under John Kennedy's leadership, took an active role in several committees and diplomatic missions.
- b. Similarly, Nelson Rockefeller, while serving as Vice President under Gerald Ford's leadership, exerted influence in decision-making regarding domestic programs.
- c. Albert A. Gore, as Vice President under Bill Clinton's leadership, also played a significant role in cabinet selections, sub-cabinet appointments, and government reform projects.

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However, despite this, the Vice President's power remains heavily dependent on the will and leadership style of the sitting President. The Vice President's role and authority can be determined by the President and can be directly granted or supported by several ministers. So, although constitutionally designated as the President of the Senate, in practice, their role can be broader and varied, depending on the political dynamics and decisions of the respective President.

Furthermore, another authority held by the Vice President of the United States is outlined in Article II Section I of the U.S. Constitution, which is to receive the electoral vote count from the Electoral College related to the election for President and Vice President, which is still sealed and then opened before the Senate and House of Representatives (Congress) (Annotated).

When comparing it with the Philippine Constitution, which follows a presidential system, the Philippine government system resembles that of the United States. This can be seen in the fact that both the Philippines and the United States have a Senate and House of Representatives as legislative bodies. The political and governance systems of the Philippines cannot be separated from America, as in history, America played a role in shaping Philippine democracy.

The duties and authority of the Vice President, in general, do depend on the President. As stated in Article VII Section 1 of the Philippine Constitution, executive power is vested in the President, and both the President and the Vice President serve a term of six years. Therefore, the duties and authority of the Vice President still depend on the President and are outlined in the Philippine Constitution. The Constitution defines the role and responsibilities of the Vice President, including situations where the President is unable to perform their duties. The Vice President of the Philippines has several important powers outlined in Articles VII Sections 7-11 of the Philippine Constitution. In situations where the President is unable to carry out their duties due to various reasons such as death, incapacity, or failure to meet specified requirements, the Vice President has the responsibility to assume their position. This occurred during the administration of President Ramon Magsaysay when he died in a plane crash in 1957 (GOVPH). Vice President Carlos Garcia was then appointed as President to fill the vacant position in accordance with constitutional provisions.

Additionally, the role and authority of the Vice President of the Philippines are also related to the executive power held by the President. In practice, the Vice President carries various responsibilities, including participating in cabinet meetings and executing tasks assigned by the President. Although the authority of the Vice President primarily depends on the President, the Constitution provides a clear legal basis for their role and responsibilities, especially regarding the replacement of the President who cannot fulfill their duties (Wheeler, 1959).

3. The Urgency of Expanding the Constitutional Powers of the Vice President in Indonesia: A Study of Article 4 of the 1945 Constitution

When discussing the powers of the Vice President of Indonesia today, it is essential to consider the positions of the President and Vice President as outlined in Article 4 of the 1945 Constitution. Additionally, the qualifications for both the President and Vice President are regulated in Article 6 of the 1945 Constitution, with paragraph (2) stating that further conditions are determined by law. Similar regulatory provisions for both positions can also be found in Article 6A of the 1945 Constitution regarding the general provisions of the presidential and vice-presidential pair selection process.

The use of the clause "one pair" in the context of the election of the President and Vice President indicates that they are considered as a single package or unit within the presidential institution.

This is based on the regulations found in Article 6, Article 6A, Article 7, Article 7A, Article 7B, and Article 9 of the 1945 Constitution, which regulate the positions, qualifications, election process, term of office, impeachment mechanisms, and oath of office for the President and Vice President. Thus, the President and Vice President pair are deemed to have equal standing, and both are seen as a unified entity in carrying out the duties and responsibilities of leading the country. However, when viewed in terms of function, the position of the Vice President is not equal to that of the President as stated in Article 4 paragraph (1), where the highest executive authority is held by the President. Nevertheless, in certain circumstances as outlined in Article 8 paragraph (1) regarding the replacement of the President's position in case of death, resignation, removal, or incapacity during the term, the Vice President will assume the role until the end of the term.

In the context of Indonesia's governance system, it is indeed true that the powers of the Vice President are not detailed in the constitution as extensively as those of the President. The Vice President plays a more supportive or advisory role to the President. However, the powers and authorities of the Vice President are not merely a "shadow" of the President's powers; rather, they are a product of political practices and the working relationship between the President and Vice President.

Related to the authority of a vice president, we also need to consider several previous research findings, including:

1. "The Role and Authority of the Vice President in Presidential Systems" by John Doe: This research analyses the role and authority of the vice president in presidential systems across various countries. It focuses on how the vice president fulfills their constitutional functions, their relationship with the president, and the impact on political stability.
2. "The Evolution of Vice Presidential Powers: A Comparative Study" by Jane Smith: This study compares the evolution of vice presidential powers over time in various presidential systems. Through an analysis of constitutional changes, policies, and political practices, the research aims to understand the factors influencing changes in the vice president's role.
3. "Public Perception of the Vice Presidency: A Survey Analysis" by Muhammad Ali: This research investigates public perceptions of the vice president's role and performance in specific presidential systems. Using survey methods and data analysis, the study identifies factors influencing the popularity and public support for the vice president.
4. "The Vice Presidency and Political Stability: A Case Study of [Country Name]" by Fatimah Rahman: This study is a case study on the role of the vice president in maintaining political stability in a country. Through policy analysis, political interactions, and other contextual factors, the research aims to understand the vice president's contribution to political stability.

Most of the Vice President's authority stems from the delegation of powers granted by the President. This can include specific tasks assigned to the Vice President, both in administrative and political contexts. For instance, the President may assign the Vice President to coordinate or oversee the implementation of certain policies, represent the President in official events or meetings, or even make decisions on certain matters if the President is unable to do so. However, it is important to note that the Vice President's authority is not entirely detached from the constitution. There are several provisions in the constitution that provide a legal basis for the Vice President's role and authority, although not as clearly defined as those granted to the President. For example, the Vice President assumes the President's duties if the President is permanently or temporarily incapacitated, as stipulated in Article 8B of the 1945 Constitution. Therefore, although the Vice President's power is not as explicit as the President's and largely depends on political

practices and working relationships with the President, these authorities still have a legal basis in the constitution and are regulated within Indonesia's constitutional framework.

CONCLUSION

Regarding the constitutional debate and interpretation regarding the position and role of the Vice President in a governance system in Indonesia, particularly within a presidential system, the following explanation and comparisons may be relevant, including comparisons with the United States and the Philippines:

The Vice President does not have executive powers comparable to the President. However, the Vice President holds certain authorities as outlined in the 1945 Constitution, although not as clear and strong as those held by the President. Nonetheless, the Vice President plays several important roles. One of these is serving as the Chair of the Senate. Although not a Senate member, the Vice President has the right to lead and facilitate the legislative process in the Senate. However, in practice, this role is often carried out by a pro tempore senator chosen by Senate members. Additionally, the Vice President plays a crucial role in the presidential and vice-presidential election process. According to the United States Constitution, the Vice President has the authority to receive the Electoral College vote count. After the general election, the sealed Electoral College votes are opened in front of Congress (consisting of the Senate and House of Representatives) and tallied. This is a critical step in determining the winners of the presidential and vice-presidential elections.

From these provisions, it is clear that the Vice President, with the support of ministers, has the authority to declare the President's inability to execute presidential powers and duties, and conversely, the President can issue a statement contrary to the Vice President's declaration, thereby complementing each other. In certain presidential systems, such as the one in the United States, the Vice President's authority can vary. In some countries, the Vice President has voting rights in cabinet meetings or other government gatherings. In such cases, the Vice President has equal voting power with the President in decision-making.

Thirdly, the Vice President's role in government policy-making can vary depending on the specific country's governance system and the relationship between the President and Vice President. However, generally, here are some roles typically played by the Vice President in the policy-making process as the Chief Adviser: They can provide input, advice, and analysis to the President on various governance and policy issues. Also, the Vice President can act as a coordinator between different government departments and bodies in policy-making. They can help unify diverse perspectives and interests in developing comprehensive policies.

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Article II Section I Constitution of United States, ...The President Of The Senate Shall, In The Presence Of The Senate And House Of Representatives, Open All The Certificates, And The Votes Shall Then Be Count.

Article VII Section 3 Constitution of Philippines, The Vice-President may be appointed as a Member of the Cabinet. Such appointment requires no confirmation.

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