

## Bureaucratic Actors vs Legitimate Actors: Explaining the Choice of Interim Presidents in Filling the Dual Vacance of the President and the Vice President

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**Abstract:** *One of the difficult situations in government occurs due to the double vacancy of the President and Vice President offices. The country's constitution must navigate this vacuum by providing for an Interim President to temporarily lead the government until a new President and Vice President are elected. In the constitutions of various countries, there are two models of Interim President, some give mandate to bureaucratic actors (Prime Ministers/Ministers) and some give mandate to legitimate actors (legislature of House of Representatives/Senate) to step up as Interim President. This paper aims to explain these two models in terms of filling public positions and presidentialism settings. The results of this study will be able to showcase the strengths and weaknesses of bureaucratic actors and legitimate actors when serving as Interim President, which supported with experience from various countries. With the help of socio-legal methods, this paper closes the theoretical gap in the constitutional and political law literature which has not explained these two models. Our paper shows that both have advantages in different aspects: the bureaucrat actor is superior in terms of policy because he was involved in the previous Government Cabinet, while the legitimate actor is superior in terms of politics because he has democratic legitimacy and was elected by the people and political parties. What is a weakness for one actor, becomes an advantage for the other.*

**Key Words:** *Constitutional Law; Constitution; Interim President; President; Power Vacancy; Presidentialism; Parliamentarism; Bureaucratic Actor; Legitimate Actor.*

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## Introduction

There are times when the government is faced with a difficult situation, one of which is the double vacancy of the President and Vice President either for constitutional reasons (death, resignation, dismissal) or unconstitutional reasons such as a coup. For constitutional reasons, the question is, who will be the substitution when there is a double vacancy for the President and Vice President? Linz was not specific enough to answer this question, he just wanted to ensure that the presidential constitution must provide an automatic succession process to avoid parliamentary domination in dealing with such vacancy.<sup>1</sup> Linz did not explain the various ideal options for Interim President in handling the vacancy.

Interim President is commonly used in constitutional law and political science literature, meaning an official appointed temporarily to substitute the President due to the double vacancy of the President and Vice President. The concept is similar to “*An officer ad interim: is one appointed to fill a temporary vacancy, or to discharge the duties of the office during the absence or temporary incapacity of its regular incumbent.*”<sup>2</sup> Several historical governments deal with the double vacancy of President and Vice President with various conditions. Sudan, South Korea, Indonesia, Argentina, Poland and the United States show a history of different governments in dealing with this situation. There are those who give mandate to bureaucratic actors (prime ministers/ministers) and there are those who give mandate to legitimate actors (legislators-Chairmen of the House of Representatives/Senate) to take position as Interim Presidents.

When a government crisis occurred (2021) in Sudan due to a military coup, Prime Minister Abdalla Hamdok together with Military General Abdul Fatah collegially became the Interim President. President Park Gyeun-hye, who was impeached in 2016 due to a corruption scandal, was immediately replaced by Prime Minister Hwang Kyo-ahn.<sup>3</sup> Indonesia,

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<sup>1</sup> LINZ, J. J. The Perils of Presidentialism. *Journal of Democracy* [online]. 1990, vol. 1, no. 1, pp. 51-69 [cit. 2024-05-02]. ISSN 1086-3214. Available at: <https://doi.org/10.1353/jod.2005.0026>.

<sup>2</sup> CAMPBELL BLACK, H. *Black's Law Dictionary: Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern*. 4<sup>th</sup> ed. Saint Paul: West Publishing Company, 1968, p. 57.

<sup>3</sup> KIM, J. W. Korean Constitutional Court and Constitutionalism in Political Dynamics: Focusing on Presidential Impeachment. *Constitutional Review* [online]. 2018, vol. 4, no. 2, pp. 222-248 [cit. 2024-05-02]. ISSN 2548-3870. Available at: <https://doi.org/10.31078/consrev423>.

which maintained its sovereignty through the Emergency Government of the Republic of Indonesia (PDRI) 1948 – 1949, made Sjafruddin Prawiranegara (Minister of Prosperity) the Chairman of PDRI since Soekarno and Hatta were captured by the Dutch during the Second Military Aggression.<sup>4</sup> In the transition from the old order to the new order (1966 – 1968), which was also accompanied by the double vacancy of President and Vice President, Soeharto, who at that time had military status, made himself the Interim President.<sup>5</sup>

Argentina, that faced a crisis in 2001, was also struck by a double vacancy of President and Vice President. Ramon Puerta, who was then Chairman of the Senate, took over as Interim President.<sup>6</sup> The Polish President who died in a plane crash in 2010 ultimately made the position vacant. Bronisław Komorowski, who at that time served as Marshal of the Sejm (legislature), stepped in as Interim President to succeed the government. He played an important role in continuing the government, especially appointing officials who also died at the same accident with the President.<sup>7</sup> The United States, which is claimed by various scholars as the mother of presidentialism, shows an interesting history, through the Presidential Succession Act of 1792, the United States handed over the position of President to the Chairman of the Senate which was later revised through the Presidential Succession Act of 1886 by delegating the Cabinet secretaries to succeed in the vacant position of the President. In the end, the United States, again, revised this rule through the Presidential Succession Act 1947 by making the Speaker of the House of Representatives to fill the vacant position of President. That rule is in effect to-

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<sup>4</sup> ZED, M. *Somewhere in the Jungle: Pemerintah Darurat Republik Indonesia: Sebuah Mata Rantai Sejarah Yang Terlupakan*. 1<sup>st</sup> ed. Jakarta: Pustaka Utama Grafiti, 1997, p. 22. ISBN 979-444-399-9. Also see Von BENDA-BECKMANN, F. and K. von BENDA-BECKMANN. *Political and Legal Transformations of an Indonesian Polity: The Nagari from Colonisation to Decentralisation*. 1<sup>st</sup> ed. New York: Cambridge University Press, 2013, p. 61. Cambridge Studies in Law and Society. ISBN 978-1-107-03859-2.

<sup>5</sup> See HINDLEY, D. Indonesian Politics 1965-7: The September 30 Movement and the Fall of Sukarno. *The World Today* [online]. 1968, vol. 24, no. 8, p. 345 [cit. 2024-05-02]. ISSN 2059-7495. Available at: <https://www.jstor.org/stable/40394159>.

<sup>6</sup> JOUET, M. The Failed Invigoration of Argentina's Constitution: Presidential Omnipotence, Repression, Instability, and Lawlessness in Argentine History. *University of Miami Inter-American Law Review* [online]. 2008, vol. 39, no. 3, pp. 409-462 [cit. 2024-05-02]. ISSN 2328-4242. Available at: <https://repository.law.miami.edu/umialr/vol39/iss3/2/>.

<sup>7</sup> KULISH, N. Acting President in Poland Wins a Narrow Victory. In: *The New York Times* [online]. 2010-07-04 [cit. 2024-05-02]. Available at: <https://www.nytimes.com/2010/07/05/world/europe/05poland.html>.

day but has never been implemented because the United States has never been faced with a double vacancy of President and Vice President.<sup>8</sup>

In the constitutional literature, the appointment of Interim President is the scope of 'presidential succession law', which conceptually is a set of rules that regulate the process of succession to the positions of President and Vice President outside the normal procedures for transferring power (such as general elections) due to a vacancy in the middle of a term of office. Richard Albert explained that the legal scope of presidential succession starts from the vacancy of the positions of President and Vice President, the officials who replace them, and up to the process of selecting a new President and Vice President to fill in the vacant positions.<sup>9</sup> This paper does not discuss the entire scope of presidential succession law, but is limited to whom will become Interim President to fill the double vacancy of President and Vice President.

There is a theoretical vacuum in discussing the official who becomes Interim President. There is not yet adequate literature with an actor approach to explain the advantages and disadvantages of each actor who should succeed as the Interim President, whether from bureaucrat actors or legitimate (legislative) actors who rise to become Interim President. Some scholars are limited in discussing these actors in the context of the United States government system, not in the context of the government system (especially the presidential) in general which has spread throughout the world with various modifications.

Ruth C. Silva,<sup>10</sup> Akhil Reed Amar and Vikram David Amar,<sup>11</sup> Calabresi<sup>12</sup> and Manning,<sup>13</sup> and Richard Albert<sup>14</sup> support the bureaucratic actor

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<sup>8</sup> CALABRESI, S. G. The Political Question of Presidential Succession. *Stanford Law Review* [online]. 1995, vol. 48, no. 1, pp. 155-175 [cit. 2024-05-02]. ISSN 0038-9765. Available at: <https://doi.org/10.2307/1229153>. Also see CROCKETT, D. A. The Contemporary Presidency: Unity in the Executive and the Presidential Succession Act. *Presidential Studies Quarterly* [online]. 2004, vol. 34, no. 2, p. 394 [cit. 2024-05-02]. ISSN 1741-5705. Available at: <https://doi.org/10.1111/j.1741-5705.2004.00050.x>.

<sup>9</sup> See ALBERT, R. The Constitutional Politics of Presidential Succession. *Hofstra Law Review* [online]. 2011, vol. 39, no. 3, pp. 497-576 [cit. 2024-05-02]. ISSN 0091-4029. Available at: <https://scholarlycommons.law.hofstra.edu/hlr/vol39/iss3/2/>.

<sup>10</sup> SILVA, R. C. The Presidential Succession Act of 1947. *Michigan Law Review* [online]. 1949, vol. 47, no. 4, pp. 451-476 [cit. 2024-05-02]. ISSN 0026-2234. Available at: <https://doi.org/10.2307/1284810>.

<sup>11</sup> AMAR, A. R. and V. D. AMAR. Is the Presidential Succession Law Constitutional?. *Stanford Law Review* [online]. 1995, vol. 48, no. 1, pp. 113-139 [cit. 2024-05-02]. ISSN 0038-9765. Available at: <https://doi.org/10.2307/1229151>.

to become Interim President by considering the loyalty to the United States' strict separation of powers and avoids the awkwardness of legitimate actor to the executive Cabinet when he becomes Interim President and lead the executive because of differences in political party direction. Unfortunately, their explanation is not relevant enough to be used in various presidential countries which have been modified in various forms: such as the combination with multiparty and the massive fusion of presidentialism and parliamentarism that has occurred in other parts of the world.<sup>15</sup> The constitutional literature of the United States is also not relevant enough to be material for discourse in other countries because the model it uses is *'line succession'* where the successor to the President works until the end of the previous President's term of office, while all countries in the world use *'temporary presidential succession'* where the Interim President will work for a short duration (average 30 – 60 days) until the election of a new President and Vice President.

Referring to the various variations of Interim Presidents in several countries and the theoretical gaps regarding Interim President actors, this paper would like to discuss several issues: First, an explanation of bureaucrat actors and legitimate actors based on their roots from the perspective of filling public positions. The difference of roots in the appointment between the two will explain conceptually what is meant by bureaucratic actors and legitimate actors. Second, this paper explains the advantages and weaknesses of each actor in the presidentialism setting which is documented in an aggregate manner from various countries' experiences. This paper argues: bureaucratic actors and legitimate actors both have advantages and disadvantages when serving as Interim President. In terms of stability, legitimate actors have a much higher advantage than bureaucratic actors because their political capital is more established than bureaucratic actors. However, from a policy perspective,

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<sup>12</sup> CALABRESI, S. G. The Political Question of Presidential Succession. *Stanford Law Review* [online]. 1995, vol. 48, no. 1, pp. 155-175 [cit. 2024-05-02]. ISSN 0038-9765. Available at: <https://doi.org/10.2307/1229153>.

<sup>13</sup> MANNING, J. F. Not Proved: Some Lingering Questions about Presidential Succession. *Stanford Law Review* [online]. 1995, vol. 48, no. 1, pp. 141-153 [cit. 2024-05-02]. ISSN 0038-9765. Available at: <https://doi.org/10.2139/ssrn.2854357>.

<sup>14</sup> ALBERT, R. The Fusion of Presidentialism and Parliamentarism. *The American Journal of Comparative Law* [online]. 2009, vol. 57, no. 3, pp. 531-578 [cit. 2024-05-02]. ISSN 2326-9197. Available at: <https://doi.org/10.5131/ajcl.2008.0016>.

<sup>15</sup> FRANKENBERG, G. Constitutional Transfer: The IKEA Theory Revisited. *International Journal of Constitutional Law* [online]. 2010, vol. 8, no. 3, pp. 563-579 [cit. 2024-05-02]. ISSN 1474-2659. Available at: <https://doi.org/10.1093/icon/moq023>.

the bureaucrat actor is more favored because he was involved in the previous government. Ultimately, our paper provides a theoretical contribution to presidential succession law, in particular an explanation of the advantages and disadvantages of each actor who becomes Interim President which can be used as a reference in constitutional literature in several countries that use modified presidentialism, and no longer pure like the first generation of presidentialism in the United States.

### **Bureaucratic actor and legitimate actor: perspective on filling public positions**

A country's government system does not have a strong relationship with who becomes Interim President. In countries where the President is elected by the people (presidentialism), some use bureaucrat actors and others use legitimate actors as Interim Presidents. South Korea, Mexico, Azerbaijan, South Africa, Chile and Indonesia are countries that use bureaucrat actors as Interim Presidents. Other than South Africa, these countries are presidentialism countries – with some modifications – with the President elected directly by the people.

Even though these countries want a President with a strong position and democratic legitimacy, they prefer to choose a bureaucratic actor to become Interim President. This pattern is no different from South Africa, which is characterized by parliamentarism – with the President elected by the National Assembly – which makes a bureaucrat actor the Interim President. Both presidentialism and its modification (semi-presidential) countries have no significant differences with parliamentarism in determining the Interim President.

The number of countries that use legitimate actors as Interim Presidents dominates more than those using bureaucratic actors, namely the United States, the Philippines, Poland, Romania, Algeria, Argentina, Brazil, France, Bulgaria, Angola, Nigeria and Egypt. These countries are countries with the main style of presidentialism – the President is directly elected by the people – and countries with varieties of presidentialism/semi-presidentialism with the model of employing the Prime Minister as head of government. Poland, Romania, France, Bulgaria and Egypt are countries that separate the President as head of state and the Prime Minister as head of government, although there is a prime minister in these countries, the Interim President is appointed from a legitimate actor who comes from legislative power, unlike South Korea who sets its Prime Minister to become the Interim President.

Table 1 Regulations of Interim President in the Constitutions of Various Countries

Regulations of Interim President in the Constitutions of Various Countries					
Countries	President Election	Bureaucratic Actors Who Rose to be Interim President	Countries	President Election	Legitimate Actors Who Rose to be Interim President
South Korea	Directly by People	1. Prime Minister 2. <i>State Council</i> (Article 71, Republic of Korea 1948, Rev. 1987 Constitution)	The United States of America	Directly by People	1. Speaker of the House of Representatives 2. Secretary of State 3. Secretary of the Treasury, <i>dst.</i> (Presidential Succession Act 1947)
Azerbaijan	Directly by People	1. Prime Minister 2. Chairman of Milli Majlis (Articles 101 – 105, Azerbaijan 1995, Rev. 2016 Constitution)	The Philippines	Directly by People	1. Chairperson of Senat 2. Chairperson of the House of Representatives (Article 7 Paragraph (8), Philippines 1987 Constitution)
South Africa	National Assembly	1. Minister 2. Chairperson of National Assembly (Article 90, South Africa 1996, Rev. 2012 Constitution)	Poland	Directly by People	1. Chairperson of <i>Sejm/Marshal of the Sejm</i> (Legislature) 2. Chairperson of Senat/Marshal of the Senat (Legislature) (Articles 128 – 131, Poland 1997 Constitution)
Chile	Directly by People	Minister (Article 285, Chile 2022 Constitution)	Romania	Directly by People	1. Chairperson of Senat (Legislature) 2. Chief Deputy (Legislature) (Article 98, Romania 1991, Rev. 2003 Constitution)
Indonesia	Directly by People	Minister of Foreign Affair, Minister of Home Affair and Minister of Defence (Article 8 Paragraph (3), The 1945 Constitution of the Republic of Indonesia)	Algeria	Directly by People	1. <i>President of the Council of the Nation</i> 2. Chairperson of the Constitutional Court (Article 98, Algeria 2020 Constitution)
Mexico	Directly by People	Minister of Home Affair (Article 84, Mexico 1917, Rev. 2015 Constitution)	Argentina	Directly by People	1. <i>Presidente Provisorio del Senado</i> 2. <i>Presidente de la Cámara/Ketua DPR</i> 3. <i>Presidente de la Corte Suprema de Justicia/Chair of the Supreme Court</i> (in the Constitution, the substitution is the public official. No more explanation (in the Constitution) concerning what and who the public official is (Article 88). Further provision is stated in Ley 25.716 <i>Acefalia Presidencial</i> )
			Brazil	Directly by People	1. Chief Deputy 2. Chairperson of Senate 3. Chairperson of the Supreme Court (Article 80, Brazil 1988, Rev. 2017 Constitution)
			France	Directly by People	Chairperson of Senate (Article 7, France 1958, Rev. 2008, Constitution)
			Bulgaria	Directly by People	<i>Chairperson of the National Assembly</i> (Article 97, Bulgaria 1991, Rev. 2015 Constitution)
			Angola	Directly by People	Chairperson of the National Assembly (Article 132, Angola 2010 Constitution)

	<b>Nigeria</b>	Directly by People	Chairperson of Senate (Article 136, Nigeria 1999, Rev. 2011 Constitution)
	<b>Egypt</b>	Directly by People	Chairperson of the House of Representatives (Article 160, Egypt 2014 Constitution)

Source: Independently analyzed by referring to Constitute. In: *ConstituteProject.org* [online]. 2024 [cit. 2024-05-02]. Available at: <https://www.constituteproject.org/>.

Bureaucratic actors and legitimate actors who rise to become Interim President are important figures who will continue the government, even if only temporarily, but their role takes over/is similar to the position of President and its duties and functions so that he needs political leadership capital to carry out his office.<sup>16</sup> The short duration of the Interim President's term of office also influences his leadership model in running the government, starting from the challenges faced, policies that need to be decided immediately, up to the cooperation between the Interim President and the legislature in carrying out certain affairs in the government.<sup>17</sup>

To clarify the map of the debate, we will elaborate it with an approach to the root of the actor filling the Interim President position. Several weaknesses in the government system will also color this study because they are automatically transferred to the Interim President who holds the government for a short period.<sup>18</sup> In the framework of filling public positions, Bagir Manan explains three mechanisms for filling public officials; election, appointment and a mixture of the two.<sup>19</sup> Public officials who become Interim Presidents are divided into two sources: public officials who are initially elected by the people directly/election through general elections such as the Chair of the Legislative/Chair of the Cham-

<sup>16</sup> SIMONTON, D. K. Presidential Leadership: Performance Criteria and Their Predictors. In: M. G. RUMSEY, ed. *The Oxford Handbook of Leadership* [online]. 1<sup>st</sup> ed. New York, NY: Oxford University Press, 2012, pp. 327-342 [cit. 2024-05-02]. Available at: ISBN 978-0-19-539879-3. <https://doi.org/10.1093/oxfordhb/9780195398793.013.0019>.

<sup>17</sup> SIMONTON, D. K. Presidential Leadership: Performance Criteria and Their Predictors. In: M. G. RUMSEY, ed. *The Oxford Handbook of Leadership* [online]. 1<sup>st</sup> ed. New York, NY: Oxford University Press, 2012, pp. 327-342 [cit. 2024-05-02]. Available at: ISBN 978-0-19-539879-3. <https://doi.org/10.1093/oxfordhb/9780195398793.013.0019>.

<sup>18</sup> See MOE, T. M. and M. CALDWELL. The Institutional Foundations of Democratic Government: A Comparison of Presidential and Parliamentary Systems. *Journal of Institutional and Theoretical Economics* [online]. 1994, vol. 150, no. 1, pp. 171-195 [cit. 2024-05-02]. ISSN 1614-0559. Available at: <https://www.jstor.org/stable/40753031>.

<sup>19</sup> MANAN, B. *Teori dan Politik Konstitusi*. 1<sup>st</sup> ed. Jakarta: Direktorat Jenderal Pendidikan Tinggi, Departemen Pendidikan Nasional, 2000, p. 42. ISBN 979-8439-26-0.



ber which we call legitimate actors and public officials who are initially appointed by the President and are part of the executive branch, which we call bureaucratic actors. Borrowing from Greenstein's opinion, 'actors' in government administration are official figures/figures who are personalized with strength and power so that they are able to influence people/groups in their work arena.<sup>20</sup> Legitimate actor or bureaucratic actor who becomes Interim President is a figure who does not come from outside the government, so the influence of his power and authority in a particular work arena already exists.<sup>21</sup>

Legitimate actors who are legislative personnel are officials who are directly elected by the people using a proportional method who represent small portion of the entire region. Generally, these legitimate actors have affiliated with political parties before taking office (such as the House of Representatives) and are representatives of non-political party areas (such as the Regional Representatives Council).<sup>22</sup> Even though the scope of their work is in the context of general policy – such as legislation and the budget – each legislator also works specifically in government affairs through commissions in the legislative chamber to carry out these functions in certain areas of government. Legislative power as a consequence of the trias politica separation of powers forms its organizational mechanism as state power, which some formulate it as unicameral, bicameral and tricameral. Each model choice will be led by a chairman, in accordance with the specified models.<sup>23</sup>

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<sup>20</sup> GREENSTEIN, F. I. *Personality and Politics: Problems of Evidence, Inference, and Conceptualization*. 1<sup>st</sup> ed. Chicago: Markham Publishing Company, 1969. 200 p.

<sup>21</sup> See BARBER, J. D. *The Presidential Character: Predicting Performance in the White House* [online]. 4<sup>th</sup> ed. New York: Routledge, 2017. 544 p. [cit. 2024-05-02]. ISBN 978-1-351-22370-6. Available at: <https://doi.org/10.4324/9781351223706>.

<sup>22</sup> HAMDANI, F. and A. FAUZIA. Legal Discourse: The Spirit of Democracy and Human Rights Post Simultaneous Regional Elections 2020 in the Covid-19 Pandemic Era. *Lex Scientia Law Review* [online]. 2021, vol. 5, no. 1, pp. 97-118 [cit. 2024-05-02]. ISSN 2598-9685. Available at: <https://doi.org/10.15294/lesrev.v5i1.45887>.

<sup>23</sup> RIADHUSYAH, M., F. FARHAN, F. HAMDANI and L. A. N. KUSUMA. The Dignity of Democracy in the Appointment of Acting Regional Heads by the President: Legal Construction after the Constitutional Court Decision Number 15/PUU-XX/2022. *Jurnal Jurisprudence* [online]. 2022, vol. 12, no. 1, pp. 106-119 [cit. 2024-05-02]. ISSN 2549-5615. Available at: <https://doi.org/10.23917/jurisprudence.v12i1.1044>.

Bureaucratic actors who were appointed by the President are part of the President's prerogative to run the administration.<sup>24</sup> Politically, the appointment of bureaucrat actors by the President cannot be separated from the consequences of building a coalition before the general election – especially in a presidential system – where the President can totally determine the government structure/*winner takes all*.<sup>25</sup> To be more specific, Djahadi Hanan said that the President has total liberty to determine the government beyond the coalition of political parties in determining the distribution of coalitional goods in forming and ensuring the smooth running of the government.<sup>26</sup>

Specific expertise is another consideration that influences the President in appointing bureaucratic actors to support his administration, such as experience in public office/political careers, local bureaucratic experience and policy-related expertise.<sup>27</sup> Considerations for appointments of bureaucratic actors tend to no longer be political in nature – legitimacy/people's sovereignty – because the political element has been represented by the President as the personification of people's sovereignty.<sup>28</sup> Ministers are appointed to help the President carry out certain affairs in government, a minister is not appointed to lead all areas, but rather specifically certain areas in government.

In world government experience, the President's choice in appointing ministers generally combines the interests of the coalition and also the expert Cabinet. There are ministers who are experienced and expert

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<sup>24</sup> ARIYANTO, B. and R. M. KAFRAWI. Orderly Principles of State Administration in Selecting Ministers. *Legality: Jurnal Ilmiah Hukum* [online]. 2022, vol. 30, no. 1, pp. 12-28 [cit. 2024-05-02]. ISSN 2549-4600. Available at: <https://doi.org/10.22219/ljih.v30i1.15868>.

<sup>25</sup> LIJPHART, A. Democracy in the 21<sup>st</sup> Century: Can We Be Optimistic?. *European Review* [online]. 2001, vol. 9, no. 2, pp. 169-184 [cit. 2024-05-02]. ISSN 1474-0575. Available at: <https://doi.org/10.1017/S1062798701000163>; and ARSIL, F. *Teori Sistem Pemerintahan: Pergeseran Konsep dan Saling Kontribusi antar Sistem Pemerintahan di Berbagai Negara*. 1<sup>st</sup> ed. Depok: Rajawali Pers, 2017, p. 114. ISBN 978-602-425-078-2.

<sup>26</sup> HANAN, D. Petugas Partai versus Presidensialisasi Politik. In: *SINDOnews.com* [online]. 2023-07-10 [cit. 2024-05-02]. Available at: <https://nasional.sindonews.com/read/1148515/18/petugas-partai-versus-presidensialisasi-politik-1688972822>.

<sup>27</sup> OUYANG, Y., E. T. HAGLUND and R. W. WATERMAN. The Missing Element: Examining the Loyalty-competence Nexus in Presidential Appointments. *Presidential Studies Quarterly* [online]. 2017, vol. 47, no. 1, pp. 62-91 [cit. 2024-05-02]. ISSN 1741-5705. Available at: <https://doi.org/10.1111/psq.12346>.

<sup>28</sup> CROCKETT, D. A. The Contemporary Presidency: Unity in the Executive and the Presidential Succession Act. *Presidential Studies Quarterly* [online]. 2004, vol. 34, no. 2, pp. 394-411 [cit. 2024-05-02]. ISSN 1741-5705. Available at: <https://doi.org/10.1111/j.1741-5705.2004.00050.x>.

in certain fields and serve as ministers in accordance with their fields, but there are also ministers who occupy certain ministries for political coalition reasons so that there is no correlation between the minister's background and the ministry he leads. Alexiadou said that the combination model in filling ministerial positions ultimately gave rise to three ministerial characters, namely loyalists, partisans and ideologues.

Loyalist ministers have the character of being loyal to the leader of their supporting party because they have the motive of being a job hunter, partisan ministers are party leaders who take position in the Cabinet to increase their political capital and ideologue ministers have the character of being committed to producing policies in accordance with their expertise so that they play an important role in decision making.<sup>29</sup> With such diverse characters, the composition of the Government Cabinet truly becomes a means of contestation of various characters and objectives which at any time can give rise to political resistance within the executive.<sup>30</sup>

If the Interim President comes from bureaucratic actor, then from the beginning the President has chosen and by himself determined who will replace him at any time if the President and Vice President offices become vacant. In the history of the United States, President Harry S. Truman criticized this, according to him the President should not appoint his own successor. Democratic nuances dominated Truman's attitude because he emphasized that the President's leadership must be someone who was 'elected'.<sup>31</sup> Through special message to the Congress on June 19, 1945, Truman said: "*I do not believe that in a democracy this power should rest with the Chief Executive. Insofar as possible, the office of the President should be filled by an elective officer.*"

The message was sent two months after President Franklin D. Roosevelt died on April 12 1945, and Truman, who was then his deputy,

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<sup>29</sup> ALEXIADOU, D. Ideologues, Partisans, and Loyalists: Cabinet Ministers and Social Welfare Reform in Parliamentary Democracies. *Comparative Political Studies* [online]. 2015, vol. 48, no. 8, pp. 1051-1086 [cit. 2024-05-02]. ISSN 1552-3829. Available at: <https://doi.org/10.1177/0010414015574880>.

<sup>30</sup> GREENSTEIN, F. I. *Personality and Politics: Problems of Evidence, Inference, and Conceptualization*. 1<sup>st</sup> ed. Chicago: Markham Publishing Company, 1969. 200 p.

<sup>31</sup> FEERICK, J. D. *From Failing Hands: The Story of Presidential Succession*. 1<sup>st</sup> ed. New York: Fordham University Press, 1965, p. 205.

stepped in to become President.<sup>32</sup> Roosevelt's death was an event that prompted Truman to send a message to the Congress urging revision of the Presidential Succession Act of 1886 which made a bureaucratic actor to be Interim President.<sup>33</sup> Apart from democratic reasons, Truman avoided uncertain political speculation, because it was open to the possibility that the succeeding minister was not an expert in a particular matter but came from the president's coalition, conversely he could be an expert in a particular field but not from the president's coalition which did not have a strong political capital. Truman's special message was one of the driving forces behind the issuance of the Presidential Succession Act of 1947, which finally changed the Interim President from a bureaucratic actor to a legitimate actor in the United States and is in effect to this day. Ultimately, the construct sparked a long debate in United States academic discourse. The root of the problem that has triggered the debate is because the United States does not recognize Interim governments, meaning that the successor will serve until the end of his remaining term of office so that the Interim President is seen as equal to the President who has a strategic position.

There are two divided blocks of thought: Akhil Reed Amar and Vikram David Amar,<sup>34</sup> Steven G. Calabresi<sup>35</sup> and John F. Manning<sup>36</sup> are in the groups that reject the Interim President by a legitimate actor with their 'modern originalism' approach.<sup>37</sup> They argue that congressional in-

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<sup>32</sup> KALLENBACH, J. E. The New Presidential Succession Act. *American Political Science Review* [online]. 1947, vol. 41, no. 5, pp. 931-941 [cit. 2024-05-02]. ISSN 1537-5943. Available at: <https://doi.org/10.2307/1950197>.

<sup>33</sup> FEERICK, J. D. Presidential Inability: Filling in the Gaps. *Politics and the Life Sciences* [online]. 2014, vol. 33, no. 2, pp. 11-36 [cit. 2024-05-02]. ISSN 1471-5457. Available at: [https://doi.org/10.2990/33\\_2\\_11](https://doi.org/10.2990/33_2_11).

<sup>34</sup> AMAR, A. R. and V. D. AMAR. Is the Presidential Succession Law Constitutional?. *Stanford Law Review* [online]. 1995, vol. 48, no. 1, pp. 113-139 [cit. 2024-05-02]. ISSN 0038-9765. Available at: <https://doi.org/10.2307/1229151>.

<sup>35</sup> CALABRESI, S. G. The Political Question of Presidential Succession. *Stanford Law Review* [online]. 1995, vol. 48, no. 1, pp. 155-175 [cit. 2024-05-02]. ISSN 0038-9765. Available at: <https://doi.org/10.2307/1229153>.

<sup>36</sup> MANNING, J. F. Not Proved: Some Lingering Questions about Presidential Succession. *Stanford Law Review* [online]. 1995, vol. 48, no. 1, pp. 141-153 [cit. 2024-05-02]. ISSN 0038-9765. Available at: <https://doi.org/10.2139/ssrn.2854357>.

<sup>37</sup> They are often referred to as the 'Stanford Trilogy' which takes its approach of modern originalism centered on texts presented in a professional, structure-oriented, and historically competent manner by center-right commentators (including libertarians) and center-left commentators (including communitarians). See TILLMAN, S. B. *Legislative Officer*

volvement in the double vacancy line of succession is unconstitutional because the Speaker of the House of Representatives does not fall into the category of 'officials' referred to in the United States Constitution. John Fortier and Norman Ornstein provided support for different reasons which focused on political nuances where the Speaker of the House of Representatives tended to find it difficult because he had to adapt to the executive party which could be the party of the Speaker of the House of Representatives.<sup>38</sup> John Fortier and Norman Ornstein openly expressed their support for the secretary of state as the ideal figure who was first in the line of succession. Crockett sees that from the other side, the Speaker of the House of Representatives who rose to office during the previous President's term tends to find it difficult to adjust to the continuity of previous policies. If he succeeds, he will continue well with the previous President's Cabinet, but to the extreme, if he fails, then he has the opportunity to dismantle the previous President's Cabinet.<sup>39</sup>

Seth Barret Tillman opposes the view of modern originalism which rejects congressional involvement in the line of succession by starting an explanation of his disappointment with Amar's analysis which is considered to fail to differentiate and explain between 'officials' and 'officials of the United States' as written in the United States Constitution.<sup>40</sup> By using an intratextualism approach, he assesses that the Congress falls into the category of 'officials' referred to in the United States Constitution by broadening the interpretive lens and connecting it with the functional duties of each office.<sup>41</sup> We also assess that Calabresi's stance against the Congress being at the first in the line of succession is influenced by his loyalty to the president's pattern of exclusive, unitary executive-style power: he does not want any expansion of power and also does not want

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*Succession to the Presidency* [online]. 2010, pp. 1-29 [cit. 2024-05-02]. Available at: <https://doi.org/10.2139/ssrn.978878>.

<sup>38</sup> FORTIER, J. C. and N. J. ORNSTEIN. Presidential Succession and Congressional Leaders. *Catholic University Law Review* [online]. 2004, vol. 53, no. 4, pp. 993-1014 [cit. 2024-05-02]. ISSN 0008-8390. Available at: <https://scholarship.law.edu/lawreview/vol53/iss4/5/>.

<sup>39</sup> CROCKETT, D. A. The Contemporary Presidency: Unity in the Executive and the Presidential Succession Act. *Presidential Studies Quarterly* [online]. 2004, vol. 34, no. 2, pp. 394-411 [cit. 2024-05-02]. ISSN 1741-5705. Available at: <https://doi.org/10.1111/j.1741-5705.2004.00050.x>.

<sup>40</sup> TILLMAN, S. B. *Legislative Officer Succession to the Presidency* [online]. 2010, pp. 1-29 [cit. 2024-05-02]. Available at: <https://doi.org/10.2139/ssrn.978878>.

<sup>41</sup> TILLMAN, S. B. *Legislative Officer Succession to the Presidency* [online]. 2010, pp. 1-29 [cit. 2024-05-02]. Available at: <https://doi.org/10.2139/ssrn.978878>.

the executive to depend on any other power.<sup>42</sup> To see it more broadly, in the next section we will describe the strengths and weaknesses of each actor.

### Bureaucratic actor

Despite Truman's doubts, the advantage of bureaucratic actor who rose to become Interim President is his understanding and professionalism in government affairs because he was part of the government before becoming Interim President. As someone who has direct contact with the government, bureaucratic actor understands and masters the daily needs and problems of government in certain situations so that he can decide on policies within a certain time scale appropriately and rapidly. He has a good memory about certain issues related to policy so that he can decide correctly and succeed in maintaining policy continuity.<sup>43</sup> Crockett said that the Interim President who used to be bureaucratic actors was much more effective because he succeeded in maintaining *'The Centrality of Energy'* in the executive branch of power.<sup>44</sup> According to him, the main essence of government is effective administration, while democratic government is the opening door to the running of the government, beyond that, what is to be achieved are goals for the wider community itself. Crockett rejected Truman's views which prioritized democratic aspects over effective government,<sup>45</sup> he quipped that the Speaker of the House of

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<sup>42</sup> See some of his works – CALABRESI, S. G. and S. B. PRAKASH. The President's Power to Execute the Laws. *The Yale Law Journal* [online]. 1994, vol. 104, no. 3, pp. 541-665 [cit. 2024-05-02]. ISSN 0044-0094. Available at: <https://doi.org/10.2307/797113>, also see YOO, Ch. S., S. G. CALABRESI and A. J. COLANGELO. The Unitary Executive in the Modern Era, 1945 – 2004. *Iowa Law Review*. 2005, vol. 90, no. 2, pp. 601-732. ISSN 0021-0552. Rejection over Calabresi who deeply obsessed with unitary executive also has been expressed by Ackerman. See ACKERMAN, B. The New Separation of Powers. *Harvard Law Review* [online]. 2000, vol. 113, no. 3, pp. 633-729 [cit. 2024-05-02]. ISSN 2161-976X. Available at: <https://doi.org/10.2307/1342286>.

<sup>43</sup> See FORTIER, J. C. and N. J. ORNSTEIN. Presidential Succession and Congressional Leaders. *Catholic University Law Review* [online]. 2004, vol. 53, no. 4, pp. 993-1014 [cit. 2024-05-02]. ISSN 0008-8390. Available at: <https://scholarship.law.edu/lawreview/vol53/iss4/5/>.

<sup>44</sup> CROCKETT, D. A. The Contemporary Presidency: Unity in the Executive and the Presidential Succession Act. *Presidential Studies Quarterly* [online]. 2004, vol. 34, no. 2, pp. 394-411 [cit. 2024-05-02]. ISSN 1741-5705. Available at: <https://doi.org/10.1111/j.1741-5705.2004.00050.x>.

<sup>45</sup> CROCKETT, D. A. The Contemporary Presidency: Unity in the Executive and the Presidential Succession Act. *Presidential Studies Quarterly* [online]. 2004, vol. 34, no. 2, pp. 394-411 [cit. 2024-05-02]. ISSN 1741-5705. Available at: <https://doi.org/10.1111/j.1741-5705.2004.00050.x>.

Representatives who works on different type of work from the executive, was difficult to adapt to and need some much more time.

Crockett believes that democratic nuances are actually already represented if the legal rules regulate so, while the Congress' decisions are the personification of democratic elements so that if a bureaucratic actor takes office then he automatically has strong legitimacy. The bureaucratic actor who is always favored to become Interim President is the secretary of state. Indonesia also made the foreign minister as Interim President who works collegially with the minister of home affairs and the minister of defense. In the United States, this proposal is always put forward behind discussions of the 3-term Presidential Succession Act. The foreign minister is considered to play a key role in United States foreign policy, starting from formulating diplomatic strategies to maintain national security, promoting economic interests and strengthening bilateral and multilateral relations. The secretary of state also exerts great influence in the economic sector because he collaborates with the department of commerce on international trade policy including negotiating trade agreements, promoting United States interests and overcoming trade barriers. In matters of crisis and conflict, the foreign minister is an important locomotive among other state agencies/institutions to formulate policies that can resolve/reduce international tensions through negotiations, diplomacy and sanctions.<sup>46</sup>

The United States foreign relations, which is the main job of the United States Minister of Foreign Affairs, is carried out in collaboration with many departments/ministries. This is what makes the Minister of Foreign Affairs has a high level of popularity. The Minister of Foreign Affairs also has a high position in the political party structure so he plays an important role in controlling the party within the executive.<sup>47</sup> It is not surprising that the history of United States Presidents shows that six United States Presidents were former foreign ministers.<sup>48</sup>

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<sup>46</sup> MAKOWER, H. United States Economic Policy and International Relations. *The Economic Journal* [online]. 1953, vol. 63, no. 250, pp. 450-452 [cit. 2024-05-02]. ISSN 1468-0297. Available at: <https://doi.org/10.2307/2227155>.

<sup>47</sup> RANKIN, R. S. Presidential Succession in the United States. *The Journal of Politics* [online]. 1946, vol. 8, no. 1, pp. 44-56 [cit. 2024-05-02]. ISSN 1468-2508. Available at: <https://doi.org/10.2307/2125607>.

<sup>48</sup> AMAR, A. R. and V. D. AMAR. Is the Presidential Succession Law Constitutional?. *Stanford Law Review* [online]. 1995, vol. 48, no. 1, pp. 113-139 [cit. 2024-05-02]. ISSN 0038-9765. Available at: <https://doi.org/10.2307/1229151>.

Amar believes that the rise of bureaucratic actors is a choice based on structural arguments regarding the constitution which faithfully separates power strictly from the legislative branch of power.<sup>49</sup> The separation of powers is designed to perform different jobs and purposes such as responsiveness to the will of the people, protection of rights and freedoms, national security and defense, and good law enforcement. The three branches of government are structured differently to make the fulfillment of these functions more effective.<sup>50</sup> Amar supports Madison's opinion which states that actors in the Cabinet are very capable of holding concurrent positions as ministers and Interim President, thereby distancing the presidential government structure from the parliamentary model a la Robert Walpole in the 18<sup>th</sup> Century England, who served as a member of the Parliament at the same time as head of ministry (executive).<sup>51</sup> Madison's opinion also became the basic argument behind the formulation of the Presidential Succession Act of 1886 which made a bureaucratic actor the Interim President.<sup>52</sup>

Calabresi stated that the bureaucratic actor who rose to become Interim President was a form of loyalty to the strict separation of powers and rejected the executive's dependence on the legislature as mandated by the constitution, so that the legitimacy capital obtained by the bureaucratic actor was sourced from the mandate of the constitution which must be obeyed consistently.<sup>53</sup> Recently, Richard Albert provided support for Amar and Calabresi, considering that the separation of powers should also be interpreted as a separation of personnel. According to him, the separation of powers and the presidential system are synonyms,

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<sup>49</sup> AMAR, A. R. and V. D. AMAR. Is the Presidential Succession Law Constitutional?. *Stanford Law Review* [online]. 1995, vol. 48, no. 1, pp. 113-139 [cit. 2024-05-02]. ISSN 0038-9765. Available at: <https://doi.org/10.2307/1229151>.

<sup>50</sup> TULIS, J. K. *The Rhetorical Presidency*. 1<sup>st</sup> ed. Princeton, NJ: Princeton University Press, 1987. 209 p. ISBN 0-691-07751-7.

<sup>51</sup> AMAR, A. R. and V. D. AMAR. Is the Presidential Succession Law Constitutional?. *Stanford Law Review* [online]. 1995, vol. 48, no. 1, pp. 113-139 [cit. 2024-05-02]. ISSN 0038-9765. Available at: <https://doi.org/10.2307/1229151>.

<sup>52</sup> AMAR, A. R. and V. D. AMAR. Is the Presidential Succession Law Constitutional?. *Stanford Law Review* [online]. 1995, vol. 48, no. 1, pp. 113-139 [cit. 2024-05-02]. ISSN 0038-9765. Available at: <https://doi.org/10.2307/1229151>.

<sup>53</sup> CALABRESI, S. G. The Political Question of Presidential Succession. *Stanford Law Review* [online]. 1995, vol. 48, no. 1, pp. 155-175 [cit. 2024-05-02]. ISSN 0038-9765. Available at: <https://doi.org/10.2307/1229153>.



one requires the other.<sup>54</sup> According to him, although the early history of the United States Constitution/the Founding Theory of Separation does not show a strict separation of powers, it still guarantees that each power has autonomous independence in exercising power.<sup>55</sup>

The question is whether the scenario envisioned by Calabresi can be fully realized in a country with the reality of massive political fragmentation. There are several weaknesses when a bureaucratic actor becomes Interim President. First, the non-legitimacy of the people and the crisis of political support. The burden and responsibility of the Interim President is to succeed governing effectively and stably. Simonton called the bureaucratic actor who rose to become Interim President *'the Accidental President'* who led in an unintentional way and did not have political legitimacy, making his performance lower than that of the President.<sup>56</sup> Simonton put it to the extreme: *"The performance of such accidental chief executives is noticeably inferior to that of duly elected Presidents."*<sup>57</sup>

There is a tendency when a bureaucratic actor becomes Interim President, it is more difficult to perform. An Interim President who does not receive the people's vote and is labeled as an assistant to the previous President is a figure who does not reflect the sovereignty of the people so that every step taken tends not to reflect the will of the people at large and is suspected of being a policy solely oriented towards the interests of the Interim President. The personnel of the Cabinet actors in carrying out the Interim President role will interact with the political issues when he takes office.<sup>58</sup> He is a figure who was never expected to emerge as a pub-

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<sup>54</sup> ALBERT, R. The Fusion of Presidentialism and Parliamentarism. *The American Journal of Comparative Law* [online]. 2009, vol. 57, no. 3, pp. 531-578 [cit. 2024-05-02]. ISSN 2326-9197. Available at: <https://doi.org/10.5131/ajcl.2008.0016>.

<sup>55</sup> ALBERT, R. The Constitutional Politics of Presidential Succession. *Hofstra Law Review* [online]. 2011, vol. 39, no. 3, pp. 497-576 [cit. 2024-05-02]. ISSN 0091-4029. Available at: <https://scholarlycommons.law.hofstra.edu/hlr/vol39/iss3/2/>.

<sup>56</sup> SIMONTON, D. K. Presidential Leadership: Performance Criteria and Their Predictors. In: M. G. RUMSEY, ed. *The Oxford Handbook of Leadership* [online]. 1<sup>st</sup> ed. New York, NY: Oxford University Press, 2012, pp. 327-342 [cit. 2024-05-02]. Available at: ISBN 978-0-19-539879-3. <https://doi.org/10.1093/oxfordhb/9780195398793.013.0019>.

<sup>57</sup> SIMONTON, D. K. Presidential Leadership: Performance Criteria and Their Predictors. In: M. G. RUMSEY, ed. *The Oxford Handbook of Leadership* [online]. 1<sup>st</sup> ed. New York, NY: Oxford University Press, 2012, pp. 327-342 [cit. 2024-05-02]. Available at: ISBN 978-0-19-539879-3. <https://doi.org/10.1093/oxfordhb/9780195398793.013.0019>.

<sup>58</sup> FIEDLER, F. E. The Leadership Situation and the Black Box in Contingency Theories. In: M. M. CHEMERS and R. AYMAN, eds. *Leadership Theory and Research: Perspectives and Directions*. 2<sup>nd</sup> ed. San Diego: Academic Press, 1993, pp. 1-28. ISBN 0-12-170609-5.

lic official who holds the highest government power, was not predicted and escaped public attention when the previous President appointed him only as a minister. As a result, his relationship with society was never established intentionally. He also never represented the community which gave him the authority to become a government leader so it is difficult for him to gain recognition and legitimacy, especially if the bureaucratic actor is categorized as an ideological minister who does not obtain any political support from the political party because he has never been affiliated and has no electoral base.<sup>59</sup>

The issue of the legitimacy of bureaucratic actors as Interim President will be more clearly visible in countries that institutionalize democracy with a President who is directly elected by the people. The constitution creates a culture and character of society that gives high trust to the President through the election of the President. Such scenarios establish traditions and habits for selecting capable and popular executive leaders.<sup>60</sup> This has a direct impact on the bureaucratic actor because he will be questioned about the trust and authority of the people directly which he does not have.<sup>61</sup> Such a problem was once raised against Adolfo Rodríguez Saá who was suspected of creating a conspiracy scenario to thwart the elections in Argentina when he was in the position of Interim President. In the end Adolfo fell. As a person who comes from a bureaucratic background, he does not have sufficient political support and legitimacy to face a conspiracy scenario that aims to bring him down.<sup>62</sup>

Second, the potential for bureaucratic actors to fail in leading the Cabinet. Fabian Burkhardt raised the President's concerns about the 'in-

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<sup>59</sup> ALEXIADOU, D. Ideologues, Partisans, and Loyalists: Cabinet Ministers and Social Welfare Reform in Parliamentary Democracies. *Comparative Political Studies* [online]. 2015, vol. 48, no. 8, pp. 1051-1086 [cit. 2024-05-02]. ISSN 1552-3829. Available at: <https://doi.org/10.1177/0010414015574880>.

<sup>60</sup> See LINZ, J. J. The Perils of Presidentialism. *Journal of Democracy* [online]. 1990, vol. 1, no. 1, pp. 51-69 [cit. 2024-05-02]. ISSN 1086-3214. Available at: <https://doi.org/10.1353/jod.2005.0026>.

<sup>61</sup> KANE, J. and H. PATAPAN. *The Democratic Leader: How Democracy Defines, Empowers, & Limits Its Leaders* [online]. 1<sup>st</sup> ed. Oxford: Oxford University Press, 2012. 207 p. [cit. 2024-05-02]. ISBN 978-0-19-173907-1. Available at: <https://doi.org/10.1093/acprof:oso/9780199650477.001.0001>.

<sup>62</sup> OSTIGUY, P. *Argentina's Double Political Spectrum: Party System, Political Identities, and Strategies, 1944 - 2007* [online]. 1<sup>st</sup> ed. Notre Dame: The Helen Kellogg Institute for International Studies, 2009. 97 p. [cit. 2024-05-02]. Working Paper, no. 361. Available at: <https://doi.org/10.7274/26126032.v1>.

capable of directing and monitoring its own agents',<sup>63</sup> which could also happen and be experienced by the Interim President. During the Interim President's leadership, the potential for 'bureaucratic resistance' from within the Cabinet will occur.<sup>64</sup> The Cabinet formed based on a pre-electoral coalition gives its loyalty to the previous President to build the government, while the bureaucratic actor is a figure who also never has an emotional bond of leader/follower with his coalition. The situation becomes even more difficult if it turns out that the bureaucratic actor is not a loyalist/partisan minister who comes from an ideological minister and therefore has no political relationship with the President's coalition. In countries with political fragmentation due to multipartyism, it has the potential to occur because the loyalty of a Cabinet that is prepared based on a pre-electoral coalition is between the coalition and the elected President, which of course cannot be automatically transferred to the Interim President. In a dual-party system like the United States, this might not happen, because the concern is indeed towards the Interim President who comes from the Congress (Chairman of the House of Representatives) will not be able to adapt to the continuity of the executive ruling party which could be in opposition.<sup>65</sup>

In this case, Tyler emphasized that there is a close relationship between the position (the Interim President) and the political group in the Cabinet that supports him. If the political group provides good support, it will have a positive influence on the position, conversely if there is no good support from the political group on the basis that the person is not their partisan, then it will lead to negative influence on the position.<sup>66</sup> Fraud calls it the mutual '*illusion of love*' between followers and leaders.

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<sup>63</sup> BURKHARDT, F. Institutionalising Authoritarian Presidencies: Polymorphous Power and Russia's Presidential Administration. *Europe-Asia Studies* [online]. 2021, vol. 73, no. 3, p. 498 [cit. 2024-05-02]. ISSN 1465-3427. Available at: <https://doi.org/10.1080/09668136.2020.1749566>.

<sup>64</sup> INGBER, R. Bureaucratic Resistance and the National Security State. *Iowa Law Review* [online]. 2018, vol. 104, no. 1, pp. 139-221 [cit. 2024-05-02]. ISSN 0021-0552. Available at: <https://ilr.law.uiowa.edu/print/volume-103-issue-6/bureaucratic-resistance-and-the-national-security-state>.

<sup>65</sup> FORTIER, J. C. and N. J. ORNSTEIN. Presidential Succession and Congressional Leaders. *Catholic University Law Review* [online]. 2004, vol. 53, no. 4, pp. 993-1014 [cit. 2024-05-02]. ISSN 0008-8390. Available at: <https://scholarship.law.edu/lawreview/vol53/iss4/5/>.

<sup>66</sup> TYLER, T. R. and E. A. LIND. A Relational Model of Authority in Groups. *Advances in Experimental Social Psychology* [online]. 1992, vol. 25, pp. 115-191 [cit. 2024-05-02]. ISSN 0065-2601. Available at: [https://doi.org/10.1016/s0065-2601\(08\)60283-x](https://doi.org/10.1016/s0065-2601(08)60283-x).

This perception is very important for them to feel a sense of shared attachment and their willingness to obey the leader.<sup>67</sup> This also makes the leader have a high level of trust so that he is able to be firm in controlling the Cabinet.<sup>68</sup>

The problem becomes even more complicated if before the simulant vacancy of the President and Vice President offices there is a strong internal and external division in the Cabinet, as in the history of the United States. Thomas Jefferson, who was then serving as secretary of state, was promoted by one faction of the Congress as the first in line of succession for Interim President – in opposition – with another faction who promoted Alexander Hamilton, who was then serving as secretary of the treasury, as first in line for succession to Interim President. To avoid divisions affecting the Cabinet's performance, the Presidential Succession Act 1792 finally gave the choice of Interim President to the Speaker of the House of Representatives.<sup>69</sup> The Cabinet divisions have also occurred in Indonesia, namely in the Ali Sastro Amijoyo Cabinet (1957) which was caused by tensions between the PNI and Masyumi.<sup>70</sup> Next, the seconds leading up to the ouster of President Soeharto began with internal turmoil in the Cabinet which began to abandon political support for Suharto.<sup>71</sup>

Apart from within, external political interference from the legislature – in the form of excessive horizontal control<sup>72</sup> – will very strongly

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<sup>67</sup> TYLER, T. R. and E. A. LIND. A Relational Model of Authority in Groups. *Advances in Experimental Social Psychology* [online]. 1992, vol. 25, pp. 115-191 [cit. 2024-05-02]. ISSN 0065-2601. Available at: [https://doi.org/10.1016/s0065-2601\(08\)60283-x](https://doi.org/10.1016/s0065-2601(08)60283-x).

<sup>68</sup> KELLER, J. W. Leadership Styles of Political Executives. In: R. B. ANDEWEG, R. ELGIE, L. HELMS, J. KAARBO and F. MÜLLER-ROMMEL, eds. *The Oxford Handbook of Political Executives* [online]. 1<sup>st</sup> ed. Oxford, UK: Oxford University Press, 2020, pp. 481-500 [cit. 2024-05-02]. ISBN 978-0-19-184676-2. Available at: <https://doi.org/10.1093/oxfordhb/9780198809296.013.18>.

<sup>69</sup> AMAR, A. R. and V. D. AMAR. Is the Presidential Succession Law Constitutional?. *Stanford Law Review* [online]. 1995, vol. 48, no. 1, pp. 113-139 [cit. 2024-05-02]. ISSN 0038-9765. Available at: <https://doi.org/10.2307/1229151>.

<sup>70</sup> PENDERS, C. L. M. ed. *Milestones on My Journey: The Memoirs of Ali Sastroamijoyo, Indonesian Patriot and Political Leader*. 1<sup>st</sup> ed. St. Lucia: University of Queensland Press, 1979, p. 283. ISBN 0-7022-1206-7.

<sup>71</sup> SURYADINATA, L. A Year of Upheaval and Uncertainty: The Fall of Soeharto and Rise of Habibie. In: D. SINGH and J. FUNSTON, eds. *Southeast Asian Affairs* [online]. 1<sup>st</sup> ed. Singapore: Institute of Southeast Asian Studies, 1999, pp. 111-127 [cit. 2024-05-02]. ISBN 978-981-230-689-0. Available at: <https://doi.org/10.1355/9789812306890-010>.

<sup>72</sup> MICHAELS, J. D. Of Constitutional Custodians and Regulatory Rivals: An Account of the Old and New Separation of Powers. *New York University Law Review* [online]. 2016, vol. 91, no. 2, pp. 227-291 [cit. 2024-05-02]. ISSN 2766-0834. Available at: <https://www>.

disrupt the activities of the Interim President, especially if it turns out that the Interim President is not part of the parliamentary majority coalition. Presidents who do not come from a parliamentary majority are generally faced with blocking presidential initiatives driven by the party/coalition that loses the presidential election. All situations, deficiencies in the government system, tensions between powers from the previous regime will become an 'iceberg effect' which is passed down to the Interim President, who in Richard Albert's language is 'seeping into the succession regime'.<sup>73</sup> Even more ironic, the Interim President is not supported by the power of an absolute majority (like the President) so he will fail to face the blocking from the Parliament.<sup>74</sup> The ability of bureaucratic actors to collaborate with the Parliament will be the key to the running of government. This ability is difficult to have, especially if bureaucratic actors do not have legitimacy and strong political support.<sup>75</sup> Cash provides a more specific explanation in his thesis about 'the isolated presidency' with the case of an unelected President facing a divided government and facing a lot of opposition from political party factions and excessive control from the Parliament so that he works like a paralyzed official who only relies on constitutional authority, which he possesses without adequate political support.<sup>76</sup>

External political interference is difficult to be clearly identified, because it is integrated into the system engineered by the constitution. This external disturbance is an institutional implication of the design choices in the agreed constitution and works on the resulting rules.<sup>77</sup> They usual-

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[nyulawreview.org/issues/volume-91-number-2/of-constitutional-custodians-and-regulatory-rivals-an-account-of-the-old-and-new-separation-of-powers/](http://nyulawreview.org/issues/volume-91-number-2/of-constitutional-custodians-and-regulatory-rivals-an-account-of-the-old-and-new-separation-of-powers/).

<sup>73</sup> ALBERT, R. The Constitutional Politics of Presidential Succession. *Hofstra Law Review* [online]. 2011, vol. 39, no. 3, pp. 497-576 [cit. 2024-05-02]. ISSN 0091-4029. Available at: <https://scholarlycommons.law.hofstra.edu/hlr/vol39/iss3/2/>.

<sup>74</sup> MAINWARING, S. and M. S. SHUGART. Juan Linz, Presidentialism, and Democracy: A Critical Appraisal. *Comparative Politics* [online]. 1997, vol. 29, no. 4, pp. 449-471 [cit. 2024-05-02]. ISSN 2151-6227. Available at: <https://doi.org/10.2307/422014>.

<sup>75</sup> ODEGARD, P. H. Presidential Leadership and Party Responsibility. *The ANNALS of the American Academy of Political and Social Science* [online]. 1956, vol. 307, no. 1, pp. 66-81 [cit. 2024-05-02]. ISSN 1552-3349. Available at: <https://doi.org/10.1177/000271625630700108>.

<sup>76</sup> CASH, J. T. *The Isolated Presidency* [online]. 1<sup>st</sup> ed. New York, NY: Oxford University Press, 2023. 258 p. [cit. 2024-05-02]. ISBN 978-0-19-766980-8. Available at: <https://doi.org/10.1093/oso/9780197669778.001.0001>.

<sup>77</sup> See NEGRETTO, G. L. Constitution-making and Institutional Design. The Transformations of Presidentialism in Argentina. *European Journal of Sociology* [online]. 1999, vol. 40,

ly work through one or both major parties, each of which has competing interests with the other party.<sup>78</sup> In a country with a multiparty presidential setting, this potential is highly possible because external political interference is well institutionalized through the ‘*dual legitimacy*’ feature which makes the Parliament a competitor of the President in government.<sup>79</sup> Interim Presidents with bureaucratic backgrounds ultimately create an increasingly antagonistic relationship with the Parliament which distances them from stable democratic consolidation between powers. Brazil in 1964 provides a lesson in how antagonistic relationships give birth to paralysis and not achieving their respective agendas.<sup>80</sup>

Third, difficulties in dealing with non-governmental forces. There are two scenarios that have the potential to occur and involve the military returning to the political arena of government, namely the sharpening of legislative relations with the executive (Interim President) and the military taking the role of mediator in these relations; and national/international crisis situations in the defense sector. In the first scenario, the antagonistic relationship between the legislature and the Interim President creates an unstable political situation for the government. Keller calls this as ‘*situations are illdefined*’,<sup>81</sup> where the Interim President’s relationship is in a position that is affiliated with or opposed to the previous regime.<sup>82</sup> If it is indicated that the Interim President is opposing/leaning towards the previous political regime or there are other factors that increases the bad relationship with the legislature, then in that condition

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no. 2, pp. 193-232 [cit. 2024-05-02]. ISSN 1474-0583. Available at: <https://doi.org/10.1017/s0003975600007451>.

<sup>78</sup> DAHL, R. A. Reflections on Opposition in Western Democracies. *Government and Opposition* [online]. 1965, vol. 1, no. 1, pp. 7-24 [cit. 2024-05-02]. ISSN 1477-7053. Available at: <https://doi.org/10.1111/j.1477-7053.1965.tb00362.x>.

<sup>79</sup> LINZ, J. J. The Perils of Presidentialism. *Journal of Democracy* [online]. 1990, vol. 1, no. 1, pp. 51-69 [cit. 2024-05-02]. ISSN 1086-3214. Available at: <https://doi.org/10.1353/jod.2005.0026>.

<sup>80</sup> MAINWARING, S. Presidentialism in Latin America. *Latin American Research Review* [online]. 1990, vol. 25, no. 1, pp. 157-179 [cit. 2024-05-02]. ISSN 1542-4278. Available at: <https://doi.org/10.1017/S0023879100023256>.

<sup>81</sup> KELLER, J. W. Leadership Styles of Political Executives. In: R. B. ANDEWEG, R. ELGIE, L. HELMS, J. KAARBO and F. MÜLLER-ROMMEL, eds. *The Oxford Handbook of Political Executives* [online]. 1<sup>st</sup> ed. Oxford, UK: Oxford University Press, 2020, pp. 481-500 [cit. 2024-05-02]. ISBN 978-0-19-184676-2. Available at: <https://doi.org/10.1093/oxfordhb/9780198809296.013.18>.

<sup>82</sup> SKOWRONEK, S. *The Politics Presidents Make: Leadership from John Adams to Bill Clinton*. 2<sup>nd</sup> ed. Cambridge, MA: The Belknap Press of Harvard University Press, 1997. 546 p. ISBN 0-674-68937-2.

the military has the opportunity to take a role as a mediator between the two or facilitate the desires between the two.

Linz called the military's position in this situation as '*poder moderador*' which dragged the military back into the arena of national politics (praetorianism).<sup>83</sup> Recently, Egypt's experience explains this. President Mohammed Morsi, who was supported by the Ikhwanul Muslimin, proposed a pro-Islamic constitution. This proposal was strongly opposed by Egypt's liberal-secular forces by boycotting the Constituent Assembly. Tensions between the Parliament and the President are increasing and liberal-secular forces are lobbying the military to overthrow democratically elected President Mohamed Morsi.<sup>84</sup>

Even though the military has returned to its professional duties in defense matters, informally, opportunities to influence the government can still occur. Nordlinger identifies the level of military involvement in politics at three levels, namely moderators (not being full rulers but having great power to protect the status quo), guardians (participating in direct control of the government) and rulers (dominating power).<sup>85</sup> The situation becomes even more complicated if the military sees that its loyalty to the President has ended, marked by the vacancy of the previous President's position. This will further facilitate confrontation against the Interim President, who on the other hand has low political support.

The second scenario is an Interim President who does not make quick, responsive decisions in a national/international crisis. In the case of implementing presidential duties, bureaucratic actors who are not used to dealing with pressure and national/international crisis situations – or in the case of Indonesia where decisions must be made collegially – quick decisions are difficult to take.<sup>86</sup> When the Interim President is

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<sup>83</sup> LINZ, J. J. The Perils of Presidentialism. *Journal of Democracy* [online]. 1990, vol. 1, no. 1, pp. 51-69 [cit. 2024-05-02]. ISSN 1086-3214. Available at: <https://doi.org/10.1353/jod.2005.0026>. Also see STEPAN, A. and C. SKACH. Constitutional Frameworks and Democratic Consolidation: Parliamentarianism versus Presidentialism. *World Politics* [online]. 1993, vol. 46, no. 1, pp. 1-22 [cit. 2024-05-02]. ISSN 1086-3338. Available at: <https://doi.org/10.2307/2950664>.

<sup>84</sup> MIETZNER, M. How Indonesia Won a Constitution. *Journal of Democracy* [online]. 2014, vol. 25, no. 2, pp. 171-175 [cit. 2024-05-02]. ISSN 1086-3214. Available at: <https://doi.org/10.1353/jod.2014.0023>.

<sup>85</sup> NORDLINGER, E. A. *Soldiers in Politics: Military Coups and Governments*. 1<sup>st</sup> ed. Englewood Cliffs, NJ: Prentice-Hall, 1977. 224 p. ISBN 0-13-822163-4.

<sup>86</sup> See KELLER, J. W. Leadership Styles of Political Executives. In: R. B. ANDEWEG, R. ELGIE, L. HELMS, J. KAARBO and F. MÜLLER-ROMMEL, eds. *The Oxford Handbook of Political Ex-*

faced with a defense crisis, what the armed forces need is a immediate and measured response to the faced critical situation in a short time.<sup>87</sup> This condition can trigger the military to take actions outside its authority and in the name of national interests.<sup>88</sup> A more extreme situation could occur, where the military takes power in the name of national interests. Sudan in 2021 shows the experience of how this happens, where Prime Minister Abdalla Hamdok – who became Interim President – was overthrown by the military under General Abdul Fattah and took over the government.<sup>89</sup>

Other than the example of the Interim President of Sudan, the fourth President of the United States, James Madison, entered the White House at a time when international turmoil was so great and faced a military leadership that was so ‘war-sick’ and aggressive in fighting Britain. Barber, who viewed Madison as someone who did not like confrontation, finally fell into the pressure of the army generals to take aggressive steps. General Jackson’s victory at New Orleans ultimately saved Madison’s reputation in the history of United States Presidents.<sup>90</sup>

An Interim President who is faced with a crisis must take extraordinary actions to handle the crisis quickly and accurately. This is the basic logic favored by the presidential system.<sup>91</sup> An Interim President who does not have sufficient legitimacy and experience in state affairs, relatively give rise to conflicting opinions and attitudes, one of which is with

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*ecutives* [online]. 1<sup>st</sup> ed. Oxford, UK: Oxford University Press, 2020, pp. 481-500 [cit. 2024-05-02]. ISBN 978-0-19-184676-2. Available at: <https://doi.org/10.1093/oxfordhb/9780198809296.013.18>.

<sup>87</sup> See BOIN, A., P. ‘t HART and F. van ESCH. Political Leadership in Times of Crisis: Comparing Leader Responses to Financial Turbulence. In: L. HELMS, ed. *Comparative Political Leadership* [online]. 1<sup>st</sup> ed. Basingstoke: Palgrave Macmillan, 2012, pp. 119-141 [cit. 2024-05-02]. ISBN 978-1-137-26491-6. Available at: [https://doi.org/10.1057/9781137264916\\_6](https://doi.org/10.1057/9781137264916_6).

<sup>88</sup> See MARIJAN, K. *Sistem Politik Indonesia: Konsolidasi Demokrasi Pasca-Orde Baru*. 5<sup>th</sup> ed. Jakarta: Kencana, 2016, p. 262. ISBN 978-602-8730-16-7.

<sup>89</sup> Militer Sudan Kudeta Pemerintahan Transisi. In: *Deutsche Welle* [online]. 2021-10-25 [cit. 2024-05-02]. Available at: <https://www.dw.com/id/militer-sudan-kudeta-pemerintahan-transisi/a-59615407>.

<sup>90</sup> BARBER, J. D. *The Presidential Character: Predicting Performance in the White House* [online]. 4<sup>th</sup> ed. New York: Routledge, 2017. 544 p. [cit. 2024-05-02]. ISBN 978-1-351-22370-6. Available at: <https://doi.org/10.4324/9781351223706>.

<sup>91</sup> PIPER, J. R. “Situational Constitutionalism” and Presidential Power: The Rise and Fall of the Liberal Model of Presidential Government. *Presidential Studies Quarterly* [online]. 1994, vol. 24, no. 3, pp. 577-594 [cit. 2024-05-02]. ISSN 1741-5705. Available at: <https://www.jstor.org/stable/27551285>.



the military leadership.<sup>92</sup> This condition triggers non-governmental forces such as the military to take over the government to function as state instruments to carry out strategic steps that are '*judged*' to save national sovereignty and security. Interim Presidents who are haunted by a crisis of legitimacy tend to find it difficult to deal with situations like this. Mainwaring believes that the entry of the military junta through the coup door is the only way to get rid of a President – as well as an Interim President – who is incompetent and unpopular.<sup>93</sup>

Military intervention cannot be separated from an unstable political atmosphere. The military has more freedom to enter political territory in countries that are classified as weak (weak states), in conditions of instability and has political decay. Even in countries with an established government system such as the United States, disputes between military officials and the President also occur, as in the United States. General McChrystal, through his public statements, had a dispute with President Obama's policies, which he was eventually replaced and his position was succeeded by General Petraeus in 2010.<sup>94</sup> Theoretically, Hamdi Muluk also said, the dispute occurred because of the Armed Forces General's negative and incompetent assessment of the President.<sup>95</sup> In an atmosphere like this, the military has the reason that their entry into the political arena is '*to create stability, order and legitimacy*'.

### Legitimate actor

The next official nominated for Interim President is the legitimate actor who comes from legislative personnel. Generally, in the constitutions of several countries in the world, the person is the chairman of one of the chambers in the legislature, such as the Chairman of the House of Representatives, Chairman of the Senate or a combination of the two (such as the Chairman of the People Consultative Assembly in Indonesia). The legitimate actor will be the Interim President until a new President and

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<sup>92</sup> ROISMAN, S. Presidential Law. *Minnesota Law Review* [online]. 2021, vol. 105, no. 3, p. 1269 [cit. 2024-05-02]. ISSN 0026-5535. Available at: <https://minnesotalawreview.org/article/presidential-law/>.

<sup>93</sup> MAINWARING, S. Presidentialism in Latin America. *Latin American Research Review* [online]. 1990, vol. 25, no. 1, pp. 157-179 [cit. 2024-05-02]. ISSN 1542-4278. Available at: <https://doi.org/10.1017/S0023879100023256>.

<sup>94</sup> GATES, R. M. *Duty: Memoirs of a Secretary at War*. 1<sup>st</sup> ed. New York: Alfred A. Knopf, 2014. 618 p. ISBN 978-0-307-95947-8.

<sup>95</sup> MULUK, H. Demokrasi Presidensial dan Kepemimpinan Presidensial: Sebuah Assesmen Awal. *Prisma*. 2016, vol. 35, no. 3, pp. 104-114. ISSN 3048-3875.

Vice President are elected or serve until the end of the remaining term of office of the previous President like in the United States. In contrast to bureaucratic actors, legitimate actors have superior political legitimacy because they are directly elected by the people.

Being an official directly elected by the people is the main advantage of a legitimate actor because this kind of constitutional design is seen as a symbol that has succeeded in maintaining the identity of the republic and the nuances of democratization in the political structure of government. This advantage is useful as capital for his leadership as Interim President – particularly – regarding Interim President’s immunity from external political interference such as excessive horizontal/vertical control from any party. In taking certain policy actions, legislative political support tends to be well guaranteed. The appointment of an Interim President in a presidential system is a sign that the safety valve in the form of the ‘fixed term’ of the President’s term of office in presidentialism has been breached,<sup>96</sup> which means that within the limits of reasonable circumstances, political tension between the two powers has the potential to increase. Legitimate actors have the advantage of resolving and normalizing government conditions and stability compared to bureaucratic actors.

James H., who participated in formulating the Presidential Succession Act of 1792 in the United States, considered that officials who came from the people and were elected by the people occupied the highest hierarchy of the basic principles of government in the United States, so it was very natural that it annulled the principle of separation of powers. He said: “*away the choice from the people, [...] thus violating the first principle of a free elective Government.*”<sup>97</sup> The separation of powers between the executive and the legislature, both of which are directly elected by the people, must be read as an alternative method if one of the powers meet an unexpected condition from the aspect of democratization, so that the inclusion of legislative personnel in the executive is part of an

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<sup>96</sup> MAINWARING, S. and M. S. SHUGART. Juan Linz, Presidentialism, and Democracy: A Critical Appraisal. *Comparative Politics* [online]. 1997, vol. 29, no. 4, pp. 449-471 [cit. 2024-05-02]. ISSN 2151-6227. Available at: <https://doi.org/10.2307/422014>.

<sup>97</sup> See FEERICK, J. D. *From Failing Hands: The Story of Presidential Succession*. 1<sup>st</sup> ed. New York: Fordham University Press, 1965. 368 p.

effort to maintain democratic nuances in the executive body and keep it away from officials who are not chosen by the people.<sup>98</sup>

The worship of democratization by shifting the position of legitimate actors received criticism from Calabressi because the weight of his representation was considered artificial and lower because he only represented a small portion of regions compared to the President who was supported by an absolute majority.<sup>99</sup> Calabresi's criticism is a classic issue that has continued to be discussed since the beginning of the formulation of the Presidential Succession Act of 1792 in the United States until today.<sup>100</sup> Kallenbach denies this, and according to him political support for legitimate actors cannot be seen with such a narrow lens. He is of the opinion that legitimate actors have political capital that is also equal to that of the President. According to him, the legitimate actor is the leader of one of the chambers so that his election as chairman of that chamber offsets the weakness of his small representation from the region.<sup>101</sup> The voting for chamber leader is generally determined by considerations of seniority, basic knowledge and experience regarding parliamentary politics and his relationship with the executive and loyalty to political parties.<sup>102</sup>

In this way, the legitimate actor gets three votes at once: a small vote from the region, a majority vote in the chamber that elects him as leader and the political party's full support for him. The legitimate actor who rises to become Interim President is part of a 'series' of the roles and responsibilities of legislative power in carrying out its authority as an institution that inaugurates and dismisses the President. In the state ceremonial process, the President is inaugurated before the legislature – that personified – as the people's sovereign. In dismissal, generally the legisla-

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<sup>98</sup> FEERICK, J. D. *From Failing Hands: The Story of Presidential Succession*. 1<sup>st</sup> ed. New York: Fordham University Press, 1965. 368 p.

<sup>99</sup> CALABRESI, S. G. The Political Question of Presidential Succession. *Stanford Law Review* [online]. 1995, vol. 48, no. 1, pp. 155-175 [cit. 2024-05-02]. ISSN 0038-9765. Available at: <https://doi.org/10.2307/1229153>.

<sup>100</sup> RANKIN, R. S. Presidential Succession in the United States. *The Journal of Politics* [online]. 1946, vol. 8, no. 1, pp. 44-56 [cit. 2024-05-02]. ISSN 1468-2508. Available at: <https://doi.org/10.2307/2125607>.

<sup>101</sup> KALLENBACH, J. E. The New Presidential Succession Act. *American Political Science Review* [online]. 1947, vol. 41, no. 5, pp. 931-941 [cit. 2024-05-02]. ISSN 1537-5943. Available at: <https://doi.org/10.2307/1950197>.

<sup>102</sup> KALLENBACH, J. E. The New Presidential Succession Act. *American Political Science Review* [online]. 1947, vol. 41, no. 5, pp. 931-941 [cit. 2024-05-02]. ISSN 1537-5943. Available at: <https://doi.org/10.2307/1950197>.

ture is the final decider in the process of impeaching the President/Vice President. From this approach, legal responsibility arises by the legislature which expands its area of responsibility – not just for dismissal – but also to the vacancy of the President’s office which is the ‘*impact*’ of the dismissal.

In addition to supporting political legitimacy, the inclusion of legitimate actor as Interim President is also favored because it acts as an outsider to the executive who is not involved to problems within the internal of the executive. There are several scenarios for this, such as systematic violations of the law involving some/all Cabinet members and natural conditions that cause the government to be paralyzed. In the first scenario, the President who steps down due to legal violations (such as corruption) involving internal executive causes a decline in public trust in actors within the executive. The bureaucratic actor who rises to become Interim President will always be interrupted with distrust and minimum support because he is accused of being an ‘*old actor*’ from a regime that was considered corrupt and maintained the status quo.<sup>103</sup> Legitimate actors are favored in handling this situation because they are outsider to the executive and are able to oversee the transition from the old regime to a new, more democratic regime.

The second scenario is a natural condition that occurs within the executive, such as the mass death of important actors in the executive starting from the President to his ranks of ministers while carrying out state duties, such as in the most recent case of handling the case of COVID-19 infectious disease outbreak or when going on either an abroad or domestic trip together and experienced an accident. This situation can leave several positions in the government to be vacant and legitimate actors as outsider to the executive play an important role in returning the situation to normal.

Poland taught an important lesson about this, in 2010 Bronislaw Komorowski, who at that time served as Marshal of the Sejm, became Interim President replacing the Polish President Lech Kaczyński who died in a plane crash on April 10, 2010, not only President Lech Kaczyński,

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<sup>103</sup> See ANWAR, D. F. The Habibie Presidency: Catapulting towards Reform. In: E. ASPINALL and G. FEALY, eds. *Soeharto's New Order and Its Legacy: Essays in Honour of Harold Crouch* [online]. 1<sup>st</sup> ed. Canberra: ANU Press, 2010, pp. 99-117 [cit. 2024-05-02]. Asian Studies Series. ISBN 978-1-921666-47-6. Available at: <https://doi.org/10.22459/snol.08.2010.07>.

several government officials also died in that incident.<sup>104</sup> The appointment of Bronislaw Komorowski as Interim President played an important role in restoring the government because he was an actor from outside the executive who had strong political capital to overcome critical conditions. Bronislaw Komorowski appointed Jacek Michałowski to replace Władysław Stasiak, the deceased Head of the Presidential Chancellery. He then appointed retired General Stanisław Koziej as head of the National Security Bureau replacing the late Aleksander Szczygło. He also nominated Marek Belka, former Minister of Finance and Prime Minister (2004 – 2005) of the left-wing government, to become President of the National Bank of Poland replacing the late Sławomir Skrzypek.<sup>105</sup>

Even though superior in terms of their legitimacy and role since they are from the outside of the executive, legitimate actors are considered weak in function. This is because they are an actor who are from the outside of the executive so they have no involvement in any policies being prepared/planned by the previous President. They have to adapt to a new type of work which very different from their previous areas of works which was limited to formulating general policies within a legislative framework: legislative functions, budget functions and supervisory functions.

Even though the scope of their work is in the context of general policy – such as legislation and the budget – each legislator also works on particular areas in government affairs through commissions in the legislative chamber to carry out check and balance functions in certain areas of government. Legislative actors will be faced with specific issues in the areas of government that they have to deal with. The situation becomes even more complicated if it turns out that the legitimate actors entering the executive do not come from the same/opposite political party, thereby potentially increasing political tension between the leader and his Cabinet. This is the main weakness and criticism of the United States model, because the legitimate actor served for a long time until the re-

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<sup>104</sup> KULISH, N. Acting President in Poland Wins a Narrow Victory. In: *The New York Times* [online]. 2010-07-04 [cit. 2024-05-02]. Available at: <https://www.nytimes.com/2010/07/05/world/europe/05poland.html>.

<sup>105</sup> KURSKA, J. Quo vadis, Polonia?. *La Vie des idées* [online]. 2016-06-22 [cit. 2024-05-02]. ISSN 2105-3030. Available at: <https://laviedesidees.fr/Quo-vadis-Poloniae.html>.

remainder of the previous President's term of office expired and was deemed to have failed to maintain the continuity of government policy.<sup>106</sup>

This weakness arises because the United States using a '*line succession*' model so that legitimate actors serve until the end of the President's term of office. This model is significantly different from the majority of constitutions of the world countries which use a '*temporary*' model where the legitimate actor who rises to the role of Interim President only serves for a short duration (30 – 60 days), rather than spending the remainder of the President's term of office. Thus, the functional concerns addressed to legitimate actors are not relevant to countries outside the United States.

Concerns about the succession of government are more appropriately pinned on the newly elected President and Vice President who apparently do not come from a political party or a combination of political parties that supported the previous President.<sup>107</sup> Likewise, in countries that implement special elections using the method of direct election by the people, it turns out that the newly elected President and Vice President are different from the previous political parties, so that in a short period of time – completing the remainder of the previous President's term – the potential for an overhaul to the internal government structure and its policies is more likely to happen.

The very worrying weakness actually exists from the personal aspects of the legitimate actors, such as work performance related to age. This became the attention of the United States when President Kennedy was shot dead and '*line succession*' again became an issue discussed in the United States politics.<sup>108</sup> Even though they still had a Vice President who replaces Kennedy, the next official in the line of succession (Speaker of the House of Representatives) is in the spotlight because he is right behind the Vice President's line of succession. The Speaker of the House of Representatives, John W. McCormack, who is 70, and President pro

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<sup>106</sup> FEERICK, J. D. *From Failing Hands: The Story of Presidential Succession*. 1<sup>st</sup> ed. New York: Fordham University Press, 1965. 368 p.

<sup>107</sup> To fill the vacant positions of the new President and Vice President, Indonesia used an indirect election model given to the People Consultative Assembly. Only political parties/political associations that were ranked number 1 and 2 in the previous general election have the right to nominate candidates to the People Consultative Assembly for election. See Article 8 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

<sup>108</sup> FEERICK, J. D. *From Failing Hands: The Story of Presidential Succession*. 1<sup>st</sup> ed. New York: Fordham University Press, 1965. 368 p.

tempore Carl Hayden, whose 80, are both next in line, were the targets of sharp criticism. Their ability to act as President – if necessary – came under serious scrutiny and various groups called for them to step down from office so that someone more suitable in the line of succession could replace them.<sup>109</sup>

### Concluding remarks

The presented paper has documented the various advantages and disadvantages of the two models of Interim Presidents – filled with bureaucratic actor and legitimate actor – by relying on aggregations that assemble and analyze various histories of world government. The United States as the mother of presidentialism is not well established enough to be the main reference because it is the only country that implements ‘*line succession*’ where the successor to the President works until the remainder of the previous President’s term of office expires. Meanwhile, various countries use different models, namely ‘*temporary presidential succession*’ where the Interim President works for a very short time limit (30 – 60 days). This difference ultimately makes the logic and perspective of the Interim President different because he worked for such a short time with the government’s uncertain political situation.

This paper does not make a choice as to which is more ideal as an Interim President, whether someone who comes from a bureaucratic actor or a legitimate actor. The legitimate actor is superior in terms of politics and stability because he has several levels of votes from the people and political parties so that he is confident in leading the government for a short period. The bureaucratic actor is favored in terms of professionalism and ability to make policies because he comes from within the previous government and has a good record in working on problems and situation. What is a weakness for one actor, becomes an advantage for another actor. The position of our paper is to fill the theoretical void regarding the explanation of each actor to fill the Interim President which has not been widely explained and explored by scholars, both constitutional and political scholars. Because there is no answer as to which is ideal between the two (bureaucratic actors and legitimate actors), this paper really opens up opportunities for further research to determine the choice

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<sup>109</sup> FEERICK, J. D. *From Failing Hands: The Story of Presidential Succession*. 1<sup>st</sup> ed. New York: Fordham University Press, 1965. 368 p.

between these two actors by contextualizing them in certain countries with each unique government settings and political dynamics.

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