



Inconsistency Regulation Presidential Candidates' Campaign Leave: Analysis Post Amendment 1945 Constitution and *Saddu Dzariah*

Inkonsistensi Pengaturan Cuti Kampanye Calon Presiden: Analisis Pasca Amandemen UUD 1945 dan Saddu Dzariah

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Abstract

Indonesian constitutional practices, the office of president has undergone many major changes since the amendment of the 1945 Constitution. Some of these changes include the direct election of the president and vice president by the people and restrictions on the president's term of office. It is very beneficial that the president is elected directly by the people. This also shows that Indonesia uses a presidential and republican system of government. The focus of this study is the regulation of presidential candidates' leave from work from a legal and *Saddu Dzariah* perspective. This study uses qualitative methods uses library research by using the normative juridical method. The literature studied in the Law, Government Regulations, books, journals. The method used is normative juridical The main data was obtained through regulations related to this article. The Presidential elections of the reform era have undergone three significant changes, differing rules regarding the candidates' leave. including the obligation to take leave on holidays and not take leave on holidays. The difference in the Presidential elections of 2004 and 2009 was that the incumbent candidates took campaign leave, including holidays, whereas in the 2019 election, there was none. The similarity among the incumbent candidates: all three did not limit the campaign leave time for the candidates. When viewed from the perspective of *Saddu Dzariah* ensures that justice is applied correctly, avoiding damage. there are also concerns about influencing the state institutions below it, pressuring someone to vote for the incumbent President, disadvantaging other Presidential candidates.

Kata Kunci:

*Inkonsistensi;
Cuti Kampanye;
Calon Presiden;
Hukum;*

Abstrak

Praktik konstitusional Indonesia, jabatan presiden telah mengalami banyak perubahan besar sejak amandemen Undang-Undang Dasar 1945. Beberapa perubahan tersebut meliputi pemilihan langsung presiden dan wakil presiden oleh rakyat serta pembatasan masa jabatan

Hukum Islam

presiden. Sangat menguntungkan bahwa presiden dipilih secara langsung oleh rakyat. Hal ini juga menunjukkan bahwa Indonesia menggunakan sistem pemerintahan presidensial dan republik. Fokus penelitian ini adalah regulasi cuti kerja calon presiden dari perspektif hukum dan Saddu Dzariah. Artikel ini menggunakan penelitian perpustakaan dengan menggunakan metode yuridis normativ. Literatur yang diteliti meliputi undang-undang, peraturan pemerintah, buku, dan jurnal. Data utama diperoleh melalui peraturan yang berkaitan dengan artikel ini. Pemilihan Presiden era reformasi telah mengalami tiga perubahan signifikan, dengan aturan yang berbeda mengenai cuti calon presiden, termasuk kewajiban mengambil cuti pada hari libur dan tidak mengambil cuti pada hari libur. Perbedaan antara pemilihan presiden 2004 dan 2009 adalah bahwa calon presiden petahana mengambil cuti kampanye, termasuk pada hari libur, sedangkan pada pemilihan 2019 tidak ada. Kesamaan di antara calon petahana: ketiganya tidak membatasi waktu cuti kampanye bagi calon. Jika dilihat dari perspektif Saddu Dzariah memastikan keadilan diterapkan dengan benar, menghindari kerugian. Ada juga kekhawatiran tentang pengaruh terhadap lembaga negara di bawahnya, menekan seseorang untuk memilih Presiden petahana, dan merugikan calon Presiden lainnya.

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INTRODUCTION

Background of the Problem

Unclear leave arrangements can lead to new interpretations and practices that conflict with the constitution (Permadi, 2021). For example, there are currently different groups: one considers the incumbent presidential candidate's leave arrangements to be a right, and the other considers it an obligation. In cases where it is considered an optional right, the incumbent presidential candidate has the freedom to choose to waive that right while retaining the presidency in full, or, in cases where it is considered an obligation, to take leave during the campaign (Prayogo, 2017). Furthermore, if the incumbent presidential candidate's leave is considered an obligation that must be fulfilled fairly, then the incumbent presidential candidate must temporarily relinquish the presidency, as is usually the case when there is a temporary vacancy in the position. However, in Indonesia, the concept of an acting president is not feasible because there are no presidential candidates who meet the requirements for the position (Saputri et al., 2024).

Several groups debated Indonesia's system of government prior to the amendments, according to Bagir Manan (Asep Arifin, 2018). The first group argued that Indonesia used a presidential system of government, while the second group argued that Indonesia used a mixed system of government (Suwanda, n.d.). The groups' opinions were based on the idea of a presidential system of government, which is characterized by several features: a fixed term of office, no accountability of the president to the representative body, and the inability to dissolve the representative body. On the other hand, there is the idea that Indonesia implements a mixed system of government because it combines characteristics of both parliamentary and presidential systems of government (Setiawan et al., 2022).

It is very important for the state to implement a presidential system of government and term limits for the president (Mukhlis, M. M., Balebo, P. M., Syarifuddin, A., & Tajuddin, 2024). This is intended to prevent authoritarian rule and the president's sole power for many years, as was the case during the Old Order and New Order regimes. Due to the lack of leadership regeneration, such events are detrimental to the country (Syahroni, 2018).

In Indonesian constitutional practice, the office of president has undergone many major changes since the amendment of the 1945 Constitution. Some of these changes include the direct election of the president and vice president by the people and the limitation of the president's term of office (F. R. Kurnia & Rizari, 2019). It can be said that the People's Consultative Assembly was the main focus in the process of amending the 1945 Constitution because of this. It is highly advantageous that the President is elected directly by the people (Wahono, 2023). This also demonstrates that Indonesia operates under a presidential and republican system of government. However, the intention to limit the President's term of office is to protect democracy and prevent an authoritarian president (Ma'wa, 2019). Based on the above explanations and reasons, the author wishes to present a legal perspective on the legal analysis of the leave of absence of presidential candidates after the amendment of the 1945 Constitution (Wahono 2023).

There are several different views regarding the regulation of leave for incumbent presidential candidates (as a right or an obligation), but there has been no in-depth study discussing these differences in interpretation in the context of Indonesian law after the amendment of the 1945 Constitution. Existing research has not comprehensively reviewed the practical implications of the leave policy for incumbent presidential candidates on the management of state power. Although there are restrictions on the presidential term of office following the amendment of the 1945 Constitution, there is There have been few studies examining how these restrictions affect the dynamics of democracy in Indonesia.

Although there are theories and ideas regarding the amendment of the 1945 Constitution and the system of government, research that critically evaluates the practices of state administration that occur. Research that combines critical discourse and normative legal paradigms with a qualitative approach is needed to explore the impact of these changes on the quality of democracy and the management of state power. Furthermore, research discussing the Islamic legal perspective has not been found from the perspective of *Saddu Dzariah*. As shown in the figure below:

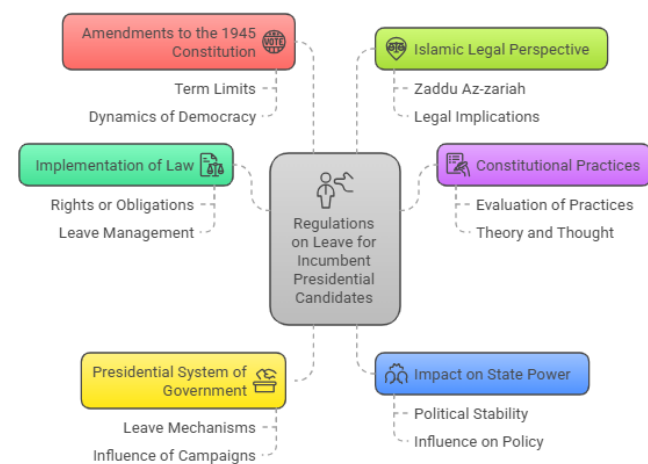


Figure 1. Regulations on Leave for Incumbent Presidential Candidates

Explanation of the image above: the author conducted a search related to the discussion, including: Connected Paper, Harzing's (PoP), Google Scholar with the keywords (Presidential Candidate Campaign Leave Arrangements Analysis Post-Amendment of the 1945 Constitution) with Year Restrictions, from 2010 to 2024. The results found in Connected Paper only discuss Government Regulation No. 29 of 2014. The findings obtained through PoP are related to the Constitutional Court's decision regarding presidential leave and only discuss general law. The search results obtained through Google Scholar found many discussions related to leave for regional head candidates. Based on the explanations and reasons above, the author aims to present a legal perspective on the legal analysis of presidential candidate leave following the amendment of the 1945 Constitution and Islamic Law.

THEORETICAL AND CONCEPTUAL FRAMEWORK

Theoretical Framework

Theory of Democracy

The theory of democracy centers on the principle that power resides with the people, who exercise this power primarily through voting in free and fair elections. This system is built on the idea of popular sovereignty, where citizens have the right to choose their representatives and influence government policies. Democracy is characterized by political equality, meaning every citizen has an equal voice in the decision-making process. It encourages active participation, ensuring that diverse perspectives are considered in governance (Heid et al., 2023). Various theories of democracy exist, including direct democracy, where citizens vote on laws directly, and representative democracy, where elected officials make decisions on behalf of the people. However, democracy also faces challenges, such as the risk of majority tyranny, where the majority's interests may overshadow minority rights. Additionally, the effectiveness of democracy relies on an informed electorate capable of making sound decisions. Overall, the theory of democracy emphasizes the importance of citizen engagement, accountability, and the protection of individual rights, aiming to create a just and equitable society (Schwarm, 2016).

The theory of democracy also highlights the significance of fundamental rights and the rule of law. In a democratic system, citizens are guaranteed basic freedoms, such as speech, assembly, and religion, which are essential for fostering an open society. The rule of law ensures that all individuals, including government officials, are subject to the law, promoting accountability and fairness. Moreover, democracy is often associated with economic development and social progress. Democratic governance tends to encourage transparency and reduce corruption, as leaders are held accountable to the electorate (Matlala, 2023). This accountability fosters trust between the government and its citizens, which is crucial for effective governance. In addition, the concept of pluralism is vital in a democracy, as it recognizes the coexistence of diverse groups and opinions within society. This diversity enriches the democratic process, allowing for a more comprehensive representation of the populace's needs and aspirations. Ultimately, the theory of democracy is not just about the act of voting; it encompasses a broader commitment to civic engagement, social justice, and the continuous pursuit of equality and freedom for all citizens (M. Ibrahim & Mussarat, 2015).

Theory of Presidentialism

The theory of presidentialism refers to a system of governance where a president serves as the head of state and government, distinct from the legislative branch. This model is characterized by a clear separation of powers, where the executive, legislative, and judicial branches operate independently. In presidential systems, the president is typically elected by the populace, granting them a direct mandate to govern. One of the key features of presidentialism is the concentration of executive power in a single individual, which can lead to decisive leadership and stability. However, this concentration also raises concerns about potential authoritarianism, as a powerful president may undermine democratic institutions (Elgie, 2016). The theory posits that checks and balances are essential to prevent the abuse of power, with mechanisms such as legislative oversight and judicial review playing critical roles. Presidentialism can foster accountability, as the president is directly answerable to voters. However, it may also lead to gridlock if the president and the legislature are controlled by opposing parties, complicating the legislative process. Overall, the theory of presidentialism emphasizes the importance of a robust institutional framework to balance power, ensuring that the executive remains accountable while effectively governing the state (Borges & Ribeiro, 2023).

Theory of Saddu Dzariah

The theory of *Saddu Dzariah*, rooted in Islamic jurisprudence, refers to the principle of blocking the means to harmful outcomes. The term "*Saddu Dzariah*" translates to "blocking the avenues" or "preventing the pathways" that could lead to prohibited actions or negative consequences. This theory is particularly significant in the context of ethical and legal decision-making within Islamic law (Sharia) (Al-Ayyubi et al., 2023). The core idea behind *Saddu Dzariah* is that while certain actions may not be inherently harmful, they can lead to undesirable outcomes if left unchecked. Therefore, it is essential to establish preventive measures to safeguard individuals and society from potential harm. This principle is often applied in various contexts, including issues related to morality, public health, and social behavior. For instance, in matters of finance, *Saddu Dzariah* may be invoked to prohibit practices that could lead to exploitation or injustice, even if the practices themselves are not explicitly forbidden. By prioritizing the prevention of harm, this theory emphasizes the importance of foresight and responsibility in governance and personal conduct. Ultimately, *Saddu Dzariah* serves as a guiding principle for creating a just and ethical society, ensuring that actions align with the broader goals of Islamic teachings (Misranetti, 2009).

Conceptual Framework

Regulations on Leave for the Incumbent President in the 2004 Presidential Election

To analyze the inconsistency of the incumbent presidential candidate's campaign leave arrangements after the amendment of the 1945 Constitution and the perspective of Islamic law, this article will refer to several relevant theories and concepts, both in the context of Indonesian state administration and the principles of Islamic law. The following is an explanation of the theories and concepts used in this study (Qorizha Islamiyah Ningrum, 2022):

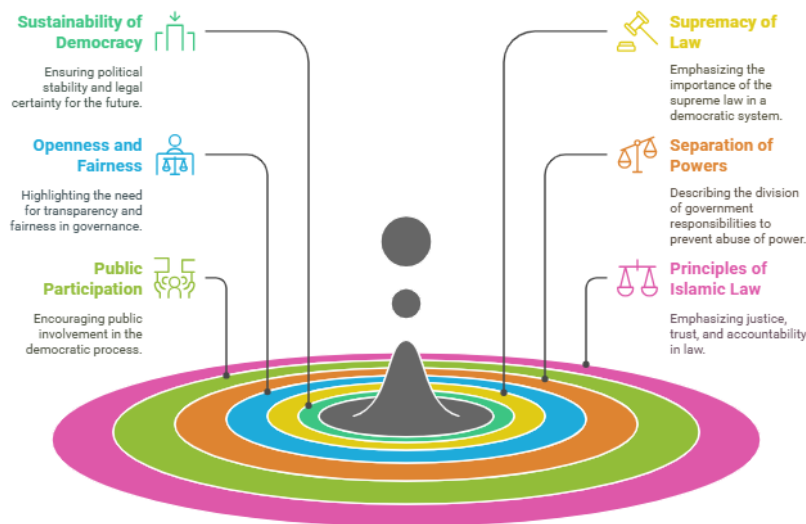


Figure 2. Conceptual Theory

Democratic constitutionalism is a theory that emphasizes the importance of the rule of law and transparency in democratic systems of government. In the context of Indonesia after the amendment of the 1945 Constitution, this theory underscores the role of the constitution in establishing clear and fair rules in political practice, including regulations on campaign leave for incumbent presidential candidates (Sugiharto & Riyanti, 2020). Separation of Powers is the separation and division of power between the executive, legislative, and judicial branches to prevent abuse of power. In the case of regulations on campaign leave for incumbent presidential candidates, the separation of powers can serve to ensure that decisions related to leave are not based solely on political interests, but also comply with legal and constitutional principles. Participatory Democracy: Democracy is not only focused on general elections, but also on the active participation of the people in determining state policies and regulations. The regulation of campaign leave for incumbent presidential candidates must take into account public participation to ensure that decisions made do not favor one party and minimize injustice (Y. Kurnia, 2022).

From an Islamic legal perspective, this theory emphasizes that the main objective of the state is to protect the interests of the people (*Maqhashid Syari'ah*), which includes protection of religion, life, intellect, property, and honor. In the context of presidential elections, the state must ensure that the policies it makes support the interests of the people, both legally and morally. Democratic Sustainability Democratic sustainability depends not only on fair electoral processes, but also on legal stability and consistency, as well as the protection of citizens' political rights. The regulation of campaign leave for incumbent presidential candidates must support political stability and democratic sustainability in a manner consistent with constitutional principles (Misranetti, 2009).

The above theory provides a framework for understanding the inconsistencies in the regulations governing the campaign leave of incumbent presidential candidates following the amendment of the 1945 Constitution and offers an Islamic legal perspective on the matter. By combining the concepts of democracy, separation of powers, justice in Islamic law, and the sustainability of democracy, this research can provide a more holistic understanding of how campaign leave regulations can be improved to maintain the integrity of the state and the principles of fair and transparent democracy (Al-Ayyubi et al., 2023).

Law Number 23 of 2004, in the 2004 Presidential election, there were five pairs of presidential and vice-presidential candidates, and two of them, namely the President and Vice President who had been dismissed, ran again as presidential candidates with different running mates. Law No. 23 of 2003, together with several implementing regulations, formed the basis for the 2004 presidential election. This law regulates how the presidential and vice presidential election campaigns are conducted, involving the current president. Article 35: As part of the election process, a campaign is conducted. The campaign referred to in paragraph (1) begins thirty days before the voting day and ends thirty days before the voting day (Indonesia, 2003).

According to Article 39 paragraph (3) of this regulation, state officials (including the President and Vice President) who are candidates for President and Vice President may conduct campaigns. Article 39 paragraph (3) states: "During the campaign period, state officials who are candidates for President or Vice President must comply with the following requirements: not using facilities related to their position; taking leave at their own expense; and arranging the duration and schedule of leave while considering the continuity of state administrative duties" (Indonesia, 2003).

Government Regulation No. 9 of 2004 concerning General Election Campaigns by State Officials is an implementing regulation of the 2004 Presidential Election Law. This regulation provides more detailed rules on campaigning and leave of absence for incumbent presidential and vice-presidential candidates. Articles 2 and 3 regulate leave and campaigns, as follows: Article 2 states that state officials who are members of political parties have the right to conduct election campaigns for the DPR, DPD, and DPRD, as well as for the President and Vice President. Article 2 also states that state officials who are not members of political parties have the right to conduct election campaigns if they are: candidates for the DPD, presidential candidates, or vice presidential candidates. Article 3 states, "In conducting election campaigns as referred to in Article 2, state officials shall take leave and not use state facilities" (Lubis et al., 2023).

The General Provisions of Article 1, paragraph 1, explain the definition of state officials referred to in Article 3, namely the President, Vice President, Ministers, Governors, Deputy Governors, Regents, Deputy Regents, Mayors, and Deputy Mayors. The law does not regulate such matters if the incumbent President and Vice President run again in the next presidential election, either as a pair or with different running mates. Conversely, Article 14 states that "The implementation of leave for the President and Vice President in the context of the Presidential and Vice Presidential Election Campaign shall be carried out in accordance with an agreement between the President and Vice President" (Indonesia, 2003).

This government regulation does not explicitly regulate the implementation of this leave. As a result, if the two cannot reach an agreement due to the short campaign period, they may take campaign leave simultaneously. This could lead to less effective governance. No later than seven days before the campaign period, the ministry responsible for the state secretariat shall arrange and sign the leave schedule for state officials involved in the general election campaign, such as the president, ministers, governors, regents, and mayors. There is no stipulation on how long the incumbent presidential candidate will take leave; however, ministers who are part of the campaign team may take two consecutive days of leave (Lubis et al., 2023).

RESEARCH METHODS

This study uses qualitative methods uses library research by using the normative juridical method (Hafizh & Efendi, 2023). The literature studied in the Law, Government Regulations, books, journals (Faisal et al., 2023). The approach used is normative juridical (Putri et al., 2024). The main data was obtained through regulations related to this article. Then analyzed with the theory used in this article (Ibnu Amin et al., 2022). Primary data in this study are laws and government regulations regarding the leave of Presidential candidates. Secondary data is taken from various sources such as books, recent articles (I Amin et al., 2022). The research process was carried out through the following stages identification of legal issues. Researchers first identify and formulate the legal issues to be studied, namely regarding the legal rules related to leave for Presidential candidates in elections. Collection of legal materials. At this stage, researchers collect various legal materials, both in nature. Primary legal materials, such as: The 1945 Constitution of the Republic of Indonesia, the Election. Law, Government Regulations, and other relevant regulations (Mulyawan et al., 2025). Secondary legal materials, such as: legal textbooks, scientific journals, legal articles, and previous research results. Tertiary legal materials (if needed), such as: legal dictionaries, legal encyclopedias, or other supporting references. Classification and systematization of data, all legal materials that have been collected are classified and arranged systematically based on their relevance to the subject matter, in order to facilitate the analysis process. Analysis of legal materials, the legal materials that have been collected are then analyzed qualitatively, namely by examining the provisions of the applicable positive law and associated with legal theories and opinions of legal experts. The aim is to answer the legal problems that have been formulated. Drawing conclusions, after the analysis process is complete, the researcher draws juridical conclusions based on the results of normative studies of the laws and regulations and legal literature analyzed. This conclusion is compiled in a descriptive-analytical manner (Candra et al., 2025).

RESULTS AND DISCUSSION

Result

Leave Arrangements for the Incumbent President in the 2009 Presidential Election

The 2009 presidential election, as was the case in the 2004 presidential election, involved the President and Vice President as presidential candidates. President Susilo Bambang Yudhoyono ran again as a presidential candidate alongside Prof. Boediono, and Vice President Jusuf Kalla ran as a presidential candidate alongside Wiranto. Law No. 42 of 2008 on the Election of the President and Vice President forms the basis for the upcoming 2009 presidential election. The provisions relating to campaigning are the most regulated in this law. Furthermore, Article 59 regulates campaigning: the President and Vice President not only have the right to participate in campaigning, but also other state officials who are members of political parties. Other state officials who are not members of political parties may participate in campaigns if they are involved as: presidential or vice presidential candidates; members of a campaign team registered with the General Elections Commission (KPU); or campaign organizers registered with the KPU (Y. Kurnia, 2022).

In conducting presidential election campaigns, the President and Vice President, who are also presidential and vice presidential candidates, must comply with the provisions set forth in Article 42 on Campaigns involving the President, Vice President, Ministers, Governors, Deputy Governors, Regents, Deputy Regents, Mayors, and Deputy Mayors:

not using facilities related to their positions, except as further regulated by KPU regulations regarding the involvement of state officials as referred to in paragraphs (1) and (2). This regulation also governs how the leave referred to in paragraph (1)(b) is implemented. In this law, there is only one article, Article 42, which governs leave for incumbent presidential and vice presidential candidates. However, the second paragraph of that article imposes restrictions on its implementation, making it difficult to conduct both the campaign and the leave of the presidential candidate.

Government Regulation No. 14 of 2009 concerning Procedures for State Officials in Conducting General Election Campaigns was issued to regulate leave and campaigns included in the 2009 Presidential Election Law. Article 2 of this Regulation states that state officials who are members of political parties have the right to conduct general election campaigns and campaigns for members of the DPR, DPD, and DPRD. According to Article 3, "In conducting the general election campaign as referred to in Article 2, state officials, including the incumbent President, shall take leave or be inactive and shall not use state facilities," the word "or" indicates that this regulation provides an alternative path for state officials, including the incumbent President, who are candidates for President. Leave of absence is a state of not working that is permitted by the authorized official during the election campaign for members of the House of Representatives, Regional Representative Council, and President and Vice President (Indonesia, 2003). A state official who temporarily does not perform his or her official duties because he or she is permitted to participate in an election campaign is known as being on inactive status. In state administration practice, leave status is defined as a situation in which an official does not perform his or her duties and obligations but retains his or her inherent rights. In the case of presidential elections, for example, an incumbent presidential candidate who takes leave during the campaign is permitted to assume the office of president (Iftiyatna et al., 2022).

Leave Arrangements for Incumbent Presidential Candidates in the 2019 Presidential Election

The 2019 general election differs from previous elections. The difference lies in the fact that the presidential and legislative elections are held simultaneously. As a result, Law No. 7 of 2017 combines the legal basis for both. Articles 281 and 299 of this law regulate leave for incumbent presidential candidates and other state officials during the general election campaign (Permadi et al., 2022).

Certain officials, such as the President, Vice President, Ministers, Governors, Deputy Governors, Regents, Deputy Regents, Mayors, and Deputy Mayors, must meet the following requirements during election campaigns involving state officials: they may not use facilities related to their positions, except for security facilities as regulated by law; and they must take leave at their own expense.

KPU regulations govern the further involvement of state officials as referred to in paragraph (1) letter b and paragraph (2). The leave schedule and leave mentioned in paragraph (1) letter b are regulated to maintain the administration of the state and regional governments. According to Article 299, the President and Vice President and other state officials who are members of political parties have the right to campaign. Other state officials who are not members of political parties may campaign if they are: presidential or vice presidential candidates; campaign managers who have been registered with the KPU; or presidential or vice presidential candidates.

Discussion

Leave Arrangements for the Incumbent President in the 2009 Presidential Election

Government Regulation No. 9 of 2004, which stipulates that “The implementation of leave for the President and Vice President in the context of the Presidential and Vice Presidential Election Campaign shall be carried out,” does not explicitly regulate situations where the incumbent President and Vice President run again in the presidential election (Iftiyatna et al., 2022).

This regulation could result in a temporary power vacuum in the offices of the President and Vice President. This is because, if there is no agreement on the timing and location of each campaign, the campaigns of the President and Vice President may be conducted on the same day. Additionally, during the campaign, the President and Vice President must take leave or be inactive. If both take leave, the office of the President will be vacant. This could disrupt government operations (Situmorang, 2020).

KPU Regulation No. 28 of 2009 concerning Technical Guidelines for the Presidential and Vice Presidential Election Campaign regulates the leave and campaign of the incumbent President and Vice President. This is regulated in Article 51 paragraph (1), which reads: “The President and Vice President have the right to conduct campaigns.” In addition, Article 52 regulates additional provisions, namely: “In conducting the election campaign as referred to in Article 51, the President and Vice President. If the incumbent President and Vice President take campaign leave simultaneously, there are no provisions granting the Election Commission the authority to reject such leave schedules. Regulations from the level of law to the regulations of the Election Commission should grant the Election Commission the authority to reject or, at the very least, reject the simultaneous campaign leave of the incumbent President and Vice President.

Leave Arrangements for Incumbent Presidential Candidates in the 2019 Presidential Election

Basically, Article 299 of this regulation allows state officials, including the incumbent president who is also a presidential candidate, to campaign to promote themselves, other people, and political parties. In addition, Article 281 states that state officials must take leave. These two articles show that both the incumbent president and presidential candidates have the right to campaign. The incumbent president decides for himself whether he will exercise this right. According to Article 281, the incumbent president must take leave if he exercises his right to campaign. Some people oppose this idea because the president's schedule is very busy and his duties cannot be performed at certain times. During the campaign, the president must consider his responsibilities and duties as the head of state, according to Articles 300 and 301.

Government Regulation No. 32 of 2018 was issued as a follow-up and implementation of the aforementioned law. It regulates the procedures for resignation in the nomination of the President and Vice President, Members of the House of Representatives (Tinambunan, H. S. R., & Prasetyo, 2019). Members of the Regional Representative Council, the President and Vice President, and the Request for Permission for the Nomination of the President and Vice President. This article is in line with Article 281 of Law No. 7 of 2017, which stipulates that the President must take leave if he exercises his right to campaign.

On the other hand, Article 34 of Government Regulation No. 32 of 2018 explains the leave mechanism for incumbent presidential candidates: The minister responsible for

government affairs in the field of state secretariat shall report to the General Election Commission no later than 7 (seven) working days before the President and Vice President take leave for the General Election Campaign to fulfill their duties and obligations as president and vice president. The campaign leave schedule is arranged alternately, not simultaneously, as stipulated in the implementation regulations for the 2004 and 2009 presidential elections. Paragraph (3) indicates that the leave of the incumbent presidential candidate must be flexible or can be postponed in certain situations, unlike the leave for the 2004 and 2009 presidential elections, which could not be postponed. This can be considered beneficial to avoid a power vacuum between the President and Vice President.

In legislation, the more detailed the material regulated in lower-level legal products. The same applies to leave and campaigns that have been regulated by previous government regulations. Commission Regulation No. 23 of 2018 on General Election Campaigns, which is lower in the hierarchy, regulates leave and campaigns for the incumbent president in greater detail than the two previous laws (Suwanda, n.d.). The regulations regarding the incumbent President's campaign and leave are stipulated in Article 59 paragraph (1) and Articles 60 and 61. This General Election Commission Regulation also states that the incumbent President must take leave if a general election campaign is underway. This General Election Commission Regulation stipulates that the incumbent President and Vice President's leave must be taken separately or alternately. Additionally, the laws, government regulations, and Election Commission regulations governing the 2004 and 2009 presidential elections only apply to ministers, governors, and their deputies, but these regulations state that the incumbent President does not need to take leave to conduct a campaign if the campaign is held on a holiday (Juanda, 2019).

Islamic Law

According *Haqiqi Siyasaah Syariah* (Ryki, 2021) the *Qur'an and Sunnah* are the primary sources. These two sources are very limited, serving as a reference for those in power to create legislation and regulate state affairs. Since societal development is constantly evolving, the criteria for creating legislation also depend on human beings and their environment (Amaluddin & Saputra, 2021). Experts, jurisprudence, experience, and cultural heritage can serve as sources. *Khalaf* explains that what is meant by general issues of the Muslim community are all matters that require regulations in the context of life, such as legislation, finance, monetary affairs, judiciary, executive, domestic, and international issues (Uspan, 2020).

Saddu Dzari'ah (سد الذريعة) is a principle in Islamic jurisprudence used to prevent harm or damage by blocking the means or causes that could lead to harm, even if the action itself is not inherently prohibited. This concept serves as a legal basis to prevent something that is not inherently prohibited but may cause harm or violate religious principles if carried out (Fuaddi, 2023). The implementation of *Saddu Dzari'ah* in Islamic law involves: The initial process in applying *Saddu Dzari'ah* is to identify the causes or means that may lead to harm or damage in society. These causes do not directly contradict Sharia law, but they can lead to undesirable outcomes, such as immorality, moral decay, or social conflict (Harahap, 2019). At this stage, scholars analyze the extent to which the activity or action can cause harm. This harm can be social, individual, or humanitarian in nature. It is not only viewed from the perspective of positive law, but also considers the long-term impact on the people (B. Ibrahim & bin Mohd Zaini, 2021). After identifying the causes that can cause damage, the next process is to close or prevent

the path or activity, which is a form of prevention before greater damage occurs (Muhammadiyah, 2024).

After preventing these causes, scholars will assess whether the restrictions or prohibitions bring more benefits or harm. If the prohibition brings more benefits, then Islamic law will decide to implement the measure as part of efforts to maintain the welfare of the community (Alkali et al., 2024). *Saddu Dzari'ah* is often used to support the principle of public interest (maslahah 'ammah), which refers to things that benefit everyone. This shows that even though an action or activity is not inherently prohibited, it must be avoided if it causes greater harm to society (Harwis et al., 2024). To prevent harm that outweighs the benefits, incumbent presidents must take leave during the campaign. They must also show the public where the incumbent presidential candidate stands as president and as a presidential candidate. In addition, Law No. 7 of 2017 should explain in detail how the incumbent president can exercise their rights in accordance with applicable laws to prevent conflicts and behavior that is not in accordance with *Sharia*. As presidents often do, personal and group interests can override national responsibilities.

The leader of all Indonesians there is a possibility that he could use the state budget and violate his responsibilities as president and head of government. In addition, there are concerns that the incumbent president could influence state institutions under his authority to pressure people to vote for the incumbent presidential candidate, which could harm his competitors. As a result, an unfair election contest only benefits the incumbent presidential candidate, which contradicts national interests and has the potential to divide the country. Therefore, the concept of *Saddu Dzariah* can be used as a basis to ensure that justice is properly applied and that no further damage occurs. In addition, there are concerns that the incumbent president may influence state institutions under his authority to pressure individuals to vote for the incumbent presidential candidate, which could harm other presidential candidates. As a result, an unfair and advantageous election contest occurs. *Saddu Dzariah* can be used as a basis to ensure that justice is applied correctly and that no further damage occurs.

CONCLUSION AND SUGGESTIONS

Conclusion

Campaign leave for presidential candidates after the 1945 Constitution Amendment: The 2004, 2009, and 2019 presidential elections differed in that incumbent presidential candidates had to take campaign leave, including holidays, whereas the 2019 presidential election did not. There is a commonality in the regulations governing the leave of incumbent presidential candidates: all three do not impose any restrictions on the maximum duration of the candidate's leave. The principle of *Saddu Dzariah* protects individuals from actions that are more harmful than beneficial. This concept raises concerns that the election process cannot proceed if the president does not campaign, such as using state funds to conduct their campaign or leveraging their authority to influence state institutions to support their candidacy.

Suggestions

The government and lawmakers need to provide firm and consistent arrangements regarding campaign leave for incumbent presidential candidates, including the duration of leave and the obligation to leave on holidays. This is important to avoid multiple

interpretations and unfair practices in every presidential election. There needs to be regulations that strictly limit the use of state facilities by incumbent presidential candidates during the campaign period. This is in line with the principle of *Saddu Dzariah*, which prevents the potential for abuse of power that can damage the integrity of elections. Suggestions for future research comparative studies between countries. Future research could discuss a comparison of campaign leave arrangements for incumbent head of state candidates in various democratic countries, such as the United States, France, or other ASEAN countries, to obtain best practices that can be applied in Indonesia.

AUTHOR CONTRIBUTION STATEMENT

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