



Term Limits of Legislative Members in the Framework of Constitutional Democracy

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Abstract

The political representation system in Indonesia has not strictly regulated the maximum term of legislative office. The absence of such a rule raises concerns about the accumulation of power and the lack of political regeneration. This study discusses the urgency of limiting the term of office of legislative members in the perspective of constitutional democracy as an effort to prevent abuse of power, oligarchy domination, and political stagnation. With a normative juridical approach and qualitative descriptive analysis, this study assesses the absence of periodization of legislative positions as a form of weakness in the national legal system. The results of the analysis emphasized the importance of term limits as a mechanism for controlling power, ensuring political regeneration, and strengthening the principle of equality before the law and fair representation in the Indonesian democratic system.

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1. Introduction

Term limits should be the universal norm in constitutional democracies to maintain accountability, political regeneration, and prevent long-term concentration of power. The doctrine of Trias Politika which divides executive, legislative, and judicial powers aims to maintain balance and control over each other.

However, the absence of legislative term restrictions in Indonesia actually makes this institution have the potential to become a long-term power space that is difficult to control. When political power is not limited institutionally or procedurally, including in terms of the term of office of legislative members, this principle risks being degraded to the domination of elite groups. Term limits are important as a control mechanism to prevent the accumulation of power by certain individuals or groups that can weaken the majority rule and undermine the protection of minority rights (Kansil, 2019) ^[5].

Constitutional democratic systems demand limited government, which means that power must be limited by the constitution and the law, and power holders are subject to those restrictions (Civic Education, 2020) ^[32]. With the absence of term limits, legislative members have the potential to create permanent political incumbency, a form of political domination that is not in line with the essential principles of checks and balances in democracy. This shows that the weakening of democratic functions often occurs through formal procedures that appear legitimate, but in substance erode the principle of representation and accountability. In addition, it has the potential to hurt basic constitutional values such as equality before the law and openness, because political access becomes unequal and the space for political participation becomes narrow (Noval, 2025) ^[9]. If the political system is incapable of creating a fair regeneration of leadership, then democracy can shift into a cloaked plutocracy where power is held by a handful of elites that are difficult to replace through a healthy electoral mechanism. Weak regulation on the periodization of legislative term in Indonesia create inequality between the executive and legislative institutions. Law Number 17 of 2014 and Law Number 7 of 2017 do not explicitly limit the number of times a person can serve as a member of the DPR, DPD, or DPRD. This provision opens a gap for individuals to continue to maintain political power without structural or ideological reforms, which ultimately leads to the practice of political oligarchy and the weakening of society's control over its representatives.

This reality also shows the weakness of the internal democracy of political parties, which is the main entrance to the legislative institution. The majority of political parties in Indonesia are only in the fairly democratic category, especially in the dimensions of participation, openness, and competition. Many parties have no term limits on leaders and tend to get caught up in an oligarchic pattern, which ultimately impacts the legislative candidacy process. This condition increases the risk of abuse of power by legislators who rely on transactional relations rather than accountability to the people (Yogia and Al Hafis, 2017) ^[22].

The term limit of legislative members is not only a technical institutional issue, but is a structural strategy in building a healthy and modern democratic culture. The principle of leadership succession through elections in constitutional democracy requires that the succession of power occur regularly and competitively in order to prevent the stagnation of ideas and oligarchic domination. Within this framework, the term of office will strengthen the rule of law, expand the space for political participation, and uphold the values of justice, representation, and openness as mandated in the constitution and the principles of constitutional democracy. In a constitutional democracy, the sustainability of the system depends not only on institutions, but also on the quality of citizenship, including civic-mindedness, civic responsibility, and participatory skills of the community (Civic Education, 2020) ^[32]. The public needs to be given space to participate in the political system in real terms through leadership rotation and open political competition.

Strengthening the practice of constitutional democracy in Indonesia requires the revitalization of the function of the legislative institution through term limits as an institutional mechanism. When a legislator occupies the same position continuously, there is a risk of decreased performance, conflicts of interest, and co-optation of the legislation process. In addition, the dominance of certain political groups in the legislature can cause a crisis of public representation. As reminded in Ginsburg and Huq's theory, elite dominance in the legislative system is a form of constitutional retrogression that is dangerous for democracy (Urwatul, 2024) ^[1].

Based on the principle of openness in constitutional democracy, the political system must ensure a peaceful and open rotation of power through fair elections. If there is no limitation on the term of office of the legislature, then this principle of openness is only a formality without substance. In fact, term limits can be a democratic mechanism that ensures healthy political competition and prevents power entrenchment. This is the importance of formulating regulations on term limits for legislative members in a clear and binding manner in the national legal system.

The idea of limiting the term of office of legislative members in the perspective of constitutional democracy is not just a technical constitutional issue, but an important part of efforts to maintain the basic values of democracy itself. This is essential so that the legislative institution does not become a tool of domination for long-term political interests, but still functions as a true representation of the will of the people. Term limits must be seen as a tangible manifestation of the principles of popular sovereignty, equality before the law, and effective governance, so that constitutional democracy in

Indonesia is not only a symbol in the text of the constitution, but is actually present in the practice of state administration (Aqdamana, 2022) ^[36].

2. Research Methods

This research uses a normative juridical method, which is a legal research that focuses on the analysis of applicable legal norms, especially those related to the term of office of legislative members in the Indonesian constitutional system. The approach used includes a statute approach by examining the provisions in the Constitution of the Republic of Indonesia of 1945, Law Number 17 of 2014, and Law Number 7 of 2017, as well as a conceptual approach that refers to the theory of constitutional democracy, the limitation of power, and the theory of abuse of power.

The legal materials used consist of primary legal materials, namely relevant laws and regulations; secondary legal materials, in the form of books, scientific journals, and expert opinions; as well as tertiary legal materials as support. The technique of collecting legal materials is carried out through library research, while data analysis uses a qualitative descriptive method, namely by describing and interpreting legal norms and connecting them with the problem being researched to obtain systematic and argumentative conclusions.

3. Discussion

3.1. The Urgency of Term Limits for Legislative Members Reviewed from the Perspective of Constitutional Democracy

Term limits for legislative members are an inevitable urgency in a constitutional democratic system. Democracy is not just a mechanism for five-year elections, but also a matter of how power is systematically channeled and controlled. When the term of office is not limited, there is a tendency to concentrate power that is repetitive and difficult to replace, which ultimately reduces the spirit of political regeneration. In a constitutional democracy, the constitution serves as the supreme law that not only gives legitimacy to power, but also limits its use so that it is not abused. This principle emphasizes the importance of a system of checks and balances between state institutions. When legislative power is not limited, the system of supervision becomes uneven, thus opening a gap for the domination of power by the legislature, which in turn violates the principles of democracy itself.

Abuse of power is a theoretically important principle in analyzing the urgency of term limits of legislative members. Power that is exercised continuously indefinitely has the potential to be abused to defend personal or group interests. The practice of abuse of power carried out by political actors for too long has been in a strategic position (Wijoyo, 2021) ^[11]. When legislators take office without a clear time limit, the chances of committing acts of corruption, collusion, and nepotism increase, as the mechanism of political accountability becomes dull. This is reinforced by the bad record related to corruption involving legislative members. Data from the Corruption Eradication Commission (KPK) and Indonesian Corruption Watch (ICW) noted that from 2004 to 2024, there were at least 360 corruption cases involving members of the House of Representatives and the

House of Representatives, making the legislator profession the third most often entangled in corruption (Anandya, 2024) [7].

Lord Acton's classic adage, "Power tends to corrupt, and absolute power corrupts absolutely", became the philosophical basis that reinforced the importance of limiting the term of office of legislative members. Unlimited power in both the form of authority and time tends to trigger abuse (Rizky, 2020) [31]. Speaking of Indonesian legislators, many members of the House of Representatives have served for a long time, even decades, without a limit on the number of periods. This increases the risk of legislative oligarchy, where position and influence are no longer based on merit, but on power inherited or maintained through a closed and elitist network of power.

A power that has been controlled by a certain individual or group for too long can be transformed into a new form of political oligarchy. Power concentrated in the hands of a few individuals will hinder the distribution of power and broad public participation. Democracy becomes superficial and fragile and thus emphasizes the importance of the rotation of power as a way to ensure inclusivity and accountability. Term limits are an important instrument to prevent the control of political institutions by the oligarchic elite.

The absence of term limits in Indonesia's legal system also creates inequality between the legislative and executive institutions. The President and regional heads are limited to only two terms as stipulated in the 1945 Constitution of the Republic of Indonesia Article 7, while legislative members do not have the same limit. This does not reflect the spirit of justice and equality in the principles of the state of law and constitutional democracy. In fact, according to Radbruch Theory, the values of justice, certainty, and usefulness must be the basis for formulating legal norms.

In Radbruch's view, justice demands that power not be abused for personal or group interests. The benefits demand that regulations have a positive impact on the wider community, including providing space for regeneration in politics. Meanwhile, legal certainty requires clear rules regarding the term of office of the legislature so that there are no legal vacancies that cause multiple interpretations. These three values are a strong argument for the need for term limits as a just, useful, and definite legal embodiment (Alendra, 2024) [1].

The provisions of the constitution limit the term of office of the president to a maximum of two terms, but do not apply the same to the legislature. This creates inconsistencies in the application of the principle of power limitation, because legislative members can continue to serve indefinitely as long as they continue to be elected. This phenomenon reinforces the assumption that legislative positions tend to be a comfort zone for senior politicians who are supported by the power of capital and party networks. This condition is certainly contrary to the principle of constitutional democracy which requires justice in the opportunity to participate in government.

Term limits are the main pillar in keeping power from running wild. This understanding demands that state power, whether executive, legislative, or judicial, is subject to the principles of legality and accountability. The Constitution is not only a source of legitimacy of power, but also a means of

control. Modern constitutionalism emphasizes not only the supremacy of the constitution, but also the importance of control over the duration of power, both horizontally (between institutions) and vertically (between rulers and people). The constitutional state strictly regulates the limits of the power of state institutions and guarantees the freedom and rights of citizens (Kansil, 2017) [5].

The reality in Indonesia shows that the absence of restrictions on legislative positions actually gives rise to patterns that are contrary to democratic principles. In reality, legislative oligarchy is often formed when one group or individual continuously occupies office without significant challenges. When term of office is not limited, the space for young cadres and new political actors becomes increasingly narrow, reinforcing inequality of representation. There are more and more dynastic politics, conflicts of interest, and legislators who are no longer sensitive to the aspirations of the people. This situation shows the urgency of revising the relevant rules, in order to explicitly regulate the term limits of legislative members. This restriction is also in line with the spirit of reform to avoid abuse of power like during the New Order period, which was loaded with the practice of unlimited power (Lukman, 2016) [19].

Furthermore, in a healthy democracy, the change of political actors becomes a means of refreshing ideas, ideas, and policy approaches. This is important to prevent political stagnation and resistance to change. If legislators serve too long, they will tend to maintain the status quo that benefits them and their group. Therefore, in order to ensure dynamic and accountable representation of the people, term limits are a necessity in the constitutional democratic system.

In comparison, some countries apply legislative term limits. In Mexico, for example, lawmakers are only allowed to serve for two consecutive terms. Meanwhile, in the Philippines, members of the House of Representatives can only serve a maximum of three terms (every 3-year term). Through this comparative study, it can be proposed that Indonesia implement a maximum restriction of two consecutive terms for legislators, or implement a maximum age limit, such as 70 years, to maintain a balance between experience and regeneration.

The concept of the state of law and the rule of law that are the foundation of constitutional democracy requires a system of power sharing and checks and balances. Montesquieu's theory of *trias politica* emphasized that without restraint, legislative power can transform into a tyranny that is more dangerous than executive power. The constitution should ideally be a means to not only distribute power, but also limit it so that it does not run according to the logic of elite interests alone (Noval, 2019) [32].

In line with the explanation from constitutional law expert and former Chief Justice of the Indonesian Constitutional Court Jimly Asshiddiqie, constitutional democracy includes principles such as ensuring equality, respect for plurality, and the existence of agreed common rules (Jimly, 2025) [16]. In this context, term limits are a real implementation of efforts to ensure equality and prevent the dominance of one individual or group in legislative power (Soemantri, 2014) [33]. This is also an instrument to support the principle of justice, especially procedural justice, by providing a more open space for political regeneration for various elements of

society (Hamrin, 2022) ^[10].

In the theory of the democratic legal state (*demokratische rechtsstaat*), the limitation of legislative power is also a form of protection for the rights of citizens from the potential for legislative domination that is too strong. When legislative power is not limited, there is an imbalance between the supervisory function and the implementation of policies which ultimately reduces the deliberative quality in democracy (Ibrahim, 2020) ^[20]. The term limit reflects the principle of the rule of law, namely that there is no absolute power, and every public official must be subject to fair and equal laws (Noval, 2019) ^[32]. Therefore, Indonesia needs to strengthen its constitutionalism principle by providing term limits for legislative members explicitly in any regulation. It is important that legislative power remains under the control of the constitution, not only controlled by popularity and political logistical power.

In addition to being a form of control over power, term limits are also a guarantee for the realization of regeneration and healthy circulation of political elites. Regeneration is not just a biological demand, but a democratic prerequisite that allows new ideas and approaches to enter the political system. The dominance of experienced and capital-rich old legislative candidates creates systemic pressure for newcomers who have few resources (Hamrin, 2019) ^[10]. This shows the inequality of competition in Indonesia's electoral democracy, so that our political system tends to close itself to change. Therefore, term limits also have a dimension to the democratization of people's representation.

The lack of clarity in the legal arrangements regarding the current legislative term of office creates a vacuum of norms that are prone to abuse. Law No. 7 of 2017 concerning General Elections and Law No. 17 of 2014 concerning the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional House of Representatives do not provide explicit limits on the term of office of members of the House of Representatives or the House of Representatives. This has caused legal polemics, especially in the context of the Inter-Temporal Replacement (PAW) or recall of members of the House of Representatives which is unclear whether it is counted as a period or not (Aqdamana, 2022) ^[36].

In the concept of a state of law that prioritizes legality and certainty, this kind of ambiguity should not be allowed to drag on. The revision of regulations that expressly regulate a maximum of two terms for legislative members will clarify and strengthen the state system (Atmadja, 2015) ^[13]. If the term of office of legislative members is enforced, it will create legal certainty as well as the enforcement of the principle of justice in the life of the state. This will open up more space for the involvement of other citizens in the public decision-making process. On the other hand, this restriction is also a form of affirmation of the ideal of democracy, namely that power comes from the people and must return to the people periodically. If the members of the legislature continue to serve indefinitely, then the principle of representation will become a mere illusion. Thus, term limits are not only a technical issue, but also concern the fundamental values of democracy and constitutionalism.

The urgency of limiting the term of office of legislative members in the perspective of constitutional democracy lies

in efforts to maintain the balance of power, prevent oligarchy domination, strengthen regeneration, and increase public accountability. These restrictions must be normatively outlined in election regulations and legislation on parliament, so as not to depend on ethics or individual preferences alone. Just as the President is limited to two terms to prevent the accumulation of power, the same should apply to the legislature. These restrictions will strengthen representative democracy and create a more inclusive, fresh, and effective parliament in carrying out its constitutional functions. It is time for Indonesia to fix the institutional aspect of the legislature as a form of strengthening true constitutionalism.

3.2. The Relevance of the Theory of Abuse of Power in Supporting the Idea of Term Limits for Legislative Members in Indonesia

The Constitutional Court (MK) in several of its rulings, including the latest one related to the testing of Law (UU) Number 17 of 2014 concerning the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional House of Representatives, stated that the term limit of legislative members is not necessary because the position is collective, different from the single presidential position and has full executive power. The Constitutional Court is of the view that the potential for arbitrariness in the legislature is smaller because the decision-making process is carried out collegially. However, this view oversimplifies the political reality of Indonesia. In fact, political power in the legislature is often concentrated in certain individuals or elite groups, especially if the actor is constantly re-elected. Therefore, collective positions are not automatically free from abuse of power (Nawir, 2022) ^[31].

The relevance of the theory of abuse of power in supporting the idea of term limits for legislative members in Indonesia is an important urgency to be discussed in the issue of constitutional democracy and efforts to prevent political corruption. Term limits are one of the structural mechanisms to prevent uncontrolled accumulation of power. In this case, the legislature should not be excluded from the restrictions, even if they are collective, because they still have the potential for deviation.

Unrestricted power has the opportunity to create corrupt, collusive, and even nepotistic behavior, which threatens the principles of democracy itself. It can be seen that several cases are proven by the many corrupt practices involving legislative members, such as the E-KTP case that ensnared Setya Novanto, the former Speaker of the House of Representatives who served for two decades. These cases show that "collective" status does not prevent a person from a tendency to abuse power. Limiting periodization is an important constitutional instrument to prevent the destruction of the system from within.

From the perspective of power theory, as explained by Max Weber, power is the ability to influence or impose one's will on others, even against resistance. This kind of power, if left unchecked, will develop into a tool of domination, no longer a representation of the people. In the context of legislative members, power that has been held for too long provides an opportunity to build a network of personal power that is difficult for new candidates to match (Risvandi, 2022) ^[31].

Therefore, term limits serve as a democratic instrument that ensures that power does not turn into a form of chronic domination in the legislature.

In the study on Abuse of Power, it is stated that one of the causes of abuse of power is the lightness of sanctions compared to the profits obtained from power (Moris, 2017)^[22]. This condition makes public officials tend to maintain their positions for as long as possible so that they can continue to enjoy various facilities and opportunities for corruption. When term of office is not limited, this logic keeps repeating itself and forms an unhealthy political culture. Therefore, limiting the term of office is not just a matter of regeneration,

but a preventive measure against systemic abuse of power.

In terms of constitutionalism theory, as stated by Jimly Asshiddiqie, the main function of the constitution is to limit power and prevent the accumulation of power in one hand or group. Constitutional democracy requires a limitation of power, not only on the executive, but also on the legislature, so that it is balanced and does not dominate certain institutions. Unfortunately, the 1945 Constitution has not yet explicitly regulated the limitation of legislative term of office. As a result, legislators can serve continuously as long as they win elections, even if they perform poorly or are indicated to be corrupt. The absence of these restrictions actually opens up space for the formation of political oligarchs in parliament (Erlin, 2025)^[16].

The absence of term limits for members of the legislature is contrary to the principles of Indonesian constitutional democracy. The current provisions allow a person to serve for life as long as they are elected, which opens a gap for the abuse of power and the formation of political dynasties (Yudi, 2021)^[11]. And according to the author, term limits are not a form of obstacle to democracy, but a tool to strengthen it. This is in line with the principle of regeneration in a healthy democratic system.

The absence of term limits in parliament allows members of the House of Representatives to maintain power indefinitely, even up to decades. This creates a conflict of interest in lawmaking, as legislators can draft regulations that benefit themselves (Desi, 2023)^[6]. The absence of legal incentives to limit oneself encourages unethical political behavior. Moreover, in practice, laws such as the Law on the MPR, DPR, DPD, and DPRD are made by the legislators themselves, who clearly have a conflict of interest.

In line with a survey conducted by Transparency International, the House of Representatives ranked the House of Representatives as the most corrupt institution in Indonesia for five consecutive years. This reflects the poor public perception of the legislature, and reinforces the reasons for the need for term limits as an effort to rebuild public trust. If legislators can serve continuously without restrictions, how can parliament be an institution of control over other powers? Therefore, in the author's point of view, the term limit of legislative members is a way to restore the integrity and ideal function of the parliament itself. This is a form of political responsibility towards the people.

The Constitutional Court does suggest that restrictions be carried out by political parties through internal mechanisms, but this is not strong enough as a legal guarantee. In practice, the party is actually a source of oligarchy, because not all parties have a democratic regeneration mechanism. Leaving it completely to political parties actually ignores the principle

of the rule of law and the responsibility of the state in regulating a healthy political life. The term of office limitation should be a provision in the law or even in the constitution. That way, this restriction has binding legal force and does not simply depend on party policies.

However, this assumption oversimplifies the fact that in practice, political power can still be consolidated by individuals in collective positions. In addition, the majority of political parties in Indonesia are still oligarchic and undemocratic in the recruitment and candidate selection process. Because the many corrupt practices carried out by legislative members prove that collectivity does not guarantee the loss of potential abuse of power. The legislature plays a role in oversight of budgets, legislation, and representation, which are points prone to deviations if not structurally constrained. Without restrictions, power relations in parliament can turn into a tool of power for certain groups that do not represent the public interest (Jimly, 2006)^[16].

The urgency of term limits is in line with the spirit of the constitution in creating a democratic and responsible government. Although the Constitutional Court has not stated the need for this restriction judicially, from a moral and theoretical perspective, it is appropriate for lawmakers to begin formulating an open legal policy that incorporates the principle of periodization as part of legislative institutional reform. This is also part of the strategy to strengthen public trust in parliament.

This is important to prevent abuse of power, establish political justice, encourage regeneration, and revive the principles of constitutional democracy. Unchecked power will tend to be abused, and only through structural restraint mechanisms and leadership rotation can healthy democratic practices be maintained. Therefore, the limitation of legislative term is a constitutional, democratic, and moral step that should be immediately realized in the Indonesian constitutional system.

4. Conclusion

Term limits for legislative members are not just a technical option, but an urgent need to maintain Indonesia's constitutional democracy. Without these limits, legislative power is prone to turning into oligarchic dominance that hinders political regeneration, erodes the principle of justice, and undermines public accountability. In order to ensure that power remains under the control of the people and the law, it is time for the legislative system to strictly regulate the maximum term of legislative office as a tangible manifestation of constitutional supremacy, and a strategic step towards a healthier, fairer, and more democratic parliament. The term limit of legislative members in Indonesia is an important constitutional and democratic step to prevent abuse of power, break the political dominance of oligarchs, and maintain the integrity and accountability of the legislative institutions; Although they are collective, legislative power still has great potential to be abused if not structurally limited. And to realize a healthy and fair constitutional democracy, it is hoped that the government needs to immediately formulate a policy of limiting the term of office of legislative members through a revision of the law or constitutional amendments. This step is important as a form of control over power, prevention of abuse of authority, and a guarantee of political regeneration that is more inclusive, accountable, and free from oligarchy domination.

Leaving this norm vacuum will only reinforce elitist political practices that are contrary to the spirit of reform and the principle of the rule of law.

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