



Towards a Structural Constitution: Contribution of Presidential Succession Law to the Constitution of Indonesia

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Article	Abstract
<p>Keywords: Presidential Succession Law; Structural Constitution; Vacuum of power; President and Vice President;</p> <p>Article History Received: Mar 16, 2025; Reviewed: May 15, 2025; Accepted: Jul 27, 2025; Published: Jul 30, 2025;</p>	<p><i>This study examines the relatively underexplored domain of presidential succession within constitutional law, which addresses the critical scenario in which the offices of the President and Vice President simultaneously become vacant. Despite its importance, the conceptual frameworks and defining characteristics of succession regimes have not been systematically or comprehensively mapped. To fill this gap, the present article establishes a strong theoretical foundation for presidential succession by applying doctrinal methods grounded in constitutional analysis, comparative law, and conceptual inquiry. Furthermore, it synthesises and organises the salient features of succession provisions as they appear across a variety of national constitutions. Employing a comparative constitutional approach, the research aggregates these dispersed elements to illuminate common patterns and divergences. The findings suggest that a more advanced articulation of succession rules could substantially enhance the structural integrity of Indonesia's 1945 Constitution, elevating it toward a fully automated and systematised mechanism that minimises discretionary discretion, resists political interference, and guarantees continuity of executive authority. Finally, the catalogued key features offer a fertile basis for further empirical and normative investigation aimed at identifying the optimal configuration of succession clauses for any given constitutional order.</i></p>



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INTRODUCTION

Although the simultaneous vacancy of both the President and Vice President may seem unlikely, the Constitution must anticipate and provide for such an eventuality. As a distinct area within constitutional law, presidential succession provisions aim to safeguard the continuity and stability of government during transitional periods by designating the

constitution itself as the central mechanism that governs each procedural step in an automated and systematic manner. In jurisdictions such as Argentina, South Korea, and Indonesia, presidential succession law plays a pivotal role in managing leadership vacuums and facilitating the orderly establishment of a new government. The reason behind the constitution's placement as a guarantor of the transfer of power is that many political forces that initially remain dormant eventually emerge when power is absent and have the potential to disrupt stability (Mahendra, 1998, 2023). For this reason, the constitution must be placed in its supreme position to dictate the various forces existing in various forms when a vacuum occurs (Mochtar & Afkar, 2022).

The arena of thought in drafting the constitution must be far-sighted. To borrow Rankin's term, the constitution needs to be prepared to "*Fix the roof of the house in good weather, not before the rain comes*" (Rankin, 1946). The constitution must serve as a guide to determine the path forward for future democratic governance (Eisgruber, 2009; Suparto & Santos, 2024). One of the methodological obligations in preparing a constitution that can predict and solve future problems is the capability of constitutional drafters to interpret the political implications of institutional choices in the constitution (Anshori & Abdurrahman, 2024). Dixon and Holden refer to it as predictive judgment (Dixon & Holden, 2011).

The more critical the judgment, the more the constitution is likely to enhance the weight of the structural constitution; conversely, the more distant and pragmatic the judgment, the more it is likely to detract from the weight of the structural constitution (Dixon & Stone, 2018). Heavily relying upon legal certainty at the constitutional level in matters concerning the vacancy of the President and Vice President is to prevent deviations and the exploitation of the situation by irresponsible political elites. This explanation establishes the fundamental paradigm of this article, which deliberately does not rely on alternative sources of constitutional law outside the written constitution, as these sources are prone to manipulation that may benefit political elites during a power vacuum. This view aligns with the argument presented by Greenstein, with which the author concurs. Whether the vacancy of the President and Vice President will happen in the government has always been unpredictable (Mukhlis et al., 2024). What must be considered in the drafting of the constitution is what to do if a vacancy occurs.

In his popular thesis titled 'The Perils of Presidentialism,' Linz identifies a presidential constitution that provides for automatic transition in the event of a vacancy to erode parliamentary dominance into the executive in unusual circumstances (J. J. Linz, 1990). Linz says: "*In event of the president's death, resignation, impeachment, or incapacity, the presidential constitution very often assures an automatic and immediate succession with interregnum or power vacuum*" (Agamben, 2004). The dominance of parliament in matters of presidential succession has begun to erode, replaced by direct regulation under the constitution, which finally subordinates parliament to the rules of the game affirmed in the constitution. This article seeks to develop and prove this argument as well as contradict Linz's thesis that

only presidential constitutions regulate presidential succession in the constitution, because many parliamentary countries have also (currently) developed presidential succession laws in their constitutions.

The vacancy of the President and Vice President is regulated in Article 8A paragraph (3) of the 1945 Constitution of the Republic of Indonesia which determines that if the President and Vice President positions are vacant at the same time, the Minister of Foreign Affairs, the Minister of Home Affairs and the Minister of Defense (Crompton et al., 2007; Stenson, 2010), 'jointly' act as executors of presidential duties to run the government until the formation of a new government. The ministers work as executors of presidential duties as a collegial executive/triumvirate, so that the method of decision making must be by unanimous agreement (Linder, 2010). At the same time as the acting presidency runs the government, the People's Consultative Assembly (MPR) holds a session to elect a President and Vice President from the two pairs of candidates for President and Vice President proposed by the political party or coalition of political parties whose pairs of the candidates received the first and second highest number of votes in the previous general election until the end of their term of office.

In constitutional literature, Article 8 paragraph (3) of the 1945 Constitution of the Republic of Indonesia is the scope of the 'presidential succession law'. Richard Albert explains this scope, starting from the vacancy of the positions of President and Vice President, and continuing through the process of electing a new President and Vice President to replace the former ones (Albert, 2009). Seth Barrett Tillman, a contemporary constitutional scholar, addresses this topic by examining the history and framework of presidential succession in the United States (Tillman, 2022). In addition to Tillman, Roy E. Brownell examines the historical development of presidential-succession mechanisms through the lens of the inherently fraught executive–legislative relationship (Brownell, 2021).

The scope of this study is classified as *Terra Incognita* (Belley, 1997), a concept rarely explored in the study of constitutional law. This article consists of several parts. *First*, it will begin with a description of several instances of Presidential and Vice-Presidential vacancies in several countries. This description provides an introduction explaining the concept of presidential succession law. This article aims to provide a theoretical framework for the development of presidential succession law in Indonesia in the future. The presidential succession law in this article is described as a systematically organised set of written rules regarding the transfer of power outside of the electoral procedure due to constitutional causes that result in a concurrent vacancy of the President and Vice President to ensure that the transition process runs consistently and in a stable manner and becomes a key instrument supporting the formation of a new government.

Second, this article aims to fill a gap in the study of constitutional law by detailing the key features of presidential succession law, from the occurrence of a vacancy in the office of the President and Vice President to the election of a new President and Vice President.

Eleven features of presidential succession law are presented in this article, and each of these features contains options that can be applied in a country's constitution. I have derived these eleven features from an aggregation process across 18 constitutions worldwide. This article is limited to determining which of these features is ideal. This limitation prioritizes further development to determine the ideal choice for each feature.

The incompleteness of the legal material of presidential succession in a constitution will cause serious problems in practical terms, which may spoil the stability and sustainability of the new government. For example, the constitution failing to distinguish in detail between the President and the interim President in matters of office may lead to the consequence that all the powers of the President can be operationalized by the interim President. In the case of Indonesia, this is certainly not good, as interim presidents (acting presidents) do not reflect the sovereignty of the people, as they are appointed officials. This example illustrates a key aspect of presidential succession, specifically regarding the nomenclature of the interim President and the limitations on his powers. Furthermore, the 1945 Constitution does not set a time limit on when the People's Consultative Assembly (MPR) must have finished electing the President and Vice President, as there is only an obligation for the MPR to 'start' the election session. The process in the MPR will likely be lengthy, and the interim President (acting President) will serve for an indefinite period. This case example illustrates a key aspect of presidential succession, specifically the process of electing a new President and Vice President.

METHODS

This study employs a doctrinal legal research method, focusing on legal principles, doctrines, and regulations (Al-Fatih, S., 2023). The primary sources include statutory provisions, court decisions, and legal literature. A comparative constitutional approach is used to analyse constitutional frameworks across different jurisdictions, highlighting similarities, differences, and best practices. This involves interpreting constitutional texts and assessing their practical applications.

RESULTS AND DISCUSSION

Some Cases of Presidential and Vice-Presidential Vacancies

In its formative years, Indonesia confronted two extraordinary instances in which both the presidency and vice presidency were simultaneously vacant: the Emergency Government of the Republic of Indonesia (PDRI) in 1948–1949 and the transfer of presidential authority from Soekarno to Suharto in 1966–1968. These crises posed a formidable test to the 1945 Constitution's capacity to prescribe and manage executive succession under exceptional circumstances: to what extent could the Constitution autonomously regulate and guide governance in the absence of its two highest offices? In the case of the PDRI, the 1945 Constitution proved inadequate, compelling Presidents Soekarno and Hatta to devise a political innovation by instructing Sjafrudin Prawinegara to establish the Emergency Government (Chaniago, 1989)Click or tap here to enter text..

During the transfer of authority from President Soekarno to President Suharto, political oversight of the dual vacancies in the presidency and vice-presidency was exercised chiefly by the Provisional People's Consultative Assembly (MPRS). Notably, the vice-presidential office had remained unoccupied since 1956, when Vice President Hatta resigned (Choesin, 1989), leaving Soekarno without the company of a vice president. Therefore, when he was removed from the President's seat, the position was assumed by Suharto based on the March 11th Order (Supersemar) (Hindley, 1968; Said, 2015). This development subsequently amplified the authority granted by the Supersemar through the Provisional People's Consultative Assembly Decree No. XV/MPRS/1966, on the subject of "On the Election and Appointment of Vice Presidents and the Procedures for Appointing Presidential Officials", by designating Suharto as the interim "Presidential Official," pending the election of a new President. One mechanism for safeguarding continuity in the Presidency is to establish a "reserve of authority" vested in the Vice President. This principle was likewise endorsed during the Philadelphia Convention of 1787, and, under the U.S. system, any vacancies in the offices of President or Vice President are addressed through federal statute rather than by amending the Constitution itself (Albert, 2010).

All instances of simultaneous vacancies in the offices of President and Vice President in Indonesia—whether during the Emergency Government period of 1948–1949 or the transfer of authority from Sukarno to Suharto—were resolved by means external to the constitutional framework. This was a direct consequence of the 1945 Constitution's provisional and concise character during its formative years. Consequently, continuity of executive power depended on the ad hoc political initiatives of leading figures: in the case of the PDRI, through Hatta's directive; and during Sukarno's succession, through Suharto's assertion of authority (Sunny, 1986). Ismail Suny, in his dissertation, said that all actions are valid because they are based on constitutional conventions. Ismail Suny, in this case, interprets the convention not as limited to customs, but as discretionary initiatives that fill legal vacancies.

Argentina experienced a simultaneous vacancy of its executive offices amid profound domestic turmoil in 2001. On October 6, 2000, Vice President Carlos Álvarez resigned on ethical grounds after President Fernando de la Rúa became embroiled in a bribery scandal linked to the passage of the Argentine Labor Law. Consequently, the vice-presidential office remained unfilled, and no subsequent electoral process could be organised amid escalating political conflict. As public and legislative support for de la Rúa deteriorated, he too resigned on December 20, 2001. This dual resignation left both the presidency and vice-presidency vacant concurrently. In accordance with constitutional protocol, Senate President Ramón Puerta assumed the interim presidency for a brief two-day tenure, until December 22, 2001 (Jouet, 2008).

Another form of executive interregnum—distinct from the simultaneous vacancies of both President and Vice President witnessed in Indonesia and Argentina—occurs in

constitutional systems that do not provide for a vice-presidential office, as in South Korea's semi-presidential model. In South Korea, where there is no Vice President, the Prime Minister is constitutionally mandated to assume the President's duties in the event of a presidential vacancy. Consequently, on the sole occasion when the presidency felt vacant, the Prime Minister stepped in to fulfill the head-of-state functions until a new President could be duly elected (Mobius, 1966). In 2016, President Park Geun-hye was impeached following revelations that her close confidante, Choi Soon-sil, had exploited presidential influence to solicit favours from major chaebols. The National Assembly's impeachment motion was subsequently upheld by the Constitutional Court, with a six-to-three vote in favour of removal. Park's ouster marked the first instance of a democratically elected South Korean president being forcibly removed from office since the nation's democratisation in 1987 (Kim, 2018). Upon the Constitutional Court's formal removal of President Park Geun-hye, Prime Minister Hwang Kyo-ahn immediately acceded to the office of Acting President at 19:30 local time and promptly took up residence in the Cheong Wa Dae (Blue House) presidential palace (Geun-hye, 2023). However, from the whole country, they rely on the constitution as the main instrument to regulate the transition of power and determine its features, so that when a vacancy occurs, the entire transition is carried out automatically and free from political interference/domination in various forms.

Presidential Succession Law: Occupying the Concept

Within the framework of a democratic state, everyone has the right to fill a position to lead the state and government (Siboy, A., & Al-Fatih, S., 2025). To get to the presidential seat, there are two paths that support each other. The first path is through general elections (*general election*); in democratic countries, this path serves as the main symbol of a country's democracy. Anyone (legally) has the right to run for President, and through this route, a President and the Vice President will be concurrently elected (Hartama, 2023).

The secondary avenue to the presidency—presidential succession—denotes the extraneous transfer of executive authority outside the regular electoral cycle, precipitated by the simultaneous vacancies of both the President and Vice President due to events such as concurrent impeachment, joint death, or other constitutional contingencies. In contrast to general elections, which are initiated at the predictable termination of a fixed term (every five years), presidential succession is inherently unforeseeable in both its cause and timing. As a result, an indirect electoral process can be convened swiftly to address the ensuing interregnum. Presidential succession thus serves a dual function: to inaugurate an interim administration and to organise subsequent elections for a new President and Vice President. Importantly, the interim officeholder retains the full constitutional prerogatives of the presidency, thereby preserving governmental continuity and ensuring the uninterrupted execution of executive policies.

Table 1. Comparison of General Election Path and Succession Path

Equation	General Election Path	Presidential Succession Path
Purpose	Continuing the government and avoiding the presidency from being vacant.	
Authority	The President/successor both have the right to exercise it.	The President's power and have
Difference	General Election Path	Presidential Succession Path
Grounds	As the incumbent President's constitutionally prescribed term has concluded	For constitutional reasons (death, illness, impeachment)
Time	Predicted with certainty, calculating when the previous President began and ended.	The precise timing of a simultaneous vacancy in both the presidential and vice-presidential offices is inherently unpredictable.
President	An individual who fulfills the statutory eligibility criteria is chosen by popular vote to assume the presidency.	In Indonesia, the statutory line of succession entrusts the duties of the presidency, on an interim basis, to the Minister of Foreign Affairs, the Minister of Home Affairs, and the Minister of Defence—each of whom has been appointed by the outgoing President.
Duration of Government	Permanent/fixed, in accordance with the duration mandated by the constitution.	The interim period is limited to thirty days, concluding upon the election of the President and Vice President.

Source: Author's, 2025

This article focuses specifically on the second pathway to executive authority—presidential succession—as a constitutional mechanism for addressing the simultaneous vacancy of the offices of President and Vice President. The primary objective of presidential succession is to ensure the continuity of governance by filling such vacancies arising strictly from constitutionally recognised causes, thereby preventing a power

vacuum. This distinction forms the normative foundation of the present analysis: presidential succession is confined to scenarios involving constitutionally defined causes of vacancy, such as death, permanent incapacity, resignation, or impeachment. It does not extend to extra-constitutional circumstances, such as revolution, coup d'état, or other forms of unconstitutional disruption.

The successor who succeeded the President for constitutional reasons was referred to by Abbot as '*accidental presidents*', which translates as an unintentional President or an unwanted president (Abbott, 2005). A person who ascends to the presidency is a figure who is not expected by the public, unknown to the public, and may be unpopular, as well as unsupported by political forces within the elite and strata of society (Abbott, 2005). However, the reality of the presidential vacancy is undeniable and must be resolved constitutionally through the process of presidential succession (Borman et al., 2024). Linguistically, succession (*succession*) is viewed as *a process in which someone automatically takes an official position or job after someone else*. The term *succession* refers to the process by which an individual automatically assumes the responsibilities of another in a designated office. Within constitutional scholarship, the concept of succession has been employed since at least the 18th century, particularly in reference to the transfer of executive authority in the United States, as codified in the Presidential Succession Act of 1792. Conceptually and substantively, the foundational principles have remained largely consistent, centred on addressing the risk of a leadership vacuum and the legal mechanisms designed to mitigate such a scenario by establishing a reserve of authority and facilitating the formation of a new government (Green, 1956). The rapid development in the concept of succession pertains to the supporting subsystem around the presidential successor, including who the replacement actor is, where they come from, how long they have been in office, the swearing-in procession, and other related aspects.

Theodore F. Green (United States Senator 1937-1961) began to formalise it by giving it a definite scope. It refers to presidential *succession* as a process in which one leader replaces the previous leader outside of the general election procedure. The process that Theodore refers to encompasses the conditions, sequence, and qualifications for one person to replace another in carrying out the duties of the President (Green, 1956). Abbot refers to the concept using a different nomenclature—*political succession*—yet conveys the same underlying meaning: a constitutionally sanctioned democratic mechanism designed to ensure that the transfer of power proceeds smoothly and remains legitimate under all circumstances and conditions (Abbott, 2005).

Several constitutional law scholars have increasingly explored the concept and parameters of presidential succession. Among them, Richard Albert offers a comprehensive articulation of its legal scope, which encompasses the entire process—from the moment a simultaneous vacancy in the offices of President and Vice President arises, to the eventual election of their successors (Albert, 2010). According to Albert, presidential succession law constitutes a cohesive regulatory framework that

systematically connects the initial triggering conditions of executive vacancy with the mechanisms leading to the installation of a newly elected President and Vice President (Albert, 2010). This entire sequence must be understood as an integrated and inseparable continuum. Consequently, the election of new executive leadership is not an isolated event but an essential component within the broader framework of presidential succession law, intrinsically tied to the preservation of constitutional governance and the continuity of state administration.

In his scholarly work, Richard Albert adopts the term *presidential succession law*, explicitly integrating the concept of succession with a formal legal framework. Unlike the more common usage of *presidential succession* as a purely political or procedural term, Albert emphasises its juridical dimension by incorporating the word *law*, thereby transforming what was traditionally viewed as a practical political necessity into a normative legal construct grounded in statutory and constitutional instruments. Prior to Albert, scholars such as Vikram Amar similarly employed the term *presidential succession law*, most notably in his influential piece, *Is the Presidential Succession Law Constitutional?*, in which he critiques the inclusion of the Speaker of the House of Representatives as a constitutionally appropriate successor in the event of a simultaneous vacancy in the offices of President and Vice President (Amar & Amar, 1995).

Several Indonesian scholars also provided explanations about the presidential succession, including Harun Alrasid, Amiek Soemarmi, and Suwoto Mulyosudarno. Harun Alrasid, in his classic literature on presidential succession, explains presidential succession (*presidential succession*) as a situation where there will be a vacant Presidential position in the middle of the President's term of office through two possibilities: only the President's position will be vacant so that the Vice President will rise to fill the position, and vacancies occur in the President and Vice President. Harun Alrasid's explanation implies that the concept of presidential succession is different. He argues that if the vacancy only occurs in the Presidency, it also falls within the scope of presidential succession (Alrasid, 2017). Harun Alrasid's perspective was significantly shaped by the constitutional configuration and political context of the Soeharto era, Indonesia's second presidential regime. A prominent Professor of Constitutional Law at Universitas Indonesia, Alrasid has long been engaged in the study of presidential succession. His doctoral dissertation—*The Problem of Filling the Presidential Position (From the 1945 Indonesian Independence Preparatory Committee Session to the 1993 MPR Session)*—offers a comprehensive analysis of this issue, tracing the historical and institutional evolution of presidential succession mechanisms within the Indonesian constitutional framework (Alrasid, 1993).

Amiek Soemarmi also explained the presidential succession, including aspects of the legal arrangements regarding the change of presidential positions and the pattern of presidential succession. Presidential succession in this structure is interpreted as a process of transitioning the presidency, involving the transfer of power from the former President to the new President (Soemarmi et al., 2001). Based on his analysis, Amiek appears to align

with Harun Alrasid's perspective in not strictly defining presidential succession as a process contingent upon the simultaneous vacancy of both the President and Vice President. In his research, Amiek includes cases such as the transition from President Soeharto to B.J. Habibie and from President Abdurrahman Wahid to Megawati Soekarnoputri—instances that involved only a presidential vacancy, without a concurrent vice-presidential vacancy. This suggests a broader interpretation of presidential succession, encompassing any transfer of presidential authority, regardless of whether both executive offices are vacant simultaneously.

The Indonesian scholar who also discussed presidential succession was Suwoto Mulyosudarmo, but under the sub-discussion of presidential succession, namely transitional government (Mulyosudarmo, 1999a). He explained that one type of transitional government is the interim government that bridges the gap between the power vacuum and the election of a new President and Vice President as a result of the general election (Mulyosudarmo, 1999b). The focus of Suwoto's discussion is the transition from Suharto's presidency to Habibie, accompanied by a drastic change in the constitutional situation.

The inclusion of Suwoto in this section highlights a notable gap within the existing constitutional law literature concerning the simultaneous vacancy of both the President and Vice President, particularly in relation to the legal framework governing interim or caretaker governments. His work underscores the limited scholarly engagement with this critical issue and emphasises the need for a more systematic and comprehensive legal analysis of transitional executive authority in such scenarios. A satisfactory explanation in the Indonesian constitutional law literature that clarifies what a provisional government is and whether it is a concept in constitutional law has not been found. The concept that most closely resembles the interim government is the transitional government, as it develops in political literature. In this study, the author uses the term 'closest' instead of 'equal' to indicate that the interim government is not identical to the transitional government, but rather shares similarities. This study will explain the following, while also disagreeing with Suwoto's opinion that nearly equates the interim government with a leadership vacuum.

As a starting point, it is essential to distinguish between what is commonly referred to as an *interim government* and a *transitional government*. An *interim government* arises specifically as a constitutional response to the simultaneous vacancy of the President and Vice President due to legitimate constitutional causes, such as death, resignation, or impeachment (Simabura et al., 2023). Upon the formal declaration of a simultaneous vacancy in the offices of President and Vice President, executive authority is temporarily exercised by an acting president, who governs the state until the election of a new President and Vice President is held. In contrast, a *transitional government* refers to a provisional governing body that may also encounter vacancies in the top executive offices, typically arising from a substantial regime shift, where the previous political order is dismantled and replaced by a new governing structure. Transitional governments function

as integral sub-systems within the broader framework of democratic transition, often marking the end of an authoritarian regime and the initiation of a more democratic constitutional order.

This study adopts a different interpretive stance from that of Harun Alrasid, Suwoto, and Amiek, aligning instead with the views of Albert, Theodore, and Abbot in defining presidential succession as the simultaneous vacancy of both the President and Vice President, rather than the absence of only one officeholder. It is essential to emphasise that the concept of presidential succession should not be confused with that of a transitional government. Unlike transitional governments, which often emerge during fundamental shifts between political regimes, such as from authoritarianism to democracy, presidential succession typically occurs within a framework of constitutional stability. It is fundamentally an administrative mechanism triggered by constitutionally recognised causes, aimed at filling executive vacancies through legally prescribed procedures and facilitating the selection or election of a new President and Vice President.

This study conceptualises presidential succession law as a coherent body of codified legal provisions that systematically govern the transfer of executive power outside the regular electoral process, triggered by constitutionally defined circumstances resulting in the simultaneous vacancy of both the President and Vice President. Its primary function is to ensure that the succession process proceeds with legal certainty and institutional stability, serving as a critical mechanism for facilitating the establishment of a new government. This interpretation is constructed from multiple interrelated components, each contributing distinctively to a unified and specific definition of presidential succession law. Each of these constituent elements warrants individual examination to fully comprehend their respective roles within the broader legal framework;

1. A Series of Written Regulations Arranged Systematically

A series of meanings implies that presidential succession law encompasses various features surrounding presidential succession; it does not stand as a single subject and object of regulation, but rather comprises multiple subjects and objects of regulation. The meaning of the series at least includes the range of arenas (objects) and actors (subjects) with their respective roles regulated in the presidential succession law (Amancik et al., 2024). The 'written regulation' means that presidential succession law is a positive law that is deliberately formed by the state in regulating presidential succession (Anderson & Lewallen, 2024). Among the advantages of presidential succession regulated in written regulations/positive law is that it has a good degree of legitimacy, so that anyone is obliged to obey and submit to the provisions that have been set without contradicting them with various situations or fabricated reasons (Shain, 1995). The next section will explain in more detail why the presidential succession must be stated in the source of constitutional law in the form of written regulations, including for reasons of compliance and stability in dealing with unpredictable situations in the condition of a power vacuum, so that written

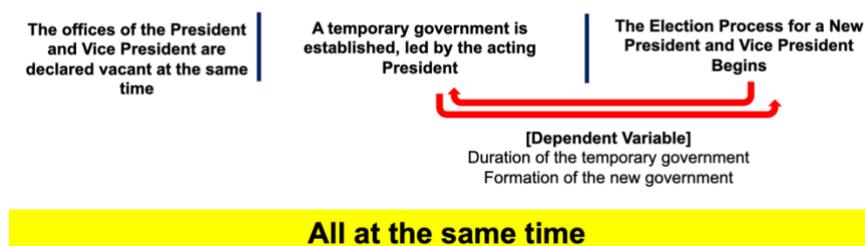
regulations play the role of 'rules of the game' that is standard, comprehensive and not easy to oppose for legitimacy and substance, thereby becoming a supporting instrument to ensure the transition power runs automatically (Fischer, 2015).

Written legal provisions in presidential succession law serve to regulate both the institutional framework (the arena) and the relevant actors (the subjects), each with clearly defined roles within a systematically structured process. The requirement for systematic arrangement is essential, as presidential succession operates simultaneously across three interdependent domains. The first domain involves the formal declaration of the simultaneous vacancy of the President and Vice President, marking the official commencement of the succession process. The second domain is triggered immediately thereafter, whereby a designated acting official assumes the functions of the presidency to ensure the continuity of executive governance. The third domain runs concurrently with the second: while the acting President performs their duties, the People's Consultative Assembly (MPR) is constitutionally obligated to initiate the process of electing a new President and Vice President. Each domain must function in parallel to uphold legal certainty, institutional continuity, and democratic legitimacy during the transitional period.

These three arenas must be exercised simultaneously, not in a hierarchical order. The integration of all these arenas must be done systematically, as a series of interconnected arenas will influence each other (Steeves, 2023). For instance, the absence of a clear and timely declaration regarding the simultaneous vacancy of the President and Vice President creates uncertainty as to when the acting President should begin exercising executive authority. This ambiguity can delay the assumption of interim leadership responsibilities and, in turn, jeopardise governmental stability. Similarly, if the People's Consultative Assembly (MPR) fails to promptly initiate the process for electing a new President and Vice President, the duration of the acting presidency—and the interim government as a whole—becomes prolonged and indeterminate. Such delays ultimately obstruct the timely establishment of a definitive administration. Therefore, each domain within the framework of presidential succession law is interdependent; inefficiency or inaction in one domain directly affects the operation and effectiveness of the others.

Figure 1. The Legal Time Arena of Presidential Succession

3 Timeframes in Presidential Succession Law



Source: Author's, 2025

The three legal arenas of presidential succession are administered by designated actors, each entrusted with specific constitutional roles. Drawing on Groof's concept of *transitional actors*, these individuals and institutions bear full responsibility for maintaining the stability of the interim government, facilitating an expedited and orderly transition, and ensuring the timely establishment of a new administration. Within the framework of the 1945 Constitution of the Republic of Indonesia, the principal transitional actors include: (1) the acting President, (2) the People's Consultative Assembly (MPR), and (3) political parties. The acting President assumes executive authority during the simultaneous vacancy of the President and Vice President, performing core functions of governance and making strategic decisions akin to those of the previous officeholder. However, the acting President operates under several constitutional constraints: the office is temporary, limited in scope, and lacks a direct electoral mandate from the people, thereby restricting the exercise of certain presidential powers. The acting President must possess acute political acumen and institutional awareness, particularly in navigating challenges that may obstruct the formation of a new government. Meanwhile, the MPR, in collaboration with political parties, serves as the constitutional body mandated to elect the new President and Vice President. As a high-level state organ, the MPR holds exceptional constitutional authority, including the power to inaugurate or dismiss the President and/or Vice President, as well as to amend and ratify the Constitution. This institutional privilege is rooted in the MPR's historical legacy as the supreme body of the state and as a symbol of national unity—a foundational institution conceived by the founding fathers of Indonesia to reflect the collective will of the people. (Satrio, 2023).

2. Transition of power outside the general election procedure for constitutional reasons

The transition of power can be referred to as the change of power, where the previous government is led by a certain person and then replaced by another person at

another time. This transition process, as explained in detail earlier, consists of at least two paths to transition power: the general election and the presidential succession path. The transfer of executive authority outside the framework of a general election is referred to as *presidential succession*. This process is initiated by a triggering event or condition that results in the simultaneous vacancy of both the President and Vice President. A critical point to emphasise is that for such a transfer of power to qualify as *presidential succession*, the underlying causes must be constitutionally grounded. That is, they must stem from circumstances explicitly anticipated and enumerated within the constitutional text, such as death, resignation, permanent incapacity, or impeachment. However, when circumstances outside the reasons listed in the constitution are involved, it cannot be considered presidential succession, and the law governing presidential succession cannot be applied. What are constitutional causes, and what are extra-constitutional causes? Generally, constitutional causes are categorised into two forms: natural causes and non-natural causes. Natural causes include death and illness that cause inability to serve as President (De Micheli et al., 2022). These causes are beyond human control and by the will of Allah SWT (Chervinsky & Costello, 2023). Non-natural causes, on the other hand, include resignation and impeachment/being fired. Unlike natural or unforeseen events, such causes are constitutionally recognised, as they are foreseeable and arise from circumstances that are, to a significant extent, within human control. Such causes are explicitly enumerated in the constitutional text, albeit under various terminologies, without distinguishing between natural and non-natural origins. In the 1945 Constitution of the Republic of Indonesia, for example, these grounds for vacancy are articulated as death, resignation, dismissal, or permanent incapacity to fulfill the duties of office during the term of service.

Extra-constitutional causes refer to circumstances that fall outside the scope of those explicitly outlined in the constitution. These causes typically arise from events that fall outside the framework of legal and constitutional procedures, often driven by domestic or international political crises. Examples include coups d'état, characterised by the violent seizure of power, revolutions, or other forms of unconstitutional regime change that disrupt the established order without following lawful succession mechanisms (Thyne & Powell, 2016). These causes trigger political instability at the national level, and the presidential succession law, which involves replacement by the acting president, is relatively unenforceable because it depends on the dominant actor of these causes. It is possible that the opposition actor who succeeded in the coup against the President immediately occupies the position of interim President to prepare the new regime as desired. In these extra-constitutional reasons, of course, presidential succession law cannot be applied because the constitution is no longer in a dominant position. In extra-constitutional circumstances, a transitional government will be established to bridge the gap between the old and new governments. Among the transitional government's projects is a transitional constitution, which aims to eliminate the various legal products of the past

as legacies and replace them with those that align with the needs and vision of the new regime.

3. Vacancy of President and Vice President Simultaneously

Interpret presidential succession as a *simultaneous* vacancy in both the offices of President and Vice President. Several reasons underpin my position, which holds that presidential succession should be understood specifically as the concurrent absence of both executive figures. First, from a socio-political perspective, it is essential to recognise that the offices of President and Vice President function as a unified leadership entity, as elected together in a general election. Within this political construct, public perception firmly situates the Vice President as an institutional reserve of executive authority, designed to assume presidential responsibilities in the event of the President's incapacity, resignation, or death. Thus, this structural pairing underscores the necessity of viewing succession as a constitutional response triggered only when both offices are simultaneously unoccupied (Kalt, 2024). Within the constitutional framework of Indonesia, particularly under the 1945 Constitution of the Republic of Indonesia, the Vice President is not explicitly vested with distinct or autonomous powers. Principally, the Constitution recognises only the authority of the President and does not delineate any separate or substantive powers for the Vice President. While certain conventions have developed, such as the temporary delegation of responsibilities when the President is abroad, these practices operate outside the constitutional text and rely solely on presidential discretion (Hukumonline, 2000). Consequently, from a constitutional perspective, the Vice President lacks independently defined functions. This reinforces the understanding that the Vice President serves fundamentally as a constitutional reserve of authority—an institutional safeguard positioned to assume executive responsibilities only in the event of a presidential vacancy or incapacity.

Furthermore, the Vice President derives a measure of political legitimacy because of several interrelated factors: (1) election through a unified presidential ticket alongside the President; (2) selection as part of a coalition-building strategy among political parties, thereby symbolically representing specific political constituencies; and (3) participation in the full spectrum of electoral and ceremonial processes that reinforce democratic legitimacy, including campaign activities, public debates, and formal inauguration ceremonies. From Abbot's perspective on the "accidental president," the Vice President is not an outsider suddenly thrust into the presidency, but rather a constitutionally endorsed successor who is already integrated into the political framework. By contrast, in situations involving the simultaneous vacancy of both the President and Vice President, the role of head of state is temporarily assumed by an acting presidential official—typically a relatively unknown figure lacking prior public endorsement or electoral legitimacy, and not originally positioned as a recognised reserve of executive power.

Second, a fundamental distinction exists in the institutional and political implications between a presidential vacancy and a simultaneous vacancy of both the President and Vice President. When only the President's office becomes vacant, the existing cabinet structure remains intact, as the Vice President—who ascends to the presidency—is already embedded within the previous administration and is part of the coalition of political parties that initially formed the government. The Vice President's access to political capital and networks tends to mirror that of the former President, thereby ensuring continuity of governance without the necessity of regime change. In contrast, a concurrent vacancy of both the President and Vice President produces far-reaching consequences. Under Indonesia's constitutional framework, this situation requires the election of a new President and Vice President by the People's Consultative Assembly (MPR). The outcome of such an election may result in the victory of a political coalition opposed to the former administration, potentially leading to a complete reshuffling of the cabinet and a fundamental transformation of the governing regime. In simpler terms, a solitary presidential vacancy does not signify the dissolution of the existing governmental structure, whereas a dual vacancy marks the definitive conclusion of the prior cabinet and opens the door to the formation of a new administration through extraordinary constitutional procedures.

Third, in the Indonesian constitutional framework, the scenarios of a presidential vacancy and a simultaneous vacancy of both the President and Vice President are addressed through distinct provisions within the 1945 Constitution of the Republic of Indonesia. The situation involving only a presidential vacancy is governed by Article 8, paragraphs (1) and (2), which stipulate that, upon the President's absence, the Vice President shall assume the presidency. Once the Vice President assumes the presidency, the resulting vacancy in the vice-presidential office must then be filled by the People's Consultative Assembly (MPR), based on a nomination submitted by the President. In contrast, the constitutional provisions governing the simultaneous absence of both the President and Vice President follow an entirely different mechanism. In such a case, executive authority is temporarily entrusted to a collective of acting officials—specifically, the Minister of Foreign Affairs, the Minister of Home Affairs, and the Minister of Defence—who serve as interim presidential authorities until the MPR elects a new President and Vice President. The newly elected leaders, while still serving within the remaining term of the previous President, are not institutionally or politically bound to the prior regime's cabinet composition. This distinction highlights the potential for a significant realignment of executive power in the event of a dual vacancy.

Fourth, the simultaneous vacancy of both the President and Vice President results in the establishment of an 'interim government' led by officials designated as acting presidential authorities. In contrast, a vacancy solely in the office of the President does not initiate such a transitional arrangement; rather, the Vice President assumes the presidential role and maintains the continuity of governance without transitioning into an

interim framework. Emphasising this distinction is essential because an interim government carries distinct legal consequences compared to a regular administration. These include the following critical constitutional questions: What is the temporal limit of authority for an acting president? What procedures govern the appointment of the acting president? To what extent does the acting president exercise presidential powers? These issues will be addressed further in the subsequent chapter, which explores the defining characteristics of presidential succession law. The fundamental difference between an ordinary government and an interim government underscores the necessity of interpreting presidential succession specifically as a situation involving the concurrent vacancy of both the President and the Vice President.

4. The Purpose of Providing Certainty, Stability, and Accelerating the Formation of a New Government

The fundamental objective of presidential succession law is to establish legal certainty by regulating the exercise of authority and the roles of institutional actors during a leadership transition triggered by the simultaneous vacancy of the President and Vice President. This legal certainty does not entail forecasting the specific timing or nature of such a vacancy; rather, it lies in ensuring that a comprehensive legal framework is in place should such a situation arise. Within this context, the law must anticipate potential constitutional contingencies and proactively delineate the procedural and substantive mechanisms for managing them. Ultimately, the intended legal certainty aims to ensure that the succession process unfolds in an orderly and predictable manner, governed entirely by the rule of law.

The primary objective of ensuring stability through presidential succession law is to guarantee a seamless transition from the commencement of an interim government to the eventual election of a new President and Vice President, free from disruption or interference by competing political forces amid a leadership vacuum. Historically, the absence of presidential leadership has often precipitated a period of heightened national tension and international scrutiny. A well-established framework of presidential succession law serves to mitigate such instability by providing a robust legal foundation that maintains governmental continuity, ensures the uninterrupted delivery of public services, and minimises societal disruption. The ideal outcome is that, even in the face of a simultaneous vacancy, the public experiences no perceivable disruption in state governance. Ultimately, the most significant aspiration of stability under presidential succession law is the prevention of opportunistic political maneuvering that seeks to exploit the transitional period. The more precise and enforceable the legal framework is, the more likely it is for political actors to respect the process, thereby reinforcing institutional legitimacy and preventing disputes over the procedures governing the transfer of executive authority.

Features in the Presidential Succession Law

This section provides a general exposition of the fundamental characteristics underpinning the legal framework of presidential succession. These features have been subjected to a process of decontextualisation—detached from the specific socio-political environments in which they originally emerged—thereby allowing them to transcend the constraints of domestic political peculiarities. As a result, the principles outlined herein reflect a broader trajectory of constitutional globalisation, representing norms and practices that have gained wide recognition and acceptance across diverse constitutional systems (Law & Versteeg, 2011). Through a comprehensive examination of various constitutional texts, the author identifies and distills eleven key regulatory features that characterise the legal architecture of presidential succession. These features are abstracted from the constitutions analysed in this study and serve as generalised principles derived from diverse legal systems that form the empirical basis of this article.

These features may serve as important reference points for evaluating and refining constitutional provisions during future constitutional moments of amendment or reform. In the context of Indonesia, the author asserts that none of these features constitute immutable or fundamental elements of the 1945 Constitution of the Republic of Indonesia (UUD 1945) that would fall under what Yaniv has termed “*unamendable provisions*” (Roznai, 2015). Such features—like the preamble, ideological identity, and similar foundational elements—are typically considered part of a constitution’s core commitments. However, these eleven features are categorised within the scope of *constitutional pre-commitment*, meaning they reflect a forward-looking agreement to regulate future uncertainties, particularly concerning presidential succession, without rising to the level of untouchable or unamendable provisions (Ferejohn & Sager, 2002), to reinforce the democratization of governance across all dimensions, including the prevention of potential power vacuums within the Indonesian political system (Sunny, 1986).

In Indonesia, the material on the presidential succession law already exists. The material is regulated in Article 8, paragraph (3) of the 1945 Constitution of the Republic of Indonesia (Baturo, 2022). The material was adopted from the TAP MPR VII/1973, which has similar provisions, namely making the Minister of Foreign Affairs, the Minister of Home Affairs, and the Minister of Defence act in the place of the President. In determining the presidential task force in the current 1945 Constitution of the Republic of Indonesia, the current presidential task force format, as adopted from the TAP MPR VII/1973, was heavily influenced by the new order political situation, which was dominated by the military and controlled by President Soeharto. The Minister of Defence received a seat allotment as the acting president to maintain military dominance in government leadership (Kurnia, 2021). At that time, the Minister of Defence was an active military member who was then involved in the government under the dual function doctrine of the Indonesian Armed Forces. The other two ministers were the first ministers in the cabinet structure, always filled by President Suharto's confidants. With such a

composition, the acting president could be loyalists of President Suharto who shared an ideology and vision aligned with the previous government. The most visible uniqueness is how the TAP MPR VII/1973 builds a collegial structure in the position of presidential executor. This is one of the strategic tactics used by the formulator to minimise the power of the presidential executor with the internal *check* method between fellow ministers who are the executors of the presidential duties, so that they supervise each other and are required to formulate decisions with a mature process through a sense of belonging to others (Analisa, n.d.).

During the amendment phase of the 1945 Constitution, the proposal for the adoption of the TAP MPR VII/1973 was first introduced by the TNI/Polri faction, which was still represented in the MPR. The initial draft of the formulation immediately adopted the format of the TAP MPR VII/1973, which was placed in Article 8 of the 1945 Constitution of the Republic of Indonesia. The dialectics and discussions surrounding the formulation of the presidential task force in this phase were neither efficient nor as expected. The majority agreed to adopt the TAP MPR VII/1973 by making the Minister of Foreign Affairs, the Minister of Home Affairs, and the Minister of Defence act in the place of the President and work collegially. The opponents of the format first came from Hamdan Zoelfa (F-PBB), who proposed the Speaker of the House of Representatives as the acting presidential functionary, followed by Baharudin Aritonang (F-PG), Ahmad Zaky Siraj (F-UG), and Slamet Effendy Yusuf. Their argument was almost the same; they said that the office of President was a position elected by the people, while the ministers were appointed officials.

Thus, the history and philosophy of the presidential succession law in Indonesia, as well as the debate that often arises, are primarily centred on the presidential office. This article aims to explain that the material covered by the presidential succession law encompasses a wide scope. The material on presidential succession law is set forth in Article 8, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, but is still incomplete, thereby not fully guaranteeing the transition period. Apart from this incompleteness, some of the existing materials are deemed problematic for implementation. This will be explained in the next section.

Table 2. Features of Presidential Succession Law and Its Substantive Content in The Indonesian Constitution

Features in the Presidential Succession Law	Availability	1945 Constitution of the Republic of Indonesia (UUD NRI 1945)
Types of legal instruments governing the position of the acting President	Available	Indonesia regulates presidential succession at the constitutional level. Previously, these provisions were regulated under TAP MPR and statutory laws.

Nomenclature of the office of acting President	Available	Indonesia uses the nomenclature “ <i>pelaksana tugas kepresidenan</i> ” (acting President) in the 1945 Constitution (UUD NRI 1945).
Procedures and preconditions triggering the vacancy of the President’s office by a public official acting as President	Available	Under the 1945 Constitution, procedures/mechanisms are provided for declaring the office of President and Vice President vacant. Vacancies may arise due to legal violations/impeachment involving the People’s Consultative Assembly (MPR), House of Representatives (DPR), Regional Representative Council (DPD), and the Constitutional Court. Preconditions include death, resignation, dismissal, or inability to perform duties.
Public officials who may act as President	Available	Indonesia employs bureaucratic actors to carry out presidential duties, usually filled by the Minister of Foreign Affairs, the Minister of Home Affairs, and the Minister of Defence.
Oath-taking process for the acting President	Not Available	There are no provisions addressing the oath-taking process for the acting President, which correlates with the absence of legal stipulations declaring the vacant President and Vice President positions.
Tiered alternatives if the acting President is also incapacitated	Not Available	Indonesia does not provide for tiered alternatives. Several legal issues arise: 1. If one of the three designated ministers is unavailable, who shall exercise presidential duties given the lack of legitimacy? 2. Who has the authority to appoint an alternative minister to act? Only the President can appoint or reassign ministers, creating a legal vacuum when both the President and the Vice President are unavailable.
Limitations of authority for the acting President	Not Available	Under the 1945 Constitution, there is no functional distinction between the President and the acting President. Thus, an acting President may exercise the full powers of the Presidency.
Duration of acting presidency: temporary and for the remainder of the term	Available	Indonesia adopts a “temporary presidential succession” model. The acting President

		serves until the election of a new President and Vice President by the MPR.
Mechanism for electing a new President and Vice President (special election)	Available	Indonesia employs an indirect election mechanism through the MPR to elect a new President and Vice President.
Nomination of candidates for the new President and Vice President	Available	Indonesia grants the right of nomination exclusively to political parties or coalitions that had contested the previous general election. These parties or coalitions may nominate any individual, including current ministers, members of the legislature, or party cadres.
Term of office of the newly elected President and Vice President	Not Available	Indonesia does not regulate or explain whether the new President and Vice President elected by the MPR serve a full term or only the remainder of the previous term. The term is calculated from the time they are elected by the MPR.

Source: Author's, 2025

In the case of Indonesia, the Table above demonstrates that the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) lacks a comprehensive legal framework governing presidential succession. This article, therefore, offers an opportunity to critically examine and further explore these gaps as a foundation for the future development of the UUD NRI 1945. To provide a more detailed understanding of these features, the following section offers an in-depth explanation;

1. Types of Legal Products Governing the Position of Acting Presidential Duties

Two types of legal products are used in regulating presidential succession law and the execution of presidential duties: some are regulated in their entirety in the constitution, and others are delegated for further regulation in statutory law. In the first model, the constitution comprehensively regulates the implementation of presidential duties, starting from the conditions that cause vacancies and who replaces them, to new mechanisms. Countries such as Indonesia, Algeria, Azerbaijan, France, Poland, Germany, Romania, Bulgaria, Mexico, Brazil, Chile, Angola, Nigeria, South Africa, and Egypt regulate the exercise of presidential duties entirely within the constitution, without delegating it to law for further regulation. The structural implication of such an arrangement model is that the provisions are locked and cannot be easily changed at any time, as changes can only be made by amending the constitution (Albert, 2016).

In the second model, the constitution regulates general matters, and then some materials are further regulated in the statutory law. This model involves several types: the

material delegated includes matters regarding who the executor of the presidency is, as in the Constitutions of the United States and Argentina. However, the Constitutions of the United States and Argentina do not regulate this matter, but instead delegate it to Congress to determine who will serve as the acting president.

The next type of delegation of arrangements regarding the implementation of presidential duties is regarding the mechanism for electing the new President and Vice President. The Constitutions of the Philippines and South Korea regulate the mechanism for the election of the President and Vice President in the law. The Philippines further regulates the election mechanism within the Pambansa BLG Boundary 883 concerning *An Act Calling A Special Election For President and Vice President, Providing For The Manner of the Holding Thereof, Appropriating Funds Therefor, And For Other Purposes*, with a direct election mechanism by the people through the scheme of '*special election*'. South Korea regulates the mechanism for the election of a new President in *Public Official Election Act*, Art. 35, 2009-02-12, *Partial Amendment National Election Commission No. 9466*, which also uses the mechanism of direct election of the President by the people through the scheme of '*special election*' (*Batasang Pambansa BLG. 883, Tentang An Act Calling A Special Election For President and Vice Presiden, Providing For The Manner of the Holding Thereof, Appropriating Fungs Therefor, And For Other Purpoes.*, n.d.).

2. Reasons for the Vacancy of the Presidential and Vice-Presidential Positions

The conditions (pre-requisites) that trigger a vacancy in the presidential office, thereby necessitating the appointment of an acting president, typically arise from natural causes, such as death, and voluntary resignation, or follow the procedural logic embedded in the constitutional provisions governing impeachment, as determined by the specific form of government in place (Mughan et al., 1995). Accordingly, these pre-conditions can be categorised into two distinct models: those based on the presidential system and those grounded in the parliamentary system. In a presidential system, which operates on the principle of a *fixed term* of office, the occurrence of a presidential vacancy is generally rare. This is largely attributable to the institutional design of the presidency, which tends to foster a more stable and resilient form of governance (Bünthe & Thompson, 2018). However, under certain conditions, it can still be broken through (J. Linz, 1994). Several presidential and semi-presidential systems, such as those in Indonesia, the Philippines, South Korea, Algeria, Azerbaijan, France, Poland, Romania, Bulgaria, the United States, Mexico, Argentina, Brazil, Chile, Angola, Nigeria, and Egypt, share remarkably similar constitutional provisions regarding presidential vacancies. In these jurisdictions, a vacancy in the presidency is typically triggered by the President's death, voluntary resignation, permanent incapacity due to illness, or removal from office resulting from violations of constitutional or legal norms.

In the next model of South Africa and Germany, which use a parliamentary system, the reasons for the presidential vacancy are relatively the same as those in countries with

a presidential system, but one reason distinguishes them: the vote of no confidence in the President, which leads to impeachment. This is relatively different from presidential countries, where this system is, theoretically, less stable because the President is easily impeached due to their political dynamics and poor relations with parliament (Stepan & Skach, 1993). This pre-condition is intrinsically linked to the legal procedures and mechanisms governing the official declaration of the permanent incapacity of the President and Vice President. In some jurisdictions, such determinations are made through formal resolutions or declarations issued by one of the branches of government, such as the legislature. In others, the process begins with a judicial ruling, typically rendered by the Supreme Court or Constitutional Court, thereby affirming the vacancy of the executive office based on constitutional or legal criteria.

3. Nomenclature of Presidential Acting Positions

Constitutions around the world generally adopt two distinct nomenclatural approaches in referring to individuals assuming presidential functions on an interim basis. The first approach does not distinguish the interim officeholder with a specific title, thereby treating the individual as functionally equivalent to the President. The second approach explicitly designates a distinct title for the acting presidential authority. In countries such as the Philippines, Algeria, Romania, Azerbaijan, France, Poland, Germany, Bulgaria, the United States, Mexico, Brazil, Chile, Angola, Nigeria, South Africa, and Egypt, the constitutional text typically refers to the acting head of state as performing duties “*as President*,” without introducing a separate legal or institutional designation. For instance, the United States Constitution uses the phrase “*...act as President*,” while the Philippine Constitution states “*...shall then act as President*,” thereby reinforcing the equivalency in functional authority during the interim period.

Indonesia and Argentina employ distinct constitutional nomenclatures to refer to the interim exercise of presidential authority. In Indonesia, Article 8 paragraph (3) of the 1945 Constitution explicitly designates the title as “*the acting of presidential duties*,” underscoring the temporary and delegated nature of the role. Similarly, the Argentine Constitution employs the term *Presidente Provisorio* (Provisional President) to denote the individual assuming presidential responsibilities on a provisional basis. This deliberate terminological differentiation reflects each country’s legal intent to distinguish the acting authority from a fully inaugurated President, thereby clarifying the scope and temporality of such interim leadership.

4. Public Officials Performing Presidential Duties

All constitutions across the world exhibit a consistent principle regarding presidential vacancies: they uniformly stipulate that, in the event of such a vacancy, the successor must be a public official already holding office. This ensures institutional continuity and legal legitimacy, rather than leaving the position vacant or permitting succession by an individual from outside the established framework of public office. No

country has made an official from outside the government perform presidential duties. Another uniformity lies in the number of presidential acting officials who use a *single chief* (filled in by a single person) (McCarthy, 1987). The difference occurs in terms of which ‘public officials’ replace the interim President; there are two public officials, who, in the previous section, the author referred to as bureaucratic actors who come from the executive (Prime Minister/Minister) and legitimacy actors (legislative members). Indonesia is the only country whose presidential duties are held in a pluralistic model—*collegial executive* (Home Minister, Foreign Minister, and Defence Minister together) (Altman, 2020; Ganghof, 2021). Mexico is relatively the same as Indonesia in terms of making the interior minister (singular) an acting president. Chile also appoints ministers in accordance with the order of acting presidential duties. In several constitutional frameworks, countries such as South Korea, Azerbaijan, and South Africa designate the Prime Minister to serve as the acting President during a vacancy in the presidency. In contrast, nations including the Philippines, Algeria, France, Poland, Germany, Romania, Bulgaria, the United States, Argentina, Brazil, Angola, Nigeria, and Egypt entrust this role to the Speaker of the Parliament, be it the Senate or its equivalent, positioning them as the legitimate authority to temporarily exercise presidential duties.

5. Tiered alternatives to anticipate if the Acting Presidential Mandate is also obstructed

Some countries offer tiered alternatives for implementing presidential duties. The tiered alternative in question is that if the acting presidential officer is also unable to hold office for any reason/condition, then the constitution provides a reserve official to anticipate his vacancy. If the Chairman of the Senate is appointed to serve as the acting president due to a resignation, for example, this replacement also presents an obstacle. In such a case, the Chairman of the Deputy is promoted to perform presidential duties (Theresia et al., 2023). The Constitution does not provide for the election of a vacant Speaker of the Senate, as it would likely take time and result in the Presidential office being vacant for an extended period.

The constitutions of countries such as the Philippines, South Korea, Algeria, Azerbaijan, Poland, Romania, the United States, Argentina, Chile, Brazil, and South Africa include provisions for alternative succession mechanisms in the event that the designated acting president is unable to assume office. Notably, Algeria, Argentina, and Brazil implement a hierarchical succession framework that designates the Chief Justice of the Supreme Court or Constitutional Court as the next in line to temporarily fulfill presidential responsibilities.

Countries such as Indonesia, France, Germany, Bulgaria, Mexico, Brazil, Angola, Nigeria, Egypt provide a single acting presidential officer, meaning that when the acting presidential duties determined by the Constitution are also obstructed, an election must

be held first for the public official so that he or she can be promoted to acting presidential duties, so that there is a potential for a vacancy in the position of President for some time.

6. Oath of Office Procession for Acting Presidential Duties

Following the formal issuance of a declaration or decision confirming the simultaneous vacancy of the offices of President and Vice President, the designated acting presidential official assumes the duties of the presidency on a provisional basis. In certain jurisdictions, the commencement of this temporary mandate is preceded by a constitutionally mandated oath-taking ceremony. This oath, typically administered before the national legislature, is explicitly stipulated within the constitutional framework and serves as a formal affirmation of the acting president's commitment to uphold the duties of the office.

The Constitution of South Africa provides a notable example of a jurisdiction that explicitly mandates the acting president to take an official oath prior to assuming office. This ceremonial oath, administered before the national legislature, serves to affirm the acting president's allegiance to the Republic and commitment to uphold the Constitution while leading the interim government. Unlike South Africa, no other country has institutionalised such a requirement in its constitutional framework. The author contends that this ceremonial act holds significant urgency and constitutional value, as it embodies a public and formal commitment by the acting president to fulfill the responsibilities of office with integrity, legal fidelity, and dedication to the nation's welfare. It marks a critical constitutional juncture, symbolising the official commencement of interim presidential authority (Bernick, 2010).

7. Limitations of Power on Presidential Executors

The scope of authority granted to the acting president provides critical insight into how national constitutions conceptualise the role of interim presidential leadership. When certain presidential powers are explicitly withheld from the acting president, this reflects a constitutional distinction between the permanent office of the President and the temporary nature of the acting presidency. Conversely, in instances where no such limitations are imposed, and the acting president is permitted to exercise the full range of presidential powers, the constitutional framework effectively equates the acting president with the office of the President itself. This differentiation, or lack thereof, reveals the underlying legal and institutional philosophy each country adopts in managing executive continuity during periods of constitutional vacancy.

The constitutions of Indonesia, the Philippines, South Korea, Azerbaijan, Poland, Germany, Romania, Bulgaria, the United States, Argentina, Brazil, Chile, Angola, Nigeria, and South Africa do not delineate any substantive distinction between the powers of a sitting President and those of an acting President. As a result, these jurisdictions conceptually treat both roles as functionally equivalent. For instance, the South Korean Constitution articulates this principle with the phrase “...as determined by law shall act for

him,” indicating full delegation of presidential authority. Similarly, the South African Constitution adopts a more direct formulation: “*An Acting President has the responsibilities, powers and functions of the President,*” thereby affirming the legal parity between the two positions during periods of interim governance.

Next, the Constitutions of France, Algeria, Mexico, and Egypt provide a distinction between the President and the acting president by limiting the powers of the acting president. France limits its power by prohibiting the executive branch of the presidency from performing several activities that involve the president's legislative power and dissolving parliament. The French Constitution deactivates several provisions when the acting president takes office, while the Prime Minister is prohibited from proposing government programmes and parliament is prohibited from submitting a motion of no confidence in the executive.

The Constitution of Algeria imposes explicit limitations on the authority of the acting president by prohibiting the exercise of several core executive powers. These include the appointment of ministers, initiation of government programmes, engagement in legislative functions reserved for the President, the delivery of messages to Parliament, oversight of the state audit institution, and instruction for the electoral commission to organise general elections. However, certain presidential functions may still be performed by the acting president, provided they are subject to prior approval from the Parliament. These functions include the implementation of government programmes, acceptance of the Prime Minister's resignation, appointment of a new Prime Minister, and execution of the House of Representatives' action plans.

Mexico's Constitution provides for a prohibition on the acting president of Mexico from dismissing or appointing a new Secretary of State without permission from parliament. The Egyptian Constitution provides for prohibitions on the exercise of presidential duties, including the prohibition of running for a new replacement President, proposing constitutional amendments, dissolving parliament, and dismissing or appointing the Prime Minister.

8. Duration of Presidential Acting Term: Temporary and Exhaustive Remaining Term of Office

Two primary models govern the tenure of an acting president. The first model stipulates that the duration of the acting president's term corresponds to the unexpired portion of the former president's mandate. Under this framework, no new election is held for the President and Vice President; instead, the acting president serves out the remainder of the original term. For instance, if the simultaneous vacancy of the President and Vice President occurs two years into their term, the acting president would continue in office for the remaining two years. This approach reflects a “*line of succession*” model in presidential vacancy scenarios. The United States exemplifies the implementation of this model.

The second model establishes the term of office for the acting president based on the timing of the election and inauguration of the new President and Vice President. This approach represents a form of *temporary presidential succession*. Unlike the first model, the duration of the acting president's service is not explicitly defined in terms of a fixed term, but is instead contingent upon the completion of the electoral process. The constitution typically sets a deadline by which the legislature must conclude the selection and inauguration of the new executive leadership. For instance, if the constitution mandates that the election and inauguration of a new President and Vice President must be finalised within 90 days of the simultaneous vacancy, the acting president's term cannot exceed this period, but may be shorter if the electoral process is completed earlier. If the new leaders are elected and sworn in after only 27 days, then the acting president's tenure is limited to that 27-day period. This model is adopted by several countries, including the Philippines, South Korea, Algeria, Azerbaijan, France, Poland, Romania, Bulgaria, Argentina, Brazil, Chile, Angola, Nigeria, South Africa, and Egypt.

Especially for Germany and Indonesia, there is no term of office for the duration of this presidential task. For Germany, this is an influence of the parliamentary tradition that is embraced because it depends on the political process in parliament. In Indonesia, Article 8 paragraph (3) of the 1945 Constitution of the Republic of Indonesia merely stipulates the moment when the People's Consultative Assembly (MPR) shall commence its session to elect a new President and Vice President. However, it does not establish a binding provision that compels the MPR to conclude the election within a specific timeframe. As a result, the acting presidency may potentially extend for an indefinite period if the MPR fails to finalise the election. This constitutional gap creates the possibility for certain political actors to deliberately delay or obstruct the electoral process, thereby prolonging the interim administration. This possibility remains a plausible risk within the Indonesian constitutional framework.

Constitutionally, the People's Consultative Assembly (MPR) holds the status of a supreme state institution vested with exceptional constitutional powers, notably the authority to inaugurate and dismiss the President and/or Vice President, as well as to amend and formally adopt the Constitution. This distinguished role is deeply rooted in Indonesia's constitutional history, reflecting the MPR's legacy as the highest organ of state authority and as a unifying institution that embodies the collective will of the Indonesian people. This is a legacy that originates from the foundational vision of the nation's founding fathers (Satrio, 2023). Grounded in both its historical significance and a textual interpretation of the 1945 Constitution of the Republic of Indonesia, the People's Consultative Assembly (MPR) possesses not only the constitutional authority to inaugurate and dismiss the President and Vice President but also bears the institutional responsibility to ensure governmental continuity. This responsibility is manifested in its mandate to elect a new President and Vice President in the event of a simultaneous

vacancy in both offices, thereby safeguarding the uninterrupted function of the executive branch.

The authority vested in the People's Consultative Assembly (MPR) to elect a new President and Vice President in the event of a simultaneous vacancy constitutes an exceptional power that exists beyond the scope of Article 3 of the 1945 Constitution of the Republic of Indonesia. This electoral mandate is exercised through a parliamentary political mechanism composed of two representative elements: members of political parties (DPR) and regional representatives (DPD). Compared to the "*special election*" models employed by various other countries, the Indonesian framework offers a distinctive advantage by ensuring both political and regional representation in the succession process (Gaddie et al., 1999), as it offers greater efficiency in terms of time and procedural effectiveness, particularly when taking into account Indonesia's unique geographic composition as an archipelagic state comprised of thousands of islands (Gooszen, 1999), which would demand considerable time and logistical preparation to conduct direct popular elections. In scenarios where the offices of the President and Vice President become vacant during the final months of their term, organising a special election would prove highly inefficient in the Indonesian context. This inefficiency stems from the disproportionate effort and resources required to conduct a nationwide election for a leadership term that would last only a brief period before the scheduled end of office.

9. Election Mechanism of the New President and Vice President

Following the assumption of office by the acting president, the subsequent constitutional agenda in addressing the dual vacancy of the President and Vice President is the election of their successors. Globally, there are two predominant models governing this process: indirect elections, in which parliament exercises the authority to elect the President and Vice President on behalf of the people, and direct elections, in which the electorate votes directly. Countries such as Indonesia, Argentina, Germany, and South Africa have adopted the indirect election model, delegating the electoral mandate to their respective parliamentary bodies.

The constitutions of the Philippines, South Korea, Algeria, Azerbaijan, France, Poland, Romania, Bulgaria, Argentina, Mexico, Brazil, Chile, Angola, Nigeria, South Africa, and Egypt adopt the model of direct presidential and vice-presidential elections through a special election mechanism. Notably, Latin American countries such as Mexico, Brazil, and Chile exhibit distinctive characteristics in this regard when compared to other nations (Wang & Pivatto, 2014). These countries establish two alternative procedures for filling presidential and vice-presidential vacancies, contingent upon the timing of the vacancy within the term. If the dual vacancy occurs within the first two years of the presidential term, a direct election by the populace is mandated. Conversely, if the vacancy arises during the final two years of the term, the responsibility for electing the new President and Vice President shifts to the national legislature (Congress).

10. Nomination of New Presidential and Vice-Presidential Candidates

The selection of the President and Vice President varies across jurisdictions, with some adopting a direct electoral model that involves the general populace, while others employ an indirect mechanism through a parliamentary vote. Under the direct election framework, the nomination process mirrors that of a regular general election, allowing any eligible individual to submit their candidacy for the positions of President and Vice President.

The distinction in nomination procedures is evident in systems that utilise indirect elections via parliamentary mechanisms, as codified in the 1945 Constitution of the Republic of Indonesia and the Constitution of Argentina. The Indonesian Constitution restricts the nomination of presidential and vice-presidential candidates to political parties or coalitions whose candidate pairs secured the first and second highest vote totals in the preceding general election. This provision explicitly excludes the possibility of nominating entirely new candidates outside the previously competing pairs. In contrast, Argentina adopts a broader approach under Ley 25.716 on Presidential Acephaly, which permits individuals who have previously obtained a direct electoral mandate from the public, such as National Senators, National Deputies, or Provincial Governors (*Senador Nacional, Diputado Nacional o Gobernador de Provincia*), to be eligible for nomination.

11. New Presidential and Vice-Presidential Term

All national constitutions worldwide share a common framework regarding the tenure of Presidents and Vice Presidents who assume office following a vacancy. Universally, these successors are mandated to serve only the remainder of the term left by their predecessors. This arrangement is consistent across jurisdictions, signifying that the incoming leadership constitutionally continues the mandate of the previous administration. While they are granted full presidential authority, their scope of governance is temporally confined to the unexpired term of the former officeholders.

By contrast, Argentina's constitutional framework, supplemented by *Ley 25.716 on Presidential Acephaly*, articulates a more nuanced rule governing the tenure of successors. When an individual is elevated to the presidency through the congressional succession mechanism, the time spent completing the unfinished term of the predecessor is expressly excluded from the constitutional limit on presidential mandates. Consequently, a successor who assumes office in this manner may still seek, and potentially serve, the two full presidential terms permitted under Argentine law, because the partial term does not count toward the maximum tenure otherwise imposed.

CONCLUSION

The legal framework governing presidential succession addresses the transfer of executive authority outside the context of regular electoral processes, specifically in situations where both the President and Vice President simultaneously vacate their offices

for constitutional reasons. Its primary objective is to ensure a seamless and stable transition of power, thereby serving as a foundational mechanism for establishing a new government. As a critical component of constitutional design, presidential succession law contributes to enhancing the institutional robustness of the 1945 Constitution, aiming to transform it into a structurally resilient and future-ready constitutional order. The overarching ambition of such a structural constitution is to ensure that all operations of state governance proceed automatically under the command of a binding, rigorous, and politically insulated constitutional framework.

This article presents a perspective that emphasises the primacy of the written constitution as the primary source of constitutional law in establishing the legal framework for presidential succession. It argues that embedding succession provisions within the constitutional text is essential, given that the simultaneous vacancy of the offices of President and Vice President represents an inherently unpredictable and potentially destabilising scenario. By constitutionalising such provisions, the state ensures greater legal certainty and institutional resilience in the face of executive leadership crises. The existence of a written constitution that regulates *the presidential succession law* is to prevent various manipulations by political elites over legal sources for those seeking profits amid a power vacuum. The history of Sukarno's transition to Suharto (1966-1968) is a lesson that demonstrates the constitution's inability to effectively navigate power when it was drafted, leaving room for the majority political elite to work through legal institutions and eventually seize power.

In the end, the role of *the presidential succession law* is to discipline various political forces that are scattered during vacancy that has the potential to disrupt stability. The eleven key features in *presidential succession law* presented in this article can serve as a basis for further research aimed at identify the ideal choice for each of these features. In the context of Indonesia, Article 8, paragraph (3) of the 1945 Constitution of the Republic of Indonesia does not explicitly address several essential components of presidential succession. These include: (1) the procedural requirement for the acting president to take an oath of office; (2) a hierarchical line of succession in the event the acting president is also unable to serve; (3) specific limitations on the authority of the acting president; and (4) the defined duration of the new President and Vice President's term of office. Each of these elements presents distinct constitutional options that warrant further scholarly inquiry to identify models that align optimally with Indonesia's institutional and normative framework.

ACKNOWLEDGMENTS

The author would like to express sincere gratitude to Setyo Widagdo, Aan Eko Widiarto, and Riana Susmayanti for their valuable feedback, insightful comments, and constructive suggestions that greatly contributed to the improvement of this article.

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