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Presidential Term Limit as an Implicit Unamendable Provision In Indonesia's Hyper-Presidentialism

Muhammad Fathi¹, Anshul Tripathi²

¹Fakultas Hukum, Universitas Muhammadiyah Yogyakarta, Indonesia

E-mail: muhammad.fathi.law21@mail.umy.ac.id

²Faculty of Legal Sciences, Shoolini University, India

E-mail: anshultripathi@shooliniuniversity.com

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Abstract

This article analyzes the paradox between Indonesia's presidential term limits and the persistence of hyper-presidentialism through a normative juridical approach structured in three stages. First, it interprets Article 7 and Article 37(5) of the 1945 Constitution using grammatical, historical, and teleological methods to assess whether term limits function as implicit eternity clauses. Second, it examines Constitutional Court rulings, including Decision No. 91/PUU-XVIII/2020 and decisions related to the 2024 election, to evaluate how term-limit norms are applied, contested, or strategically used in practice. Third, it situates these legal developments within broader political dynamics, including coalition-building, party co-optation, executive influence over judicial appointments, and the rise of political dynasties. These stages are supported by doctrinal literature on constitutional unamendability and executive aggrandizement. The analysis shows that although the two-term limit is normatively framed as an implicit safeguard against authoritarianism, its effectiveness ultimately depends on the strength of institutional autonomy. In weak institutional settings, it becomes susceptible to erosion through dynastic hyper-presidential practices.



A. Introduction

Since the 1998 reform era, Indonesia has undergone major political and constitutional changes. Amendments to the 1945 Constitution strengthened a presidential system considered suitable for a diverse and geographically vast nation, and intentionally moved the country away from its earlier parliamentary model. The new framework aimed to promote executive stability and democratic accountability through a clear separation of powers.¹

Indonesian presidentialism has produced paradoxical results. Instead of reinforcing checks and balances, fragmented party coalitions and legislative co-optation have weakened oversight and allowed executive power to become increasingly concentrated.² This dynamic has contributed to the rise of hyper-presidentialism, in which the President becomes an overly dominant actor whose authority exceeds the expectations of a classical presidential system. This trend is evident in the passage of the Omnibus Law, which critics argue bypassed meaningful public participation and reduced the legislature's oppositional role, as well as in the decline of formal opposition under President Joko Widodo due to oversized governing coalitions. Hyper-presidential tendencies are further reinforced by the criminalization of dissent and growing restrictions on freedom of expression. The most striking example appeared before the 2024 elections, when presidential involvement in adjusting constitutional requirements to enable his son's candidacy raised serious ethical and constitutional concerns and signaled the entrenchment of political dynasties.³

Within comparative constitutional theory, this dilemma reflects the idea of Implicit Unamendable Provisions. Yaniv Roznai describes these as constitutional principles that, although not formally entrenched, are widely understood to be beyond amendment.⁴ Melissa Schwartzberg adds a normative dimension, where altering such principles amounts to regime transformation, and a sociological dimension, where deeply embedded norms become practically unchangeable. Together, these perspectives reveal the tension between preserving constitutional foundations and enabling constitutional change.⁵

The global erosion of presidential term limits illustrates the value of this framework. Russia's 2020 amendments reset Vladimir Putin's term count.⁶ China's 2018 reforms removed term limits for Xi Jinping. Venezuela's 2009 changes under Hugo Chávez, continued by Nicolás Maduro, also entrenched prolonged incumbency. These cases show how weakening term limits fuels democratic backsliding and erodes protections against executive overreach. Indonesia stands as a partial exception. Article 7 of the amended 1945 Constitution imposes a strict two-term limit to prevent a return to authoritarianism after Suharto. Yet repeated efforts to extend presidential tenure, especially before the 2024 elections, expose how fragile this protection remains.

¹ Muhammad Doing et al., "Strengthening the Constitutional Law System (Legal Challenges and Strategies in Handling the Social, Economic and Political Crisis in Indonesia)," *Journal Equity of Law and Governance* 5, no. 1 (August 2024): 113–22, <https://doi.org/10.55637/elg.5.1.10260.113-122>.

² Aditya Perdana, Muhammad Imam, and Syafril Effendi, "The Coalitional Presidentialism and Presidential Toolbox in the Philippines and Indonesia," *JAS (Journal of ASEAN Studies)* 12, no. 2 (May 2024): 461–81, <https://doi.org/10.21512/jas.v12i2.11449>.

³ Ais Shafiyah Asfar et al., "Understanding the Jokowi Effect during Indonesia's 2024 Presidential Election: An Integrative Model of Incumbency Advantage," *Cogent Social Sciences* 11, no. 1 (December 2025): 2484470, <https://doi.org/10.1080/23311886.2025.2484470>.

⁴ Yaniv Roznai, "Unconstitutional Constitutional Amendments: A Research of the Nature and Limits of Constitutional Amendment Powers" (The London School of Economics and Political Science, 2014).

⁵ Melissa Schwartzberg, *Democracy and Legal Change*, 1st ed. (Cambridge University Press, 2007), <https://doi.org/10.1017/CBO9780511509681>.

⁶ William Partlett, "Russia's 2020 Constitutional Amendments: A Comparative Analysis," *Cambridge Yearbook of European Legal Studies* 23 (December 2021): 311–42, <https://doi.org/10.1017/cel.2021.7>.

Existing scholarship touches on these issues but leaves gaps. Ahmad Hatim, Susi Dwi Harijanti, and Giri Ahmad Taufik argue that Article 7 operates as an implicit unamendable provision, but they do not analyze the empirical conditions that still allow hyper-presidentialism to develop.⁷ Similarly, Wicaksana Dramanda, Syahrul Kabir, and Asep Hakim Zakiran highlight the limits of Indonesia's presidential reforms⁸ yet do not fully explain the coexistence of formal term limits with growing executive dominance.

Mujahidah Mujahidah and Leli Tibaka emphasized the constitutional necessity of two-term limits but did not examine how informal practices such as legislative co-optation, weakened opposition, and the criminalization of dissent undermined their effectiveness.⁹ The existing literature provided an important foundation yet left unresolved how implicit unamendable provisions operated when confronted with hyper-presidential political realities.

This research employed a normative legal method applied through three steps. First, it conducted textual and doctrinal analysis of Article 7 and Article 37(5) of the 1945 Constitution using grammatical, historical, and teleological interpretation, and compared the findings with comparative doctrines on eternity clauses. Second, it carried out a case-based analysis of Constitutional Court decisions on presidential term limits, the Omnibus Law, and rulings related to the 2024 presidential election to assess how constitutional norms were enforced, bypassed, or reinterpreted in practice. Third, it undertook political-constitutional contextualization by tracing executive dominance as it was exercised through coalition-building, party co-optation, judicial appointments, and familial political expansion, drawing on empirical events to show how hyper-presidentialism operated beyond the constitutional text. Through this approach, the research assessed whether Article 7 functioned as an implicit protect of constitutional identity and how institutional weaknesses enabled hyper-presidentialism to persist despite formal constraints.

B. Discussion

1. Presidential Term Limits as an Implicit Unamendable Provision in Indonesia

The evolution of Article 7 of the 1945 Constitution offers a key lens for understanding Indonesia's democratic consolidation.¹⁰ Before the constitutional amendments, Article 7 stated that the President and Vice President served five-year terms and could be re-elected, without specifying any limit on consecutive periods. This gap enabled indefinite reelection and facilitated the concentration of executive power during the New Order. The third and fourth amendments introduced a strict two-term limit, reflecting reform-era efforts to institutionalize democratic rotation, prevent executive entrenchment, and guard against authoritarian relapse. This shift formed part of the broader post-1998 democratization project, in which constitutional redesign aimed to balance executive stability with accountability, pluralism, and protects against authoritarian backsliding.¹¹

⁷ Ahmad Hatim, Susi Dwi Harijanti, and Giri Ahmad Taufik, "The Idea of Presidential Term Limit as an Implicit Unamendable Provision: Gagasan Pembatasan Masa Jabatan Presiden sebagai Implicit Unamendable Provision," *Jurnal Konstitusi* 21, no. 4 (December 2024): 542–64, <https://doi.org/10.31078/jk2142>.

⁸ Wicaksana Dramanda, Syahrul Fauzul Kabir, and Asep Hakim Zakiran, "Presidential System and the Rise of Neo-Authoritarianism: The Failure of Constitutional Reform in Indonesia?," *Jurnal Konstitusi* 21, no. 3 (September 2024): 345–65, <https://doi.org/10.31078/jk2131>.

⁹ Mujahidah Mujahidah and Leli Tibaka, "Presidential Term Limits in the Perspective of the Constitution: Avoiding Authoritarianism in the Era of Democracy," *Jurnal Konstitusi* 21, no. 4 (December 2024): 680–97, <https://doi.org/10.31078/jk2147>.

¹⁰ Irma Mahmuda, "Constitution in Power Dynamics: An Analysis of the Role and Implications in Indonesia," *Journal of Law and Humanity Studies* 1, no. 1 (January 2024): 1–9, <https://doi.org/10.59613/m1bv1v26>.

¹¹ Marcus Mietzner, "The Limits of Autocratisation in Indonesia: Power Dispersion and Elite Competition in a Compromised Democracy," *Third World Quarterly* 46, no. 2 (January 2025): 153–69, <https://doi.org/10.1080/01436597.2024.2317970>.

The five-year presidential term with a maximum of two periods, as now codified in Article 7, should not be viewed in isolation. It functions as part of Indonesia's broader constitutional system and is interconnected with other legal norms.¹² Joseph Raz's assertion that every legal rule belongs to a wider normative system underscores this relationship. Article 7 is linked to economic planning cycles and electoral mandates that provide institutional coherence. As noted in *Limiting Presidential Term of Office in Indonesia: A Democratic Perspective*, Bagir Manan observed that five-year terms are widely adopted in other jurisdictions because they align with administrative and development planning cycles. Indonesia's five-year presidential term corresponds to the national mid-term development planning framework: a shorter term would disrupt program execution, while a longer one would misalign with statutory planning cycles.¹³ The five-year duration thus supports systematic evaluation of government performance and maintains continuity between the pre-amendment Five-Year Development Guidelines and the current mid-term development planning system.¹⁴

Moreover, the presidential term limit is closely linked to Article 33 of the 1945 Constitution, which governs economic planning. Extending the presidential term beyond five years would disrupt the synchronization of national development cycles and weaken the internal coherence of the legal system. Over time, the normative and practical rationale for the five-year term has become embedded in political practice, shaping the rhythm of leadership transitions, budget planning, and regional administrative cycles without generating systemic conflict.¹⁵ Article 22E(1) similarly mandates elections every five years, and Article 22E(2)¹⁶ specifies that this cycle covers both presidential and legislative contests. This structural linkage means that altering presidential terms would require corresponding adjustments to legislative cycles, potentially destabilizing the synchronized electoral framework. The Constitutional Court affirmed this in Decision No. 55/PUU-XVII/2019, emphasizing that simultaneous elections for the President, the House of Representatives, and the Regional Representative Council are fundamental to Indonesia's constitutional design. Any change to presidential tenure would therefore reverberate throughout the legislative and electoral system, highlighting the deep interconnectedness of Article 7 with other constitutional provisions.¹⁷

Within this framework, the two-term limit operates as more than a procedural rule; it functions as a normative protect, an implicit unamendable provision that protects the core of Indonesia's democratic order. The term limit maintains constitutional balance by ensuring regular leadership turnover, continuity in national planning, and alignment with legislative cycles. Article 7 operationalizes legal norms and strengthens democratic resilience by guaranteeing periodic accountability and preventing the personalization of executive power. It reflects key elements of Indonesia's constitutional identity, including separation of powers, electoral regularity, and institutional coherence. At the same time, it serves as a structural check against executive aggrandizement, mitigating risks inherent in coalition presidentialism through

¹² Joseph Raz, *The Concept of a Legal System: An Introduction to the Theory of Legal System*, 2. ed., reprinted (Oxford: Clarendon Press, 2003).

¹³ Hendra- Hendra et al., "Limiting Presidential Term of Office In Indonesia: A Democratic Perspective," *JWP (Jurnal Wacana Politik)* 5, no. 2 (October 2020): 136–48, <https://doi.org/10.24198/jwp.v5i2.29438>.

¹⁴ Saiful Mujani and R. William Liddle, "Indonesia: Jokowi Sidelines Democracy," *Journal of Democracy* 32, no. 4 (2021): 72–86, <https://doi.org/10.1353/jod.2021.0053>.

¹⁵ Mahesa Rannie, Retno Saraswati, and Fifiana Wisnaeni, "Does the Reform of the Parliamentary and Presidential Threshold Strengthen the Presidential System in Indonesia?," *Sriwijaya Law Review*, January 31, 2024, 133–51, <https://doi.org/10.28946/slrev.Vol8.Iss1.3157.pp133-151>.

¹⁶ Muhammad Mutawalli et al., "Legislative Elections: An Overview of Close Proportional System," *PETITA: JURNAL KAJIAN ILMU HUKUM DAN SYARIAH* 8, no. 2 (October 2023): 93–103, <https://doi.org/10.22373/petita.v8i2.200>.

¹⁷ Nurdinah Hijrah, "Judicial Competence and Consistency in the Constitutional Court's Decision about Open List Proportional Representation," *Al-Daulah: Jurnal Hukum Dan Perundangan Islam* 14, no. 1 (April 2024): 163–94, <https://doi.org/10.15642/ad.2024.14.1.163-194>.

predictable temporal constraints that bind political actors, reinforce oversight, and stabilize policy cycles. Its normative force is thus not merely formal but functionally essential in protecting the democratic system against both concentrated authority and gradual erosion of constitutional norms.¹⁸

The jurisprudence of the Constitutional Court highlights the fundamental role of presidential term limits in Indonesia's constitutional order.¹⁹ In Decision No. 108/PUU-X/2012, the Court stated that term limits are not technical procedures but essential protects of democratic legitimacy and leadership renewal. Decision No. 117/PUU-XX/2022 reaffirmed that extending presidential tenure beyond two terms would violate implicit constitutional norms that shape Indonesia's democratic identity. These rulings indicate that term limits function as an implicit unamendable provision, preserving the integrity of the presidential system and ensuring executive accountability and separation of powers.²⁰

Theoretically, the two-term limit reflects constitutional identity and a commitment to democratic constitutionalism. It serves as a structural check against executive aggrandizement, maintains the balance between branches of government, prevents prolonged incumbency, supports political pluralism, and sustains predictable democratic cycles. These characteristics align with theories of implicit eternity clauses, which hold that certain principles, although not formally entrenched, must remain inviolable to preserve a constitutional system's core values.²¹

Historically, the adoption of a two-term limit was informed by Indonesia's authoritarian experiences under Guided Democracy and the New Order. The Soekarno and Soeharto administrations showed how the absence of term limits enabled power concentration, suppression of dissent, and the creation of legal mechanisms that entrenched authoritarian rule. Public and academic debates, including proposals by Adnan Buyung Nasution and discussions within the People's Consultative Assembly during the 1999 General Session, consistently called for explicit limits on presidential authority to prevent abuse. The intense contestation surrounding Soeharto's prolonged tenure, despite widespread societal and student opposition, further demonstrated the need for constitutional term limits as a protect against executive overreach.²²

The amendment of Article 7, which set a maximum of two five-year presidential terms, reaffirmed rather than introduced the core principles of constitutionalism. It aligned Indonesia with post-authoritarian constitutional practice by embedding democratic accountability in formal structures. As repeatedly affirmed by the Constitutional Court, term limits are intended to prevent despotism and preserve the Constitution's spirit, which rests on popular sovereignty, democratic governance, and the rule of law.²³

¹⁸ Stefan Voigt, "Mind the Gap: Analyzing the Divergence between Constitutional Text and Constitutional Reality," *International Journal of Constitutional Law* 19, no. 5 (December 2021): 1778–809, <https://doi.org/10.1093/icon/moab060>.

¹⁹ Muhammad Reza Baihaki, Fathudin Fathudin, and Ahmad Tholabi Kharlie, "Problematika Kebijakan Hukum Terbuka (Open Legal Policy) Masa Jabatan Hakim Konstitusi," *Jurnal Konstitusi* 17, no. 3 (November 2020): 652–75, <https://doi.org/10.31078/jk1739>.

²⁰ Dewi Iriani, Muhammad Fauzan, and Esti Ningrum, "Constitutional Court Judges' Interpretation on the Limitation of Presidential and Vice-Presidential Term of Office: A Research of the Decision of the Constitutional Court Judge No. 117/PUU-XX/2022," *Proceeding International Conference Restructuring and Transforming Law* 2, no. 2 (2023): 273–80.

²¹ Laura-Stella Enonchong, "Unconstitutional Constitutional Amendment or Constitutional Dismemberment? A Reappraisal of the Presidential Term Limit Amendment in Cameroon," *Global Constitutionalism* 11, no. 2 (July 2022): 274–96, <https://doi.org/10.1017/S2045381721000290>.

²² Okamoto Masaaki, "Depoliticizing Social Cleavages for Democratic Consolidation in Indonesia," in *The Volatility and Future of Democracies in Asia* (Routledge, 2021).

²³ Rety Bella Octavya Zain et al., "Juridical Analysis of Presidential Term Extension Through Constitutional Amendment," *Indonesia Law Reform Journal* 3, no. 1 (May 2023): 69–78, <https://doi.org/10.22219/ilrej.v3i1.24930>.

Indonesia's experience parallels comparative jurisprudence on implicit unamendable provisions.²⁴ The Turkish Constitutional Court, for example, has held that amendment powers are limited not only by constitutional text but also by underlying principles such as fundamental rights, the rule of law, and systemic coherence²⁵, as reflected in Decisions 1965/40 and 1971/37. Likewise, Article 7 may be understood as expressing a universal democratic norm while also reflecting Indonesia's specific historical and political conditions. Its combined universal and context-specific character supports its treatment as an implicit unamendable provision.

2. Hyper-Presidentialism in Indonesia: The Role of Term Limits

Indonesia's hyper-presidentialism has expanded beyond conventional executive dominance. This article argues that the country is shifting from personalist hyper-presidentialism to dynastic hyper-presidentialism, where presidential power is not only concentrated through formal institutions but also reproduced through family networks embedded within the state.²⁶ This development blends constitutional authority with informal dynastic influence and reflects a deeper transformation in the nature of executive power.²⁷

The concept of hyper-presidentialism, characterized by strong executive control over the legislature, aligns with the views of Mainwaring and Shugart, who describe it as a condition in which the executive dominates legislative processes and major political decisions. Cheibub similarly identifies the weakening of legislatures and the personalization of power as key indicators, evident in the President's growing dominance over other state institutions. In Indonesia, these dynamics are intensified by the co-optation of political parties, regulatory advantages for the executive, and the use of state institutions for political purposes. Together, these factors weaken opposition forces and erode democracy, while the centralization of authority increasingly incorporates familial influence, producing a trajectory toward dynastic hyper-presidentialism.

The judiciary, as the third pillar of the tripartite system alongside the executive and legislative branches, serves as a key mechanism of checks and balances intended to regulate presidential authority. In principle, the judiciary can review the President's political and economic decisions. In hyper-presidential contexts, however, both the judiciary and legislature often fail to perform effective oversight, a pattern that becomes clearer when viewed historically. Presidents who extend their power beyond constitutional limits often gain the ability to influence judicial bodies, while some also weaken judicial independence through restrictive measures. As a result, institutions such as the Constitutional Court and Supreme Court may become increasingly restrained or lose legitimacy. Bernal notes that when presidents hold the power to appoint justices and remain in office for extended periods, judicial bodies tend to comply with executive preferences, which erodes independence and reduces the judiciary to a symbolic institution.²⁸

Although the presidential system is designed to separate governmental powers and distribute them evenly, its practical functioning often produces the opposite outcome. The

²⁴ Richard Albert, Malkhaz Nakashidze, and Tarik Olcay, "The Formalist Resistance to Unconstitutional Constitutional Amendments," *Hastings Law Journal* 70, no. 3 (n.d.): 638–70.

²⁵ Sayed Zubair Shah, Jamshaid Rasheed, and Awais Abid, "Constitutional Courts as Political Institutions: Legitimacy, Power, and Judicial Statesmanship," *Journal of Media Horizons* 6, no. 2 (June 2025): 666–78, <https://doi.org/10.5281/zenodo.15719305>.

²⁶ Christopher A. Martínez and Andrés Dockendorff, "Hyper-Presidentialism under Question: Evidence from Chile," in *Latin America in Times of Turbulence* (Routledge, 2023).

²⁷ José Antonio Cheibub, "Why Change the Form of Government?," *Texas International Law Journal* (Austin, United States) 57, no. 3 (Summer 2022): 365–80.

²⁸ Rebecka Villanueva Ulfgard, "López Obrador's Hyper-Presidentialism: Populism and Autocratic Legalism Defying the Supreme Court and the National Electoral Institute," *The International Journal of Human Rights* 27, no. 8 (September 2023): 1267–91, <https://doi.org/10.1080/13642987.2023.2207464>.

system formally assumes that the executive, legislature, and judiciary possess comparable authority, yet presidential regimes are typically structured in ways that centralize power in the executive.²⁹ In many cases, hyper-presidentialism emerges through the President's control over legislative initiatives and agenda setting, allowing the executive to propose laws, shape legislative priorities, and issue decrees with legal force.³⁰ This creates an asymmetrical power structure in which the executive consistently dominates other branches. Constitutional arrangements in both presidential and semi-presidential systems often reinforce this dynamic by granting agenda-setting and legislative initiative powers to the President, further strengthening executive dominance over the legislature.³¹

In a hyper-presidential system, the executive consolidates authority beyond constitutional boundaries by using institutional prerogatives to weaken legislative and judicial oversight. When confronted with criticism or resistance, executives often invoke the principle of separation of powers to justify unilateral action, allowing them to bypass the very checks and balances meant to preserve democratic accountability. This strategic use of constitutional language reveals a core paradox in hyper-presidential systems: mechanisms created to prevent authoritarianism are reinterpreted to legitimize executive supremacy and unilateral decision-making.³²

Indonesia's experience demonstrates this pattern through a growing concentration of authority in the presidency, which threatens the balance of power essential to democratic governance. The passage of the Omnibus Law on Job Creation in 2020 illustrates the extent of executive dominance over the legislature. Despite significant public opposition, the law was enacted through an accelerated process that limited meaningful scrutiny and consultation. The Constitutional Court later declared the law conditionally unconstitutional in Decision Number 91/PUU-XVIII/2020, citing procedural flaws and requiring revisions within two years. The legislature's passivity throughout the process revealed its subordination to executive priorities, underscoring how Indonesia's hyper-presidentialism undermines the separation of powers and raises the risk of democratic backsliding.³³

A clear example of executive dominance over the legislature is the 2020 Omnibus Law on Job Creation. The law was later declared conditionally unconstitutional by the Constitutional Court in Decision Number 91/PUU-XVIII/2020 due to procedural flaws, requiring revisions within two years. Although intended to improve the business climate and create jobs, the law was pushed through an expedited legislative process that lacked meaningful scrutiny and public consultation.³⁴ The House of Representatives played a largely passive role, while widespread objections from labor unions and civil society were overlooked. The executive's ability to

²⁹ Dandi Jayusman and Muhammad Fathi, "Questioning the Practice of State Capture Corruption in the Revision of the 2020 Mining Law," *LEGAL BRIEF* 12, no. 2 (June 2023): 187–96, <https://doi.org/10.35335/legal.v12i2.771>.

³⁰ King Faisal Sulaiman et al., "A Comparison of Decentralization Policy in Indonesia and Malaysia," *PETITA: JURNAL KAJIAN ILMU HUKUM DAN SYARIAH* 10, no. 1 (April 2025): 297–321, <https://doi.org/10.22373/petita.v10i1.677>.

³¹ William Partlett, "Crown-Presidentialism," *International Journal of Constitutional Law* 20, no. 1 (January 2022): 204–36, <https://doi.org/10.1093/icon/moac006>.

³² Nicolás Mimica and Patricio Navia, "Where Did Hyper-Presidentialism Go? The Origin of Bills and Laws Passed in Chile, 1990–2022," *Journal of Politics in Latin America* 16, no. 1 (April 2024): 27–49, <https://doi.org/10.1177/1866802X241245727>.

³³ Harlina Hamid and Nurasia Natsir, "Constitutional Analysis of Executive Power Limitations in Presidential Systems: A Comparative Research of Indonesia and The United States," *International Journal of Sociology and Law* 2, no. 2 (April 2025): 23–34, <https://doi.org/10.62951/ijsl.v2i2.570>.

³⁴ Fitri Setiyani Dwiarti, Nurbaiti Syarif, and Suhartina Suhartina, "Formulation and Implications of the Job Creation Law on Legal Protection in Indonesia's Forestry Sector," *Constitutionale* 6, no. 1 (April 2025): 27–38, <https://doi.org/10.25041/constitutionale.v6i1.3934>.

secure passage of the law with minimal legislative resistance demonstrates the legislature's subordination and its function as a rubber stamp for executive initiatives.³⁵

Presidential power is further reinforced through the co-optation of political parties, particularly through the formation of broad government coalitions. Parties often align with the executive not out of ideological agreement but in exchange for political patronage, including cabinet appointments. During President Joko Widodo's first term, the governing coalition controlled 60.17% of parliamentary seats, leaving nearly 40% for the opposition.³⁶ By his second term, the coalition expanded to 82%, significantly diminishing opposition strength. Even when the Indonesian Democratic Party of Struggle adopted a more critical stance near the end of Jokowi's presidency, its cabinet members remained in office. This pattern illustrates how patronage-driven coalitions weaken party independence and erode their capacity to act as an effective check on the executive.

Article 7 of the 1945 Constitution, which limits the President to two terms, was introduced as a protect against indefinite rule and as a core element of democratic accountability. Prior to the constitutional amendments, presidential tenure had no formal limit, allowing unlimited reelection. Although Article 7 is not explicitly unamendable like Article 37(5), its resilience is rooted in the Reformasi movement, historical resistance to authoritarianism, and its functional connection to constitutional principles. Under hyper-presidential conditions, however, the effectiveness of term limits is weakened. Legislative subordination, judicial co-optation, and patronage networks allow the executive to consolidate power, making the two-term limit increasingly symbolic and vulnerable to manipulation.

From a constitutional law perspective, this consolidation of power disrupts the separation of powers by enabling the executive to secure legislative compliance through political bargaining. Such practices weaken legislative independence, reduce opposition oversight, and erode democratic accountability. Restrictions on dissent have intensified, particularly through the application of Law No. 11 of 2008 on Information and Electronic Transactions. This law has been used against activists, journalists, and citizens who criticize government policies, including the Omnibus Law.³⁷ Prosecutions involving alleged defamation or the spread of false information undermine constitutional protections of free expression and contribute to the criminalization of dissent.

These developments also expose serious threats to judicial independence. The Constitutional Court has faced growing constraints through regulatory measures and executive influence over appointments. Its authority has increasingly been viewed as an obstacle to executive priorities, and judges perceived as politically misaligned have been dismissed without sufficient constitutional basis. Controversial decisions linked to the 2024 Presidential Election, particularly the ruling known as "Uncle Usman's Decision" that favored Gibran Rakabuming Raka, intensified concerns about executive interference. Allegations of direct involvement from the presidential office further eroded the Court's credibility, while the President's failure to prevent Gibran's candidacy signaled tolerance of nepotism. These issues demonstrate the urgent need for legal accountability regarding President Jokowi's role in undermining constitutional principles.³⁸

³⁵ Zainal Arifin Mochtar and Idul Rishan, "Autocratic Legalism: The Making of Indonesian Omnibus Law," *Yustisia* 11, no. 1 (April 2022): 29–41, <https://doi.org/10.20961/yustisia.v11i1.59296>.

³⁶ Tim Harian Kompas, "Dilema Politik Partai Oposisi," Kompas.id, July 20, 2019, <https://www.kompas.id/baca/utama/2019/07/20/dilema-politik-partai-oposisi>.

³⁷ Devi Tri Indriasari and Ade Armando, "The Governance of Information Technology and Deliberative Democracy: Research of The Law on Information and Electronic Transactions (ITE)," *Eduvest - Journal of Universal Studies* 3, no. 5 (May 2023): 895–912, <https://doi.org/10.59188/eduvest.v3i5.807>.

³⁸ Indra Lorenly Nainggolan and Nina Zainab, "Constitutional Values And Judges Morals In The Decision of The Constitutional Court Number 90/PUU-XXI/2023: Review of The Flow of Natural Law," *KRTHA BHAYANGKARA* 18, no. 1 (April 2024): 167–80, <https://doi.org/10.31599/krtha.v18i1.783>.

Traditional scholarship on hyper-presidentialism focuses on the excessive concentration of executive authority and the erosion of legislative and judicial independence. A newer development in democracies experiencing institutional decline is dynastic hyper-presidentialism, which arises when presidential dominance extends into familial networks and entrenches executive power beyond formal constitutional mechanisms. In this dynamic, the boundary between public office and private family interests becomes increasingly blurred, creating new forms of soft autocratization that appear to operate within electoral frameworks.³⁹

Indonesia offers a clear example of this trend through the controversy involving Anwar Usman, the brother-in-law of President Joko Widodo and former Chief Justice of the Constitutional Court. Under his leadership, the Court issued a highly disputed ruling that revised the minimum age requirement for presidential and vice-presidential candidates. This decision enabled Jokowi's eldest son, Gibran Rakabuming Raka, to run as a vice-presidential candidate in the 2024 election. Public concern deepened when it became known that Anwar Usman did not recuse himself despite an evident conflict of interest. Although the Court's Honorary Council later sanctioned him, the ruling had already damaged public trust and raised concerns about the instrumentalization of legal institutions for familial and political gain.⁴⁰

Unlike ordinary political dynasties, which involve family participation in politics, this variant relies on the deliberate use of state power to enable, legitimize, and secure familial succession. It is not merely passive nepotism but a coordinated, institutionally embedded effort to reproduce executive power through kinship ties. The Indonesian case therefore expands conventional understandings of hyper-presidentialism by showing how centralized authority can evolve into a system where familial succession becomes structurally integrated into the state apparatus. Concerns over dynastic hyper-presidentialism in Indonesia extend beyond Gibran Rakabuming Raka. Jokowi's younger son, Kaesang Pangarep, rose quickly to the chairmanship of the Indonesian Solidarity Party despite lacking political experience, prompting questions about conflicts of interest and the use of presidential influence to advance family networks. These developments signal a shift toward dynastic hyper-presidentialism, in which institutions are subtly reshaped to legitimize and expand familial power while maintaining the appearance of normal democratic procedure.⁴¹

This pattern is exemplified by the Constitutional Court's ruling that allowed Gibran to run as vice president in 2024, a decision issued under Chief Justice Anwar Usman, the President's brother-in-law. The intersection of family ties and constitutional adjudication demonstrates how legal mechanisms can be strategically deployed to benefit the executive's relatives. Rather than ordinary nepotism, this reflects a coordinated use of state institutions to entrench family influence.⁴² These dynamics highlight how hyper-presidentialism exploits institutional vulnerabilities. When the legislature and judiciary are subordinated to the executive, the constitutional two-term limit becomes an insufficient protect. Dominant coalitions ensure legislative compliance, while judicial oversight can be weakened or selectively applied. As a result, presidential term limits function more as procedural formalities than effective barriers, with their impact dependent on the strength of surrounding democratic institutions.

³⁹ Radek Buben and Karel Kouba, "Democracy and Institutional Change in Times of Crises in Latin America," *Journal of Politics in Latin America* 16, no. 1 (April 2024): 90–109, <https://doi.org/10.1177/1866802X241226986>.

⁴⁰ Muhammad Syauqi Bin-Armiya et al., "From Constitutional-Court to Court of Cartel: A Comparative Research of Indonesia And Other Countries," *PETITA: JURNAL KAJIAN ILMU HUKUM DAN SYARIAH* 9, no. 2 (November 2024): 457–79, <https://doi.org/10.22373/petita.v9i2.437>.

⁴¹ Rendi Wadipalapa and Adam Tyson, "Cross-Party Presidential Dynasticism in Indonesia: Evidence from the 2024 Presidential Elections," *Pacific Affairs* 98, no. 1 (March 2025): 79–102, <https://doi.org/10.5509/2025981-art4>.

⁴² Alip Dian Pratama et al., "Towards A Juristocratic State: A Critical Analysis Of The Constitutional Court Decision No 90/Puu-Xxi/2023 Concerning The Age Limits Of Vice Presidential Candidates," *Constitutionale* 5, no. 2 (2024): 111–22, <https://doi.org/10.25041/constitutionale.v5i2.3515>.

The rise of dynastic hyper-presidentialism shows how familial networks can extend executive influence beyond formal constitutional limits. By placing relatives in political and judicial positions, a president can informally sustain power across electoral cycles, creating continuity even within the two-term restriction of Article 7. This exposes a central paradox: although Article 7 clearly limits presidential tenure, its effectiveness depends on the strength of independent institutions capable of resisting both direct and indirect executive pressure. In Indonesia, weakened legislative and judicial bodies allow the executive to functionally bypass term limits, demonstrating how constitutional rules can be undermined when institutional protects are compromised.

This tension between formal term limits and the realities of hyper-presidentialism underscores the need for stronger institutional protections. Legal provisions, including those resembling unamendable limits, cannot ensure accountability if the institutions tasked with enforcing them lack autonomy. Strengthening judicial independence, enhancing parliamentary oversight, and establishing credible anti-nepotism protects are essential to turning Article 7 from a symbolic provision into an effective check on executive power. Without such reforms, the two-term limit risks becoming merely nominal, especially as family members occupy key positions that enable the executive's influence to continue beyond the President's formal tenure.

C. Conclusion

This research concludes that Indonesia's two-term presidential limit, as enshrined in Article 7 of the 1945 Constitution, functions as an implicit unamendable clause that protects the nation from authoritarian relapse and reflects its constitutional identity. Yet, the persistence of hyper-presidentialism reveals the shortcomings of relying solely on formal constitutional protections. Despite rigid term limits, presidential power has expanded through mechanisms such as oversized coalitions, political patronage, and the weakening of judicial independence. The emergence of dynastic hyper-presidentialism further demonstrates how executive influence can circumvent constitutional boundaries, eroding the intended principle of leadership rotation. These developments suggest that although the two-term limit may be normatively unalterable, its effectiveness ultimately depends on the strength of democratic institutions that uphold checks and balances.

D. Suggestion

Strengthening Indonesia's constitutional democracy requires reforms that extend beyond the formal entrenchment of presidential term limits and focus on reinforcing institutional independence. In this regard, the Draft Law on the Presidential Institution should include explicit protections for judicial autonomy, clearer regulations on coalition practices, and measures that prevent the entrenchment of dynastic power. These provisions would give concrete effect to the spirit of Article 7. These measures enhance the accountability within the presidential system and reinforce the two-term limit as a central and unamendable component of Indonesia's constitutional order.

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