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Term Limitation of Indonesian Parliamentarians Seen from Constitutionalism

Limitação de mandato de parlamentares indonésios vista a partir do constitucionalismo

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Abstract

This article intends to use a constitutionalist lens to examine why term limits for Indonesia's People's Representative Council and Regional Representative Council are necessary. The article employs the statutory approach, the conceptual approach, and the comparative approach to writing about normative law. The article makes use of deductive and inductive reasoning strategies grounded in prescriptive analysis. Due to the inability to locate a clause or provision that regulates limitedly regarding the limitation of the term of office of members of the People's Representative Council and Regional Representative Council of the Republic of Indonesia, from a constitutionalist's perspective, the paper concludes that such a limitation is urgently necessary. Since constitutionalism necessitates checks and balances, it follows that this goes against the Republic of Indonesia's constitution. As a result, the article concludes that three (3) factors emphasize the necessity of term limits for members of the Indonesian Parliament as a means of strengthening the principle of constitutionalism: (1) the existence of a legal vacuum, (2) the poor quality of Indonesian democracy, and (3) the importance of leadership regeneration.

Keywords: constitutionalism; democracy; Indonesian parliamentarians; restrictions; term.

Resumo

Este artigo pretende usar uma lente constitucionalista para examinar por que os limites de mandato para o Conselho Representativo do Povo da Indonésia e o Conselho Representativo Regional são necessários. O artigo emprega a abordagem estatutária, a abordagem conceitual e a abordagem comparativa para escrever sobre o Direito normativo. O artigo faz uso de estratégias de raciocínio dedutivo e indutivo fundamentadas na análise prescritiva. Devido à impossibilidade de localizar uma cláusula ou disposição que regule de forma limitada a limitação do mandato dos membros do Conselho Representativo do Povo e do Conselho Representativo Regional da República da Indonésia, sob uma ótica constitucionalista o trabalho conclui que tal limitação é urgentemente necessária. Uma vez que o constitucionalismo exige freios e contrapesos, segue-se que isso vai contra a Constituição da República da Indonésia. Como resultado, o artigo conclui que existem três (3) fatores que enfatizam a necessidade de limites de mandato para os membros do Parlamento indonésio como forma de fortalecer o princípio do constitucionalismo: (1) a existência de um vácuo legal, (2) a má qualidade da democracia indonésia e (3) a importância da regeneração da liderança.

Palavras-chave: constitucionalismo; democracia; parlamentares indonésios; restrições; prazo.

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1. Introduction; 2. Method; 3. Analysis and discussion; 3.1. Constitutionalism, State Institutions, and Division of Authority; 3.2. Term Limitation of Indonesian Parliamentarians Seen from Constitutionalism; 4. Conclusion; 5. References.

1. INTRODUCTION

Power has the tendency to dominate, rule, and exert influence, making it stable. Power has a way of perpetuating itself. "Power tends to corrupt," Lord Acton once said. Power tends to corrupt those who hold it.¹ The question of whether Parliament is legally restricted is, of course, controversial. Previous generations of legal scientists had been trained in theories by Professor Dicey of Oxford in the early 20th century. Dicey explained that the parliament is the highest legislator, which means that other institutions can overturn none of the laws he makes. Dicey did not put forward this idea to argue that Parliament had permission to make unfair or unjust laws.² The focus

¹ AHMAD, A.; NGGILU, N. M. Denyut Nadi Amandemen Kelima UUD 1945 melalui Pelibatan Mahkamah Konstitusi sebagai Prinsip the Guardian of the Constitution. *Jurnal Konstitusi*, v. 16, n. 4, p. 785-808, 2019.

² WIJAYA, Ahmad; NASRAN, Nasran. Comparison Of Judicial Review: A Critical Approach To The Model In Several Countries. *Jurnal Legalitas*, issue 14, n. 2, p. 85-106, 2021.

is different; the supremacy of Parliament flows from the fact that nobody above it can declare its laws illegal. What Parliament says is the law. That is why there are no legal restrictions on Parliament.³

As a result, the legislation works to constrain state power. The Republic of Indonesia's President and Vice President are bound by the provisions of the 1945 Constitution, which seeks to rein in the authority of the state's institutions. The original text of Article 7 of the 1945 Constitution of the Republic of Indonesia read, "The President and Vice President hold office for five years and after that may be re-elected," but this has been changed to read, "The President and Vice President hold office for five years, and after that may be re-elected to the same office, for one term only."⁴

Please note that the paradigm of limited power in the Constitution must exist as an application of the principle of constitutionalism. Still, what is not the case with parliamentary institutions (MPR, DPR, DPD, and DPRD), which are also regulated in the Constitution, it turns out that there are exceptions to this 1 (one) power. In the parliamentary system in Indonesia, which is then referred to as a representative institution, as a representative institution, members of the MPR, DPR, DPD, Provincial, and Regency/City Parliaments (members of the people's representative institution) are elected by the people through general elections. General elections are held directly, generally, freely, secretly, honestly, and fairly every five years.⁵ Participants in the general election to elect members of the DPR and DPRD are political parties,⁶ while participants in the general election to elect members of the DPD are individuals.⁷

Legislators (DPR, DPD, and DPRD) are not subject to the same term limits as the president (executive). The qualifications for serving on the DPR, DPD, and DPRD are laid out in Article 51, paragraph (1) of Law No. 8 of 2012, which regulates the General Election of Members of the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council. There is no lifetime limit on how many terms an individual can serve in the DPR, DPD, or DPRD, and anyone is eligible to run for office. Since a political party is the only entity with the authority to remove members of the House of Representatives, the rule does not address issues that could lead to their removal from office.

Today, members of the House of Representatives can be elected up to three to four terms or even more. This has a bad impact on democracy. Democracy is a change of power

³ RISHWORTH, Paul. Some External Constraints and Constitutional Principles. Dalam **Seminar on The Making of Quality Legislation**: Wellington: Legislation Design and Advisory Committee, 2012. Available at: <<http://www.ldac.org.nz/seminars/2012/some-external-constraints-and-constitutional-principles/>>.

⁴ HAPSORO, Fakhris Lutfianto; ISMAIL, Ismail. Interpretasi Konstitusi dalam Pengujian Konstitusionalitas untuk Mewujudkan The Living Constitution. **Jambura Law Review**, issue 2, n. 2, p. 13-160, 2020.

⁵ See Article 22E paragraph (1) The 1945 Constitution

⁶ See Article 22E paragraph (3) The 1945 Constitution.

⁷ See Article 22E paragraph (4) The 1945 Constitution.

and poor leadership regeneration in the body of a political party that can only rely on its seniors and does not give opportunities to juniors in the party body to run for legislators. One of the facts is that there are DPR members who served six terms from 1987-2014, namely Tjahjo⁸ and Ceu Popong, who came from the Golkar faction and have been members of the DPR for five terms until or are currently still serving as DPR members since 1987.⁹ In addition, there is also Setya Novanto, who is entangled in corruption cases. Setya Novanto served in the People's Representative seat for four consecutive terms. As a House of Representatives of the Republic of Indonesia member from the Golkar Party from 1999-2004, 2004-2009, 2009-2014, and again as a legislature member from 2014-2019.¹⁰

Putting a cap on the number of years someone can serve in the House of Representatives can help ensure that those elected to represent their constituents do so with the state's best interests in mind rather than their own. The limitation of the term of office of the House of Representatives, at least, will limit the mind of prospective members of the House of Representatives that being a member of the House of Representatives is a service for 5 (five) years and ends at the end of the period, not an absolute power that can be enjoyed until old age without regulations that limit the term of office. In recent years, more and more legislators have been caught in corruption crimes.

The author also believes that term limits for members of the House of Representatives are important because of the serious threat that their continued service poses to the constitutional rights of all American citizens. According to Article 51 paragraph (1) of Law Number 8 of 2012 concerning the General Election of Members of the People's Representative Council, Regional Representative Council, and Regional People's Council, no regulation exists that limits the term of office of legislative members in the same way that the term of office of executive members is limited. To prevent absolute power and abuse of authority, it is just as vital to limit the working period of members of the DPR (legislature) as it is to limit the working period of the president/vice president (executive).

Democracy and people's sovereignty guarantee the role of the community in state decision-making so that every law can reflect the people's sense of justice. Law is intended to ensure the interests of justice for all because the state of law developed is not absolute *rechtsstaat* but *demokratische rechtsstaat*.¹¹ Every citizen has the right to

⁸ SAHID, Rahmat. Usia 57, Karir Politik Tjahjo Kumolo Paripurna. 01 Dec. 2014. Available at: <<https://nasional.sindonews.com/berita/931246/12/usia-57-karir-politik-tjahjo-kumolo-paripurna>>.

⁹ ISMAIL, Rachmadin. Ceu Popong: Di Dunia Politik, Usia 100 Tahun Juga Boleh. detiknews. Diakses, 30 April 2023. Available at: <<https://news.detik.com/wawancara/d-2709173/ceu-popong-di-dunia-politik-usia-100-tahun-juga-boleh>>.

¹⁰ KHADAFI, Ahmad. Ada yang Menjabat Sampai 30 Tahun, Kenapa Masa Jabatan Anggota DPR Tidak Dibatasi? **Mojok.co** (blog), 30 September 2019. Available at: <<https://mojok.co/pojokan/ada-yang-menjabat-sampai-30-tahun-kenapa-masa-jabatan-anggota-dpr-tidak-dibatasi/>>.

¹¹ ROSANA, E. Negara Demokrasi Dan Hak Asasi Manusia. **Jurnal Tapis: Jurnal Teropong Aspirasi Politik Islam**, v. 12, n. 1, p. 37-53, 2016.

freedom in avoiding monopolistic practices of power that can lead to abuse of power and authority because there is no term limit.

The weakness of the current system, especially in terms of arrangements that do not limit the term of office of parliamentarians at all, can cause several problems, as described by the author. At several points above, reviews related to it have been discussed in the author conducted by Wa Ode Fatihatul Khaerunnaila. This writing was done in 2018 with the title "The Urgency of Limiting the Term of Members of the House of Representatives to Prevent Abuse of Power" This paper describes the importance of the term of office of members of parliament is limited. However, one of the deficiencies in this writing is about offering a model of limiting the term of office as intended, especially related to the study of constitutionalism initiated by the author in this article.

With the limitation of the term of office of parliament members, it will open up a monopoly space for the existing party system in Indonesia because if you look at the condition of the existing party system, many dynastic practices are built. Therefore, the demand for the limitation of the position of parliamentarians is increasingly relevant because the condition of political parties as a recruitment source is problematic. The latent problem of political parties can be illustrated by the practice of oligarchy that makes political parties feel like private or family property," Thus, through this term limitation, it will make the party further improve the recruitment system and create a good regeneration system.

Based on the background above, the author makes a problem formulation that becomes a study material for the author in compiling writing. As for the formulation of the problem, namely: how the principle of constitutionalism is related to the limitation of the term of office of members of Parliament in Indonesia.

2. METHOD

Normative legal writing is used, with secondary data or library sources serving as the foundation for the research. Norms, principles, rules, regulations, comparative laws, doctrines, and jurisprudence are all objects of study.¹² The author employed several methods, including a legal one (the "statute approach") to examine the regulatory framework pertinent to this paper's subject matter; Also, we'll be taking a conceptual approach. Taking this tack allows us to consider how we might apply potential answers to the problems we've identified.¹³ Furthermore, this paper uses library research as a basis for writing construction with prescriptive analysis techniques.

¹² M DEWATA, Mukti Fajar Nur; ACHMAD, Yulianto. **Dualisme Penelitian Hukum Normatif dan Empiris**. Yogyakarta: Pustaka Pelajar, 2010. P. 34.

¹³ MARZUKI, Peter Mahmud. **Penelitian Hukum**. Jakarta: Kencana, 2014. P. 9.

3. ANALYSIS AND DISCUSSION

3.1. Constitutionalism, State Institutions, and Division of Authority

Constitutionalism is the belief that the power of government should be legally limited and that the authority or legitimacy of government rests on respect to those restrictions, a notion typically connected with the political ideas of John Locke and the founding fathers of the American Republic¹⁴ Constitutionalism is the belief that the power of government should be legally limited and that the authority or legitimacy of government rests on respect to those restrictions, a notion typically connected with the political ideas of John Locke and the founding fathers of the American Republic.¹⁵

This concept prompts a number of intriguing questions for those interested in the study of law and the philosophy of government. If the law itself originates from the government, then what legal means do we have to limit it? What does this imply about the ability of governments to 'self-limit'? Can that really happen? If not, is there any way to dispel this inference? If meaningful constraints can be achieved, then perhaps constitutional constraints should be "rooted," or immune to alteration or removal by those whose powers are being limited.¹⁶

Perhaps those limits ought to be codified into law as well as practiced in practice. If so, how do we make sense of these regulations? Is it understood in light of the values and principles it originally expressed, or in light of how those values and principles have changed over time? In the end, one's answers to these issues will be heavily influenced by one's view of the Constitution's essence, identity, and power. Should the Constitution create a reliable structure for the use of government authority that reflects the ideals it promotes? The Constitution's nature, identity, and authority all play a role in how one responds to these problems.¹⁷

There are at least two advantages to viewing constitutional amendments as ongoing discursive activities (rather than final solutions). For one, it helps us sidestep the thorny issues surrounding the 'proper' interpretation of constitutional reform, issues that might prove intractable until and until there is a direct clash between the courts and Parliament severe enough to put the 'diverse constitutionalism hypothesis' to the test.¹⁸

¹⁴ RAZAK, A. et al. Balancing Civil and Political Rights: Constitutional Court Powers in Indonesia and Austria. *Journal of Indonesian Legal Studies*, v. 8, n. 2, 2023.

¹⁵ RASYID, U. et al. Reformulation of the Authority of Judicial Commission: Safeguarding the Future of Indonesian Judicial Power. *Jambura Law Review*, v. 5, n. 2, p. 386–413, jul. 2023.

¹⁶ GARGARELLA, Roberto. *The Law as a Conversation among Equals*. Cambridge, United Kingdom ; New York, NY: Cambridge University Press, 2022. P. 21.

¹⁷ KYRITSIS, Dimitrios. *Where Our Protection Lies: Separation of Powers and Constitutional Review*. Vol. 1. Oxford: Oxford, University Press, 2017. <https://doi.org/10.1093/oso/9780199672257.001.0001>. P. 6.

¹⁸ SCHWARTZ, A. The Changing Concepts of the Constitution. *Oxford Journal of Legal Studies*, v. 42, n. 3, p. 758–786, 2022.

Constitutional law thinkers, including, in this case, world constitutional law thinkers, have long echoed the assertion of constitutionalism. Constitutionalism is a necessity that must be put forward to improve the standard of human life, especially in social associations that require interaction between various social groups motivated by various kinds of differences, so that to unite the atmosphere of differences must be managed properly and following human living standards that humanize humans as social creatures.¹⁹ Therefore, one of the demands in the growing constitutionalism is the affirmation of the importance of protecting human rights.²⁰

Protection of human rights, as referred to, requires a protection tool in the form of a system that will be used as a framework for regulating the traffic of differences so that it can be managed properly and correctly through the system. This is needed so the human ecosystem can support and need each other. As the author intended, the ecosystem needs to be well maintained.

The ecosystem, as explained by the author above, will form a management pattern that must be realized in a commitment to togetherness, which is then manifested in a pledge of establishment as a common forum which later the joint forum is named after the name of the country and the pledge as referred to is an inscription that precedes the birth of a country or is usually made with the name of the Constitution.²¹

The Constitution must be realized by prioritizing a principle of constitutionalism as the spirit of a constitution in a country, where later the Constitution will regulate the structure of the constitutional system, starting from state institutions, how to use or operate state institutions, how to law, how to exception, how to manage citizens, how to respect humanity, how to protect and defend rights and obligations, and other ways that are all based on understanding constitutionalism as the benchmark.

Questioning state institutions and how to use or operate state institutions which are essentially associated with power institutions, Lord Acton²² has long said to all state people that power tends to be very easily misused because power will be very loyal to true love, which is corruptive acts, so if there is a power that is exercised absolutely, then surely that power will marry love. In fact, it is corruptive which will eventually sacrifice its noble duty as a servant of human civilization. Service, as intended by the author, is that power is sourced from the people by the people and should also return

¹⁹ ALFAUZI, R.; EFFENDI, O. Pembatasan Kekuasaan Berdasarkan Paham Konstitusionalisme Di Negara Demokrasi. **Politica: Jurnal Hukum Tata Negara dan Politik Islam**, v. 7, n. 2, p. 111–133, 30 dez. 2020.

²⁰ AHMAD, Fence M. Wantu; NGGILU, N. M. **Hukum Konstitusi (Menyongsong Fajar Perubahan Konstitusi Indonesia Melalui Pelibatan Mahkamah Konstitusi)**. Yogyakarta: UII Press, 2020. P. 44.

²¹ LAKSONO, L. B. Pendidikan Kewarganegaraan Mengusung Pancasila sebagai Konsensus Sosial, Kontrak Sosial, dan Social Imaginary. **Integralistik**, v. 30, n. 2, p. 150–161, 2019.

²² Lord Acton conveyed a postulate, where the postulate is very popular, describing the reality of power now. The postulate is "Power tends to corrupt. Absolute power corrupts absolutely".

to the people as masters of all state power distributed through treaty pacts or *modus vivendi* and/or collective agreements outlined in the Constitution.

Thus, one of the emphases stipulated in the Constitution is regarding the state institutions' division of duties and authorities. This task and authority are intended to facilitate the people in achieving a color of civilization that creates evil together without exception. This means that the noble task of these state institutions is formed as tools or tools for the realization of joint efforts, which in the aspect of their ideas or their imaginary dialogue is that these state institutions will realize prosperity in a country, therefore then state institutions are given the power to realize the intended goals and selected people who will carry out the authority and duties of state institutions.

The holders of sovereignty will eventually reward the person chosen to fill and operate these state institutions in the form of contributions (in other words, it is called a "tax") of the community as an intake or engine that will guarantee that the community guarantees the people who fill and operate the state institutions if he wants to run the state institutions provided that these people will run. This noble duty is solemnly and following what has been agreed upon by all citizens as stated in the Constitution.

In analyzing constitutional changes and the importance of constitutionalism, it is very important to understand that the Constitution must reflect the values and principles expressed by society. The Constitution should be a stable framework for exercising public power and be in line with protecting human rights.

The importance of constitutionalism in maintaining the balance of power and ensuring citizens' rights are protected cannot be ignored. The Constitution must be realized by prioritizing the principle of constitutionalism as the core of the constitutional system. This includes dividing duties and authority between state institutions to work together to achieve common prosperity.'

The selection of appropriate individuals to fill and operate these state institutions is of paramount importance, as they will be responsible for carrying out this noble duty per the Constitution. As holders of sovereignty, society has an important role in ensuring that the people chosen to fill these positions carry out their duties with integrity and dedication.

In the context of ever-evolving discursive practices, constitutional change should be seen as a flexible and adaptive process. Recognizing that the 'correct' interpretation of constitutional reform may be difficult to achieve, it is important to consider how the Constitution can be adapted to society's ever-evolving values and principles. Overall, the importance of constitutionalism in establishing and maintaining an effective, fair, and responsive constitutional system cannot be ignored. The Constitution should always reflect the people's aspirations and protect human rights while maintaining a balance of power between the various state institutions.

3.2 Term Limitation of Indonesian Parliamentarians Seen from Constitutionalism

A constitution, in its most basic definition, is a set of norms (rules, principles, or ideals) that establish the limits, powers, or authority of a government. This view holds that all nations are constitutional states with written constitutions. Any entity that seeks formal recognition as a state must have a system in place to establish and define the limits (or lack thereof) imposed on the legislative power (to enact new laws), the executive power (to enforce laws), and the judicial power (to resolve disputes under laws).²³

In this regard, the fundamental affirmation that wants and must be realized in the Constitution is about the limitation of power because the philosophical aspect of the Constitution firmly says that its presence in the space of state civilization is a means of limiting power so that with the inspiration of the Constitution it will minimize concerns or even eliminate what was conveyed by Lord Acton concerning the abuse of power by people who should play a role in realizing the goals of the state that have been pledged together.

Now, the author tries to see the reality of actualizing the principle of constitutionalism, whose foundation should be embedded in the Indonesian Constitution or commonly referred to as the Constitution of the Republic of Indonesia Year 1945. What is interesting for the author after examining and dissecting the anatomy of the Indonesian Constitution is that almost all power associations established in the Constitution have adopted the basic principle of constitutionalism, namely the limitation of power. However, there is one power association that the author must dissect more deeply because the author has not found a nerve or organ of this power association in which there is an order of limitation of power. This is what the author thinks is very absurd. How can there be an association of power that does not inherit the DNA of power limitation in the Constitution? The power association, as referred to by the author, is the House of Representatives and the Regional Representative Council of the Republic of Indonesia.

After the author distinguishes the anatomy of the House of Representatives and the Regional Representative Council of the Republic of Indonesia, it turns out that the author does not find a clause or provision that regulates in a limited way regarding the term limits of the members of the People's Representative Council and the Regional Representative Council of the Republic of Indonesia, this is of course a big question for the author, how can this one power escape the reach of term limits (power), because

²³ Unless otherwise stated, the term 'power' is to be understood as normative power related to the theory developed by the legal theorist Wesley Hohfeld. Normative power, in this sense, is the capability or ability to change the relevant normative landscape regarding rights, obligations, privileges, etc. When legislatures pass new laws, they use their normative powers to modify existing rights, obligations, etc., or create new ones that did not exist before the laws were enacted. See ACKERMAN, Bruce. *The Living Constitution*. **Harvard Law Review**, issue 120, n. 7, p. 1737–1812, 2007.

almost all state institutions even the President as the holder of the highest power in the executive shutter and has enormous authority in carrying out executive power functions that even this country insists that the Indonesian government system uses a presidential government system even limited in term of office by the Constitution, Similarly, the judicial power exercised by the Constitutional Court and the Supreme Court is also limited to the periodization of its term of office in the Constitution which is then affirmed or derived into law as a framework for operationalization and elaboration of duties and authorities regulated in the Constitution.

Thus, from several considerations as described by the author above, it can be concluded that the limitation of the term of office and periodization of members of the DPR and DPD of the Republic of Indonesia is not in line and not in line with constitutionalism, where this understanding wants to confirm that no position cannot be limited in a country because if the position or power is not limited, it will cause arbitrariness and result in the misuse of power which leads to corruptive actions.

The birth of the limitation of power was one of the pillars of constitutionalism, initially with the emergence of *rechtsstaat*, the rule of law, and so on. Because the characteristic of the *rechtsstaat* is the limitation of power in exercising state power inspired by constitutionalism. Although the terms *rechtsstaat* and the rule of law have different historical backgrounds, they both contain the idea of limiting power.²⁴ The idea of the rule of law was born to stem the arbitrariness of power that practices the absolute system and ignores the rights of the people themselves, the true meaning of which is certainly the great desire of the people to enact the values of justice.²⁵

Limiting power is necessary because previously, all functions of state power were centralized and concentrated in the hands of one person, namely in the hands of the King or Queen who led the country for generations. How the state's power is managed depends entirely on the personal will of the King or Queen without clear control, so it can have a devastating effect on suppressing the rights and freedoms of the people.²⁶

Modern constitutionalism evolved from the belief that the law imposes limits. A rule of law, or constitutional state, is a government that operates within the bounds established by the Constitution. Constitutional democracy refers to a notion of a democratic state as founded on law, and is used interchangeably with the term democracy in this context.²⁷

²⁴ ASSHIDDIQIE, Jimly. **Pengantar Ilmu Hukum Tata Negara Jilid I**. Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2006. P. 27.

²⁵ HAKIM, Abdul Aziz. **Negara Hukum dan Demokrasi di Indonesia**. Yogyakarta: Pustaka Pelajar, 2011. P. 4.

²⁶ ASSHIDDIQIE, Jimly. **Pengantar Ilmu Hukum Tata Negara Jilid I**. Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2006. P. 282.

²⁷ ASSHIDDIQIE, Jimly. **Pengantar Ilmu Hukum Tata Negara Jilid I**. Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2006. P. 281.

Establishing patterns of restriction within the internal management of state power, for example by distinguishing and splitting state authority into various different roles, is another way in which efforts to limit power are carried out. In this regard, Montesquieu's theory of *trias politica* – the separation of legislative, executive, and judicial powers – can be seen as the most prominent way of thinking about the different roles of power.²⁸

The theories of separation and division of power will be crucial to understanding the problem of power restriction. The idea of separation of powers, often attributed to Montesquieu with his *Trias Politica*, is characterized by the use of the terms division of powers, separation of powers, distribution of powers, and allocation of powers. However, its evolution necessitates the formulation of terms of office (limitations on tenure) in various branches of government, including the legislature, the executive branch, and the judiciary. Legislative bodies are an example of an institution without term limitations.

Against the backdrop of term limitations designed to prevent the arbitrary rule of a single individual, Indonesia's journey through history has been marked by two orders of power, the "old order" under President Soekarno and the "new order" under President Suharto. Karno and Suharto share the same "compulsive for power" (the will to power) traits and there is no term restriction on their presidency. In light of this, setting term limits for the DPR and DPD is essential.

If the President, Vice President, Governor, Vice Governor, Regent, Vice Regent, Mayor and Vice Mayor are limited in terms of office. It is very unfair if any member of the House of Representatives serves more than two terms.²⁹ For example, Setya Novanto from the Golkar party served four terms (1999-2004, 2004-2009, 2009-2014, and 2014-2019).³⁰ Even though Setya Novanto stumbled on the E-KTP case in his fourth period while serving as speaker of the House of Representatives of the Republic of Indonesia. Popong Otje Djundjungan or commonly called Ceu Popong from the Golkar party served five terms (1987-1992, 1992-1997, 1997-1999, 2009-2014, and 2014-2019),³¹ Lukman Hakim Saefuddin from the United Development Party (PPP) served

²⁸ ASSHIDDIQIE, Jimly. **Pengantar Ilmu Hukum Tata Negara Jilid I**. Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2006. P. 281.

²⁹ Article 7 of the 1945 Constitution, regulates the term of office of the President and Vice President for two terms and Article 7 paragraph (2) letter n of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulations in lieu of Laws Number 1 of 2014 concerning the Election of Governors, Regents and Mayors to Become Law, regulates the term of office of Governors, Deputy Governors, Regents, Deputy Regents, Mayors and Deputy Mayors for two terms.

³⁰ VIVA, PT VIVA MEDIA BARU-. Profil Setya Novanto. Availble at: <<http://www.viva.co.id/siapa/read/78-setya-novanto>>.

³¹ ISMAIL, Rachmadin. Ceu Popong: Di Dunia Politik, Usia 100 Tahun Juga Boleh. **Detiknews**. **Diakses**, 30 April 2023. Available at: <<https://news.detik.com/wawancara/d-2709173/ceu-popong-di-dunia-politik-usia-100-tahun-juga-boleh>>.

as a four-term councillor (1997-1999, 1999-2004, 2004-2009, and 2009-2014),³² Tjahjo Kumolo initially served as a member of the DPR through the vehicle of the Golkar political party until three terms later in 1998 Tjahjo moved to the Indonesian Democratic Party Through PDI P in 1999 the fourth period to the sixth period 2014 so that in total Tjahjo Kumolo has served 6 periods as a member of the DPR, namely (1987-1992, 1992-1997, 1997-1999, 1999-1999, 1999-2004, 2004-2009, and 2009-2014),³³ Yasonna Laoly from PDI P served as a member of the DPR for three periods (2004-2009, 2009-2014, 2019-2024),³⁴ but in the third period Yasonna was elected to the DPR for the 2019-2024 period very surprisingly appointed by President to assume the post of Minister of Law and Human Rights and relinquish the post of councillor especially if Yasonna's reason is that he was elected as a member of the House of Representatives of the Republic of Indonesia for the 2019-2024 period.

On the other hand, DPD positions that are more than two terms are quite a lot in every elective region, for example, DPD in North Sumatra, namely Parlindungan Purba for three periods (2004-2009, 2009-2014, and 2014-2019), DPD for West Sumatra, namely Irman Gusman for three periods (2004-2009, 2009-2014, and 2014-2019) as well as the initiator of the establishment of the DPD institution for two periods serving as chairman of the DPD. Still, in the second period, Irman Gusman stumbled into a case of accepting bribes in 2016. DPD from Riau, namely Intsiawati Ayus, served four terms (2004-2009, 2009-2014, 2014-2019, and 2019-2024), DPD from Riau, namely Maimanah Umar, served three terms (2004-2009, 2009-2014, and 2014-2019), Maimamah died in 2019 in a Malaysian hospital, had a history of hypertension.³⁵

DPD for the Electoral District of Gorontalo, namely Rahmijati Jahja, served three terms, namely (2009-2014, 2014-2019, and 2019-2024).³⁶ DPD in Jambi, namely M. Syukur served three terms (2009-2014, 2014-2019, and 2019-2024), DPD in Bengkulu, namely Eni Khairani, served four terms as a senior senator in Bengkulu (2004-2009,

³² MERDEKA.COM. Profil - Lukman Hakim Saifuddin, 30 Apr. 2023. Available at: <<https://www.merdeka.com/lukman-hakim-saifuddin/profil>>.

³³ SARI, Nani Permata. Tjahjo Kumolo, Putra Veteran Kemerdekaan yang Kini Memimpin Reformasi Birokrasi. **Kementrian Pendayagunaan Aparatur Negara dan Reformasi Birokrasi**, 23 Oct. 2019. Available at: <<https://www.menpan.go.id/site/berita-terkini/tjahjo-kumolo-putra-veteran-kemerdekaan-yang-kini-memimpin-reformasi-birokrasi>>.

³⁴ KHADAFI, Ahmad. Ada yang Menjabat Sampai 30 Tahun, Kenapa Masa Jabatan Anggota DPR Tidak Dibatasi? **MojoK.co** (blog), 30 September 2019. Available at: <<https://mojok.co/pojokan/ada-yang-menjabat-sampai-30-tahun-kenapa-masa-jabatan-anggota-dpr-tidak-dibatasi/>>.

³⁵ TANJUNG, Chaidir Anwar. Eks Senator 3 Periode Asal Riau Maimanah Umar Tutup Usia. **detiknews**, 30 Apr. 2023. Available at: <<https://news.detik.com/berita/d-4806610/eks-senator-3-periode-asal-riau-maimanah-umar-tutup-usia>>.

³⁶ MERDEKA.COM. Profil - Rahmijati Jahja, 9 May 2023. Available at: <<https://www.merdeka.com/rahmijati-jahja/profil>>.

2009-2014, 2014-2019, and 2019-2024),³⁷ DPD in the Special Region of Yogyakarta three senior senators have served more than two terms, namely Hafidh Asrom for three terms (2004-2009, 2009-2014, and 2014-2019),³⁸ Cholid Mahmud for three terms (2009-2014, 2014-2019, and 2019-2024),³⁹ Gusti Kanjeng Ratu Hemas who is the wife of Sultan Hamengkubuwono X is the most senior senator from the DIY electorate for four terms (2004-2009, 2009-2014, 2014-2019, and 2019-2024).⁴⁰

Limiting the term of office of DPR and DPD members is necessary because of the current state of the Indonesian parliament. There is no significant progress from year to year on the national legislation program that has succeeded in becoming law. Hence, the people feel the effect. One of the sources of the problem is that the people's representatives who stay in parliament for more than two terms or old players in parliament tend not to have innovation and improvement of the work system. Such conditions align with the thinking of Giovanni Sartori, who stated that the problem in the presidential system of government lies not in the environment of executive power but in legislative power.⁴¹

Before presenting the concept of limiting the term of office of members of the People's Representative Council and Regional Representative Council from the perspective of constitutionalism, the author considers it necessary to discuss several factors of the urgency of limiting the term of office of members of the DPR and DPD. Some of these factors include, first, the legal vacuum; second, the poor dimension of democracy; Third, leadership regeneration.

Three factors that encourage the urgency of limiting the term of office of the People's Representative Council (DPR) and Regional Representative Council (DPD) will be described as follows:

1) *Legal Vacuum*

Chapter VII, which deals with the House of Representatives, is silent on the issue of how DPR members' terms of office are to be staggered. The duration of office of the DPR is not specified in Articles 19-22B of the NRI Constitution of 1945. Periodization of DPD tenure is not addressed in CHAPTER VIIA UUD NRI Articles 22B-22C. Legislative candidates' term limits are not governed by Law No. 7 of 2017 regarding General

³⁷ INTERAKTIFNEWS. Eni Khairani Anggota DPD RI Empat Periode, 30 April 2023. Available at: <<https://www.bengkuluinteraktif.com/eni-khairani-anggota-dpd-ri-empat-periode>>.

³⁸ MERDEKA.COM. Profil - A. Hafidh Asrom, 30 Apr. 2023. Available at: <<https://www.merdeka.com/a-hafidh-asrom/profil>>.

³⁹ MERDEKA.COM. Profil - Cholid Mahmud, 9 May 2023. Available at: <<https://www.merdeka.com/cholid-mahmud/profil>>.

⁴⁰ MERDEKA.COM. Profil - Gusti Kanjeng Ratu Hemas, 9 May 2023. Available at: <<https://www.merdeka.com/gusti-kanjeng-ratu-hemas/profil>>.

⁴¹ ISRA, Saldi. **Pergeseran Fungsi Legislasi : Menguatnya Model Legislasi Parlementer dalam Sistem Presidensial Indonesia**. Jakarta: Raja Grafindo Persada, 2010. P. 42.

Elections, but rather by Laws No. 27 of 2009 regarding the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional People's Representative Council and Law No. 17 of 2014 regarding the same bodies. The MD3 Law has been revised four times, however the number of terms a DPR or DPD can serve has not been addressed. House Regulation No. 1 of 2014 regarding Rules of Conduct does not specify a maximum number of terms that a member of the House of Representatives may serve. According to Article 8, paragraph (4), "the term of office of Members is 5 (five) years and ends when the new Member takes an oath/promise," which occurs when a new member is sworn in. There is a lack of regulation, so it is necessary to establish a rule that caps the cumulative number of years that DPR and DPD officials can serve in office.

After that, the Constitution, the MD3 Law, and the Election Law do not limit DPR and DPD members to only one term in office before they must step down. As a result, periodization restrictions are not stipulated. It's easy to see why so many DPR and DPD members get re-elected for multiple terms. Therefore, the old face has a tendency to abuse the power it has held for too long.

Aristotle's classical constitutional philosophy pits the rule of law against the concept of the rule of man. One aspect of the rule of law (the rule of law, or *rechtsstaat*) in a modern constitutional state is the restriction on arbitrary use of government authority. Laws were used to enforce checks and balances on government power, an idea that would go on to become the bedrock of contemporary constitutionalism. One of the major tenets of mazhab civil law, the legal system of mainland Europe and the state of law theory, is the separation of powers.⁴²

The Constitution stipulates that every citizen has the right to equal opportunities in government, including becoming members of the DPR and DPD.⁴³ The existence of a clause that provides equal opportunities for citizens to be involved in government illustrates the dimension of justice in law and regulation. According to Titon Slamet Kurnia, the law is required to simultaneously bridge individual and community values in the justice framework. This is important because individuals always live together, and until any time, it is impossible to live in isolation.⁴⁴

The State of Indonesia is a state of law, an affirmation that Indonesia is a state of the law as affirmed in the Constitution in Article 1 paragraph (3) of the 1945 NRI Constitution, which reads as follows "The State of Indonesia is a State of Law". Thus, the consequence of this provision is that every behavior of state officials, policies and

⁴² ISRA, Saldi. **Pergeseran Fungsi Legislasi : Menguatnya Model Legislasi Parlemen dalam Sistem Presidensial Indonesia**. Jakarta: Raja Grafindo Persada, 2010. P. 73.

⁴³ See Article 28D paragraph (3) The 1945 Constitution

⁴⁴ KURNIA, Titon Slamet. Hukam dan Keadilan: Isu Bagian Hulu dan Hilir. **Refleksi Hukum: Jurnal Ilmu Hukum**, issue 10, no. 1, p. 17–32, oct. 2016.

people must be based on the law. This provision aims to avoid arbitrariness and arrogance of power, both unlimited tenure and authority that is too absolute. Because in a state of law, the law becomes an important instrument in state life, especially if there is a legal vacuum, there needs to rule that regulate it, such as the term of office of the DPR and DPD.

In the theory of popular sovereignty, it is the people who are the source of power itself. So, it makes no sense that there is an unlimited power. Therefore, power in the implementation needs to involve the people, which cannot be eliminated, and the power of the people is manifested in laws and regulations.

So, the sovereignty of the people is the source of all power sources in the state. Therefore, all rules and powers exercised by the state must not contradict the people's will. Law is the embodiment of the common will. Therefore, the legislative power is exercised by the people, and laws that the people themselves do not pass are invalid.

2) *The Poor Quality of Indonesian Democracy*

According to the ideals of democracy practiced, the People's Representative Council and Regional Representative Council hold a pivotal place as institutions representing people's aspirations. The DPR is a modern democracy in action, and the DPD plays a crucial role in representing the people. If those in power stay in that position permanently despite the democratic principles mandating periodic power transitions, then democracy has failed. Members of the DPR and DPD should therefore serve limited terms. Several factors should be taken into account when deciding on a maximum length of employment.

First, obviously, in terms of benefits for the community, because so far the existence of members of the DPR and DPD has not been felt by the community; it only provides material benefits to the people when, prior to legislative elections, the candidates provide a great deal of assistance to the community; this is the bad dimension of democracy when interpreted by seeking power alone.

Second, the council members who have held the DPR and DPD seats for a long time are not becoming more popular or putting the interests of the people first, with the exception of the fanatics among them. Long-serving DPR and DPD members' sensibility to care more about the bottom folks is likewise inconsequential.

Third, what happened was the irony of not a few old councilors who increasingly understood the twists and turns and then got around the use of the budget for the benefit of themselves and their party. The popular language is the longer you take office, the smarter it looks to do KKN (corruption, collusion, and nepotism).

The 16th President of the United States stated that “*democracy is government of the people, by the people and for people*”.⁴⁵ In the context of parliamentary institutions, democracy is exercised by the DPR and DPD, whose members are elected by the people and for the benefit of the people. Therefore, the DPR and DPD have functions, authorities, and rights that greatly determine the implementation and development of the country every five years. Thus, democracy essentially exercises the sovereignty of the people.

Janedjri M. Gaffar, one of the lecturers of Fisipol Universitas Gadjah Mada, argued that term limits mainly prevent someone from becoming too powerful or monopolizing power, and board members tend to ignore term limits on themselves.⁴⁶

On the other hand, the absence of term limits for DPR and DPD members can potentially violate the human rights of other citizens, at least the right to be elected to the DPR and DPD, because usually only the faces of incumbents always appear on the surface. Whether limiting the term of office of DPR and DPD members violates human rights. Of course, because the restrictions are not based on ethnic, racial, religious and inter-group discrimination (SARA), but precisely to protect other citizens from the arbitrariness of incumbents and fulfill their rights to have the same opportunity to be elected to the DPR and DPD, this argument is also used when limiting the term of office of the president, vice president, governor, deputy governor, regent, deputy regent, the mayor and deputy mayor.

From an organizational standpoint, democracy means the state is organized based on the will and will of the people, which includes the understanding that the people give their will in matters concerning their lives, including in assessing state policies, because state policies will determine the people's lives.

State power must rest on the will of the people because it is the people who elect the members of the DPR and DPD, to whom they are entrusted with the administration of the people's interests. State power exercised against the will of the people means that it has betrayed the people. Members of the DPR and DPD are mere servants of the people, and the people become kings. So that in the concept of democracy, the people are the rulers and members of the DPR and DPD members are only servants of the people.

Members of the DPR and DPD exercise their power on behalf of the people. These people have the right to limit power or change it, even to revoke it at once according

⁴⁵ WAHYUDI, Alwi. **Ilmu Negara dan Tipologi Kepemimpinan Negara**. Yogyakarta: Pustaka Pelajar, 2014. P. 142.

⁴⁶ AQDAMANA, Tsabbit. **Urgensi Pembatasan Periodisasi Masa Jabatan Anggota Dewan Perwakilan Rakyat Dan Dewan Perwakilan Daerah Republik Indonesia Dalam Perspektif Demokrasi Konstitusional**. Bachelor Thesis, Universitas Islam Indonesia, 2020. Available at: <<https://dspace.uui.ac.id/handle/123456789/26790>>.

to their will so that the understanding of people's sovereignty says that the country's sovereignty comes from the people or comes from the sovereignty of the people.

Naturally, people who continue to occupy public office positions will be more open to opportunities to abuse authority. In line with what Lord Acton said that "*Power tends to corrupt, but absolute power corrupts absolutely*". This is because people who have been in office for a long time understand the twists and turns of the bureaucracy to avoid or scheme. That's where the importance of term limits is. Next, with these restrictions, it reinforces the principle of democracy. In modern democratic life, public officials whose determination is directly elected by the people will always be limited in terms of office.

With the limitation of the term of office of members of the DPR and DPD, the Indonesian democratic system is improving because democracy requires a periodic change of power. So that public officials outside the civil service/military cannot continue to occupy their positions. On the other hand, this also narrows the possibility for them to get space or loopholes in committing abuse of authority.

3) *The Importance of Leadership Regeneration*

A new lease on life is what this time limit is all about. Because of term restrictions, everyone will have a fair shot at being elected to the council. This will provide a more recent backdrop for the emergence of new leaders. Furthermore, the rights of every citizen guaranteed by the Constitution and the Covenant on Civil and Political Rights (or if in English, the International Covenant on Civil and Political Rights, abbreviated ICCPR) are at risk due to the lack of a term limit for members of the People's Representative Council and the Regional Representative Council. The Covenant emphasizes the importance of defending the rights of all people as citizens, regardless of their race, color, sexual orientation, language, religion, political beliefs, nationality, socioeconomic level, or any other factor. All citizens shall enjoy equal rights and opportunities in governmental matters without discrimination, as stated in Article 25 of the International Covenant on Civil and Political Rights (ICCPR).⁴⁷

Every citizen shall have the right and opportunity, without any distinction, to:

- a. Take part in governing, either directly or through representatives chosen by the people.
- b. Periodic elections should be held with full and equal voting rights for all eligible voters, and they should be held in secret to protect voters' right to a meaningful vote.

⁴⁷ ICJR. Mengenal Kovenan Internasional Hak Sipil Dan Politik. **ICJR** (blog), 14 may 2012. Available at: <<https://icjr.or.id/mengenal-kovenan-internasional-hak-sipil-dan-politik/>>.

- c. Participate in their country's public services on an equal basis with everyone else.

The clause shall receive universal and balanced treatment in Article 25 letter b of the Covenant on Civil and Political Rights as a basis for limiting the term of office of members of the DPR and DPD. The absence of term limits causes an imbalance between people who have just run for the DPR and DPD and incumbent candidates. Incumbent candidates have more access and facilities to conduct socialization and campaigning. Unlike regional heads who run for re-election, during the campaign period, they must meet the conditions of undergoing leave outside the state's responsibility and are prohibited from using state facilities related to their position.⁴⁸

It is highly unlikely that all councilors are on leave and do not use state facilities during the campaign period due to the large number of councilors. The most likely thing to achieve universal and balanced treatment among legislative candidates is to impose term limits.

Limitations can be made at any time, provided that they are with legal instruments that regulate restrictions, in line with the thinking of Nihal Jayawickrama, who said:⁴⁹ *A limitation clause is clearly an exception to the general rule. The general rule is the protection of the right; the exception is its restriction. The restriction – interpreted in the light of the general rule – may not be applied to completely suppress the right.*

Then Nihal Jayawickrama also said:⁵⁰

Restrictions on the exercise of protected rights must be provided “by law”, prescribed “by law”, or be “in accordance with law” or “in conformity with law”. In respect of the first three, the corresponding French expression is *prévu par la loi*, suggesting thereby that they have the same meaning. The expression “imposed in conformity with the law” refers to legitimate administrative action such as an authorization procedure relating to time, manner and place, which may be necessary to ensure the peaceful nature of a meeting or procession.

This means that limitations must be based on law, and there is legitimacy given to the law's framers to do so.

⁴⁸ Article 70 paragraph (3) of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Stipulation of Government Regulations in place of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law (State Gazette of 2016 Number 130, Supplement to the State Gazette Number 5898).

⁴⁹ JAYAWICKRAMA, Nihal. **The judicial application of human rights law: national, regional, and international jurisprudence**. Cambridge; New York: Cambridge University Press, 2002. p. 184; See also SURIADINATA, V. Pembatasan Periodisasi Keanggotaan Lembaga Perwakilan Rakyat Di Indonesia. **Jurnal Ilmu Hukum: ALETHEA**, v. 1, n. 1, p. 78–94, ago. 2017.

⁵⁰ JAYAWICKRAMA, Nihal. **The judicial application of human rights law: national, regional, and international jurisprudence**. Cambridge; New York: Cambridge University Press, 2002. P. 189.

As an institution that safeguards human life, the state is obliged to protect all citizens' right to receive equal treatment before the law. The essence of the value of modern democratic law is the foundation of constitutional democracy, including the principle of the will of the people, the basis of power, and the rule of law, whose elements consist of the rule of law, equality before the law, and the protection of human rights.⁵¹

All citizens enjoy the same protections under the law and are treated equally by the government. Affirmative action refers to policies that aim to ensure that certain groups (such as gender or profession) get equal opportunities with other groups (such as gender or profession) in the same field and is recognized as a prohibited attitude and action within the framework of this principle of equality. It can also be understood as a policy that favors specific demographics in order to hasten and facilitate their advancement toward parity with more established sectors of society in terms of technology and economic growth.⁵² The only way to ensure that all citizens are treated fairly under the law and their human rights are protected is to place term limits on DPR and DPD officials.

The unrestricted term of office of members of the People's Representative Council and Regional Representative Council can cause no leadership regeneration in members of the DPR and DPD, so it does not develop significantly or even statically, not dynamically. Term limits for DPR and DPD members can also prevent abuse of authority because of the power long held by someone. In this case, the legislature makes decisions collegially collectively because the majority faction's voice may abuse authority. Therefore, it still needs to be limited.

Given that the current power of the DPR has been broader, for example, the power of the DPR after the change has become wider, not only related to the legislative power to form laws (legislation), budget, and supervision, but also the DPR has the right to interpellate, poll, express opinions. In addition, the House of Representatives also has the authority to elect 3 (three) judges of the Constitutional Court, elect members of the Audit Board (BPK), give approval to candidates for chief justices proposed by the Judicial Commission (KY) to be appointed as chief justices by the President, give approval to the President's power to make agreements with other countries that affect the burden of state power, give the approval to declare war, giving consent to make peace with other countries,⁵³ as well as the right to immunity and so on can be seen in Article

⁵¹ ATMADJA, I Dewa Gede. *Ilmu Negara : Sejarah, Konsep Negara, dan Kajian Kenegaraan*. Malang: Setara Press, 2015. p. 92; See also SURIADINATA, V. Pembatasan Periodisasi Keanggotaan Lembaga Perwakilan Rakyat Di Indonesia. *Jurnal Ilmu Hukum: ALETHEA*, v. 1, n. 1, p. 78–94, ago. 2017.

⁵² ASSHIDDIQIE, Jimly. *Konstitusi dan Konstitusionalisme Indonesia*. Ed. rev. Jakarta: Konstitusi Press, 2005. P. 128.

⁵³ Article 17 Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council (MD3 Law)

80 of the MD3 Law.⁵⁴ Not only is the DPR an important instrument as a representative institution, but it also becomes a tool of control for the President as a driving force for government.

In contrast, while the DPR holds a considerable deal of power, the DPD does as well. However, the DPD's jurisdiction is not as extensive as that of the DPR. For instance, regions can propose legislation to the DPR on topics including regional autonomy, central-regional interactions, region creation, expansion, and merger, resource management, and fiscal equity. Furthermore, DPD is authorized to submit to DPR for consideration and follow-up the results of its supervision over the implementation of laws pertaining to regional autonomy, the formation, expansion, and merger of regions, central and regional relations, management of natural resources and other economic resources, implementation of the state budget, tax, education, and religious laws.⁵⁵

With the limitation of the term of office of members of the DPR and DPD, part of the effort is to realize every citizen's constitutional right to be elected. Furthermore, the benefits that will be obtained are new energy, fresh thoughts and full of idealism to bring the Indonesian nation to a more progressive and innovative direction. The regeneration cycle will run faster; party cadres and non-party regional cadres will always be filled with younger generations ready to replace their senior positions. From there, new seeds will also be found for new leaders with a new spirit.

The poor regeneration of leadership in a political party that can only rely on its seniors does not give juniors a chance to run for council. It is time for young people who have never served as board members to replace seniors who have served two terms or even more on the board.

Based on 3 (three) considerations of urgency, as stated by the author above, is in response to the complete quality of the understanding or principle of constitutionalism, where in developing the state, the paradigm that must be built is the constitutionalism paradigm which requires restrictions on power including regarding the term of office of members of the House of Representatives and the Regional Representative Council of the Unitary State of the Republic Indonesia, so that no power feels more dominant and is used as a material for a livelihood by building a power dynasty on a constitutional democratic state that relies all state activities on the law as the spearhead of its implementation.

⁵⁴ Article 80 letters a - k of Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council (MD3 Law) states that members of the DPR have the right to propose bills, ask questions, submit suggestions as well as opinions, choosing and being elected, self-defense, immunity, finance and administration, supervision, proposing and fighting for regional development programs of choice, and socializing laws.

⁵⁵ Article 249 Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council (MD3 Law)

4. CONCLUSION

Restrictions on the term of office of members of Parliament in Indonesia are urgent and important to implement. From the perspective of constitutionalism, the absence of term limits for members of the House of Representatives (DPR) and the House of Regional Representatives (DPD) is contrary to the basic principles of constitutionalism, which emphasise the need for restrictions on power to prevent abuse of power. First, there is a legal vacuum related to the limitation of the term of office of members of Parliament. In the Indonesian constitution and the laws governing the institution of representatives, there are no clear provisions regarding the periodization of the term of office of members of the DPR and DPD.

This opens up opportunities for abuse of power and domination of power by certain individuals who can hold office for an indefinite period. Second, the quality of democracy in Indonesia is still low. The absence of term limits leads to a lack of leadership regeneration in the parliamentary body. Many MPs who have been in office for several periods no longer show innovation and renewal in their work systems. This condition also aggravates the practice of corruption, collusion, and nepotism (KKN) because long-serving members of Parliament tend to better understand the cracks in the system for their personal or group interests. Third, the importance of leadership regeneration.

Term limits will provide a fairer chance for all citizens to be elected to Parliament. This will encourage the emergence of new leaders with fresh energy and thinking that can bring positive change to the nation and country. Good regeneration will also ensure that political parties not only rely on senior figures but also provide space for young cadres to develop and contribute. Taking into account these three factors, the author recommends that regulations be immediately made that regulate the limitations of the terms of office of DPR and DPD members. This regulation should be designed in such a way that it reflects the principles of constitutionalism, improves the quality of democracy, and promotes the regeneration of healthy leadership. Term limits are not only an effort to prevent abuse of power but also a strategic step to strengthen democracy and ensure that the interests of the people are always the top priority in any decision-making in Parliament.

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