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# The Importance of the Formal Legal Process for the Appointment of the President and Vice President by the People's Consultative Assembly in Ensuring Legal Certainty

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**Abstract**

This article examined the absence of a formal legal instrument issued by the People's Consultative Assembly (MPR) in establishing the President and Vice President and its implications for legal certainty within Indonesia's constitutional system. Before the amendment of the 1945 Constitution, presidential inauguration was accompanied by an MPR Decree that formally established the officeholders. Following the 1999–2002 constitutional amendments, the President and Vice President were elected directly by the people, the General Election Commission (KPU) determined the election results, the Constitutional Court (MK) adjudicated election disputes, and the MPR retained only the authority to inaugurate the elected pair pursuant to Article 3 paragraph (2) of the 1945 Constitution. A review of presidential elections from 2004 to 2024 showed that no MPR Decree specifically establishing the President and Vice President had been issued during the post-reform era. Using a normative juridical method with statutory, conceptual, comparative, and historical approaches, this article argued that this condition did not constitute a legal vacuum but rather reflected normative incompleteness in formalizing the constitutional act of inauguration. This article proposed strengthening legal certainty through a constitutional convention requiring the MPR to issue a formal legal instrument of inauguration without restoring its pre-reform authority to determine the President and Vice President.

## INTRODUCTION

The concept of a state based on law (rechtsstaat) has been part of Indonesia's constitutional design since the drafting of the 1945 Constitution, which affirms that "the State of Indonesia is based on law (rechtsstaat), not on mere power (machtsstaat)" (Supena, 2023; Hadi, 2022). According to Moh. Mahfud M.D., the first characteristic of a state based on law is the recognition and protection of human rights, a principle reflected in both the Preamble and the body of the 1945 Constitution. The second characteristic is an independent judiciary that is free from interference by other institutions, while the third requires that every action of state administrators be based on valid legal authority (Muhlashin, 2022). Because Indonesia adopted the concept of a state based on law within the framework of Pancasila, it is often described as a Pancasila state based on law, in which law serves as the highest source of

authority and no power may override it except the authority derived from law itself, which is rooted in Pancasila.

Sukarton Marmosudjono identified four principles inherent in the Pancasila state based on law and the 1945 Constitution: the principle of legal order, which requires clear and firm rules to provide legal certainty in social, national, and state life; the principle of legal protection, reflected in the Preamble's commitment to protect the entire Indonesian nation; the principle of equality of rights and obligations before the law; and the principle of legal awareness, which includes both obedience to the law and shared responsibility for upholding it. Within this framework, the People's Consultative Assembly (MPR), as a state institution constitutionally mandated to exercise people's sovereignty under Article 3 paragraph (1) of the 1945 Constitution, occupies a strategic position because it has the authority to amend and enact the Constitution, which serves as a political-legal document containing Indonesia's constitutional framework.

Prior to the amendment of the 1945 Constitution, the MPR was the highest state institution and, under Article 1 paragraph (2) of the pre-amendment Constitution, exercised people's sovereignty in its entirety. Under this constitutional structure, the MPR elected, appointed, and formally established the President and Vice President, and each appointment was accompanied by an MPR Decree (Ketetapan MPR/TAP MPR) that functioned as a formal legal instrument providing constitutional legitimacy to the officeholders. The four stages of constitutional amendment conducted between 1999 and 2002 fundamentally transformed this structure. Article 1 paragraph (2) was amended to provide that sovereignty is "exercised according to the Constitution," thereby ending the MPR's status as the sole institution exercising people's sovereignty. The President and Vice President are now directly elected by the people pursuant to Article 6A paragraph (1); the General Election Commission (KPU) determines election results; the Constitutional Court (MK) adjudicates disputes concerning election results; and the MPR's remaining authority in this process, under Article 3 paragraph (2), is limited to inaugurating the elected President and/or Vice President (Aminullah, 2025; Amir, 2021; Arfan & Rohman, 2022; Chairnosia, 2017; Wijaya, 2016).

A review of constitutional practices since the first direct presidential election in 2004 through the 2024 election demonstrates a consistent pattern: the KPU determines the elected pair, the MK resolves disputes concerning election results, and the MPR conducts the inauguration through a plenary session in which the President and Vice President take the oath of office pursuant to Article 9 of the 1945 Constitution. Throughout these five election cycles, the MPR has not issued a Decree or other written legal instrument specifically establishing or appointing the President and Vice President, unlike the pre-reform practice in which such Decrees constituted an integral part of the process. This situation raises a legal discourse concerning the status of the inauguration itself: whether it is merely declaratory, confirming a legal status that has already emerged from the KPU's determination, or whether it is constitutive, meaning that the formal commencement of presidential and vice-presidential authority requires a written legal instrument (Agustin & Yunus, 2026; Fikriya, 2024; Ifani, 2024; Omara, 2018; Rizzy & Meliza, 2025).

This condition is not merely administrative in nature but concerns a more fundamental issue related to the consistency of the Pancasila state based on law, the fulfilment of legal certainty, and the legitimacy of governmental actions within the constitutional framework. The

issue becomes more significant when viewed through Gustav Radbruch's theory of legal certainty, which places legal certainty (Rechtssicherheit), justice (Gerechtigkeit), and expediency (Zweckmässigkeit) as three fundamental values of law that must be realized simultaneously. The absence of a formal legal instrument accompanying the inauguration of the President and Vice President raises questions regarding the certainty of when and how presidential authority formally begins, both from academic and constitutional perspectives. Recent constitutional developments, including the August 2024 controversy surrounding the House of Representatives' position regarding the Constitutional Court's decision on presidential candidacy thresholds and the Constitutional Court's January 2025 decision abolishing the presidential candidacy threshold, further demonstrate the importance of consistent production of binding legal instruments to maintain constitutional legitimacy .(Bellamy & Weale, 2015; Bonnet, 2018; Mader, 2019; Öztürk, 2024)

Based on the foregoing background, this article addresses three research questions: first, why is the formal legal establishment of the President and Vice President no longer issued by the People's Consultative Assembly of the Republic of Indonesia; second, what is the urgency of a formal legal instrument for the inauguration of the President and Vice President in the post-reform period; and third, what are the legal implications of the absence of such a formal legal instrument in ensuring legal certainty.

This article aims to examine the authority of the People's Consultative Assembly concerning the formal legal establishment of the President and Vice President; analyze the urgency of a formal legal instrument for presidential and vice-presidential inauguration from the reform era to the present; and examine the ideal legal formalization mechanism that should accompany the inauguration process to ensure legal certainty consistent with Indonesia's constitutional system.

This article examines the legal implications of the appointment of the President and Vice President by the MPR without an accompanying formal legal instrument within Indonesia's constitutional system, a perspective that has not been extensively explored in existing constitutional law literature, particularly regarding constitutionality, governmental legitimacy, and the sustainability of democratic governance. Among related studies, Aulia Khasanofa's dissertation, "The Indonesian Presidential Election System Based on Representative Deliberation" (Universitas Muhammadiyah Surakarta, 2020), examined the characteristics of a presidential election system based on representative deliberation with a Pancasila character. Didik Suhariyanto's dissertation, "Presidential Succession in Indonesia" (Universitas Brawijaya, 2013), concluded that presidential succession mechanisms under the 1945 Constitution have not always reflected a democratic paradigm and that the legal implications of such successions affect the legality of power transitions. Hernadi Affandi (2022), in "Inauguration of the President and Vice President and the Conduct of the Annual Session: The Paradox of the MPR's Exclusive Authority," identified inconsistencies between the 1945 Constitution and implementing legislation regarding the authority of the MPR. M. Adnan Yazar Zulfikar (2021), in "The Discourse on an MPR Decree for Presidential Inauguration after the Amendment of the 1945 Constitution," concluded that the MPR does not need to issue a Decree to inaugurate a President and Vice President who have already been elected. Unlike these previous studies, this article specifically focuses on the legal

consequences arising from the absence of a formal legal instrument, whether in the form of a regeling or beschikking, accompanying MPR inaugurations since 2004.

## METHOD

This article employed a normative juridical method that examined legal principles, legal structures, and the vertical and horizontal synchronization of positive law concerning the inauguration of the President and Vice President by the MPR. Four approaches were applied. The statutory approach examined the norms contained in the 1945 Constitution and related legislation governing the authority of the MPR, Constitutional Court, and General Election Commission to assess consistency among these legal instruments. The conceptual approach analyzed constitutional and administrative law doctrines in relation to applicable constitutional provisions. The comparative approach examined constitutional arrangements in other countries, particularly regarding the formal legal basis for appointing heads of state. The historical approach traced the development of the MPR's constitutional position and authority concerning the inauguration of the President and Vice President from the pre-independence period to the post-reform era. This descriptive research provided a systematic analysis of changes in legislative and executive institutional authority within Indonesia's constitutional system based on primary legal materials, including the 1945 Constitution and its amendments, statutes, MPR and MPRS Decrees, KPU decisions, and Constitutional Court rulings, as well as secondary legal materials consisting of legal literature, journal articles, and dissertations relevant to the research topic.

## RESULTS AND DISCUSSION

### The MPR's Authority over the Presidency before the Amendment of the 1945 Constitution

Before the amendment of the 1945 Constitution, the position, form, duties, and authority of the MPR were considerably greater than in the post-amendment period, because the MPR was the highest state institution and held broad authority within the constitutional system. Article 1 paragraph (2) of the pre-amendment Constitution stated that "sovereignty is in the hands of the people and is exercised in full by the People's Consultative Assembly," and the MPR's membership, consisting of elected representatives in the House of Representatives (DPR), functional group delegates, and regional delegates, was designed to embody this status as the incarnation of the entire Indonesian people. As the full mandatory of popular sovereignty, the MPR held authority to establish the Constitution and the Broad Guidelines of State Policy (GBHN) under Article 3; to elect the President and Vice President by majority vote under Article 6 paragraph (2); and to amend the Constitution under Article 37. Because the President and Vice President were the MPR's mandatories tasked with carrying out the GBHN, the MPR could also dismiss the President before the end of the term of office, whether at the President's own request, due to permanent incapacity, or for serious violation of the GBHN. Indonesian constitutional theory of the period accordingly regarded the MPR as the sole institution possessing supremacy, combining "legal power" as the sovereign body empowered to determine everything affirmed by the Constitution, with the principle of "no rival authority," meaning no other individual or body could override or set aside an MPR decision. Every appointment of a President and Vice President in this period was consequently

accompanied by an MPR or MPRS Decree, illustrated most starkly by MPRS Decree No. III/MPRS/1963, which appointed President Sukarno as President for Life, and by MPRS Decree No. XXXIII/MPRS/1967, which withdrew governmental authority from President Sukarno and appointed General Suharto as Acting President, later confirmed as President by the 1968 MPRS General Session. Throughout the New Order, President Suharto was re-elected by acclamation in the MPR's General Sessions of 1973, 1978, 1983, 1988, 1993, and 1998, and each re-election was likewise formalized through an MPR Decree, confirming that before the amendment, the functions of electing, appointing, establishing, and formalizing the President and Vice President were concentrated in a single institution and always accompanied by a binding legal product.

**The Shift after the Amendment of the 1945 Constitution**

The four-stage amendment of the 1945 Constitution carried out between 1999 and 2002 fundamentally altered the constitutional basis of popular sovereignty. Article 1 paragraph (2) was revised to state that "sovereignty is in the hands of the people and is exercised according to the Constitution," which, according to Jimly Asshiddiqie, marks a shift from the supremacy of the MPR toward the supremacy of the Constitution itself: no single institution remains the highest state organ, and every state institution derives its authority directly from the Constitution and stands in a coordinate position under the principle of checks and balances. The direct consequence of this shift is that the President and Vice President are elected directly by the people under Article 6A paragraph (1), first implemented in the 2004 general election. The KPU, established as a national, permanent, and independent body under Article 22E paragraph (5), is authorized to organize the election and determine its results; the Constitutional Court, under Article 24C paragraph (1), is authorized to adjudicate disputes over the results should any candidate pair contest them; and the MPR, under Article 3 paragraph (2), retains only the authority to inaugurate the President and Vice President, a function distinct in character from the pre-reform authority to elect and establish. The President, once elected directly by the people, is no longer a mandatory of the MPR and is no longer accountable to it, being instead accountable to the people through the mechanisms of democracy and the Constitution

**Table Presentation: MPR Authority before and after the Amendment**

To make this institutional shift concrete, Table 1 summarizes, on the basis of the constitutional text discussed above, how the MPR's principal authority over the appointment of the President and Vice President changed between the pre-amendment and post-amendment constitutional order.

**Table 1.** Comparison of MPR Authority over the Presidency before and after the Amendment of the 1945 Constitution

| Aspect | Before Amendment (Pre-1999) | After Amendment (Post-2002) |
|---|---|---|
| Constitutional status of the MPR | Highest state institution, sole executor of popular sovereignty (Art. 1(2)) | State institution coordinate with other state institutions; no highest institution |

| Aspect | Before Amendment (Pre-1999) | After Amendment (Post-2002) |
|---|---|---|
| Election of the President and Vice President | Elected by the MPR by majority vote (Art. 6(2)) | Elected directly by the people (Art. 6A(1)) |
| Determination of election results | Determined internally through the MPR's own vote | Determined by the Election Commission (KPU) |
| Resolution of election disputes | Not applicable; no separate dispute body | Adjudicated by the Constitutional Court (MK) (Art. 24C(1)) |
| Establishment (penetapan) of the President-elect | MPR Decree (TAP MPR) issued as a formal legal instrument | No MPR Decree issued; status follows the KPU's determination |
| Inauguration of the President and Vice President | Conducted by the MPR as part of the same authority that elected them | Conducted by the MPR under Art. 3(2), as its sole remaining function in this process |
| Dismissal during term of office | MPR authority based on violation of the GBHN | MPR authority limited to the forum previlegiatum of Art. 7A-7B, requiring a prior MK ruling |
| Accountability of the President | President accountable to the MPR as mandatory | President accountable to the people through periodic elections |

*Source: Compiled by the authors based on the 1945 Constitution of the Republic of Indonesia before and after the amendments.*

**Practice of the Direct Presidential Election, 2004-2024**

The first direct presidential election, held in 2004, was contested by five candidate pairs. Because no pair obtained the majority required by the Constitution in the first round, a second round was held between the two highest-placed pairs. Table 2 presents the first-round results and Table 3 the second-round results, as recorded in the source material.

**Table 2.** Results of the First Round of the 2004 Presidential Election

| Candidate Pair | Votes | Percentage |
|---|---|---|
| H. Wiranto, S.H. and Ir. H. Salahuddin Wahid | 26,286,788 | 22.15% |
| Hj. Megawati Soekarnoputri and H. Hasyim Muzadi | 31,569,104 | 26.61% |
| Prof. Dr. H.M. Amien Rais and Dr. Ir. H. Siswono Yudo Husodo | 17,392,931 | 14.66% |
| H. Susilo Bambang Yudhoyono and Drs. H. Muhammad Jusuf Kalla | 39,838,184 | 33.57% |

| Candidate Pair | Votes | Percentage |
|---|---|---|
| Dr. H. Hamzah Haz and H. Agum Gumelar, M.Sc. | 3,569,861 | 3.01% |

*Source: Compiled by the authors based on official presidential election results issued by the General Elections Commission (KPU).*

**Table 3.** Results of the Second Round of the 2004 Presidential Election

| Candidate Pair | Votes | Percentage |
|---|---|---|
| Hj. Megawati Soekarnoputri and H. Hasyim Muzadi | 44,990,704 | 39.38% |
| H. Susilo Bambang Yudhoyono and Drs. H. Muhammad Jusuf Kalla | 69,266,350 | 60.62% |

*Source: Compiled by the authors based on official presidential election results issued by the General Elections Commission (KPU).*

Susilo Bambang Yudhoyono and Jusuf Kalla were accordingly determined by the KPU as the elected President and Vice President and were inaugurated by the MPR on 20 October 2004, without any accompanying MPR Decree establishing their status. The same institutional pattern recurred in every subsequent election. In 2009, the KPU determined Susilo Bambang Yudhoyono and Boediono as the winning pair after a single round in which they obtained more than fifty percent of the vote; a dispute was filed with the Constitutional Court, which rejected it in Decision No. 108-109/PHPU.B-VII/2009, after which the MPR inaugurated the pair without issuing a Decree. In 2014, the KPU determined Joko Widodo and Jusuf Kalla as the winning pair in one of the most competitive elections in the post-reform period; the losing pair contested the result, and the Constitutional Court rejected the challenge in Decision No. 1/PHPU.PRES-XII/2014, after which the MPR again inaugurated the pair on 20 October 2014 without a Decree. The 2019 election, the first held simultaneously with legislative elections following Constitutional Court Decision No. 14/PUU-XI/2013, resulted in the KPU determining Joko Widodo and Ma'ruf Amin as the winning pair; a dispute over the result was rejected by the Constitutional Court in Decision No. 01/PHPU-PRES/XVII/2019, and the MPR inaugurated the pair on 20 October 2019, again without a Decree. In 2024, the KPU, through Decision No. 360 of 2024, determined Prabowo Subianto and Gibran Rakabuming Raka as the winning pair; disputes over the result were rejected by the Constitutional Court in Decisions No. 1/PHPU.PRES-XXII/2024 and No. 2/PHPU.PRES-XXII/2024, and the pair was inaugurated by the MPR on 20 October 2024, without any MPR Decree specifically establishing their status.

**Table Presentation: The Institutional Pattern of KPU, MK, and MPR Practice, 2004-2024**

Table 4 summarizes the recurring institutional pattern across the five direct presidential elections described above, drawn entirely from the practice recorded in the source material.

**Table 4.** Institutional Pattern of KPU, MK, and MPR Roles in Presidential Elections, 2004-2024

| Election Year | KPU Function | MK Function (if a dispute arose) | MPR Function |
|---|---|---|---|
| 2004 | Determined the winning pair after two rounds | Reviewed disputes without altering the result | Inaugurated on 20 October 2004; no MPR Decree issued |
| 2009 | Determined the winning pair in a single round | Rejected the dispute (Decision No. 108-109/PHPU.B-VII/2009) | Inaugurated the elected pair; no MPR Decree issued |
| 2014 | Determined the winning pair | Rejected the dispute (Decision No. 1/PHPU.PRES-XII/2014) | Inaugurated on 20 October 2014; no MPR Decree issued |
| 2019 | Determined the winning pair in the first simultaneous election | Rejected the dispute (Decision No. 01/PHPU-PRES/XVII/2019) | Inaugurated on 20 October 2019; no MPR Decree issued |
| 2024 | Determined the winning pair (KPU Decision No. 360/2024) | Rejected the disputes (Decisions No. 1 and No. 2/PHPU.PRES-XXII/2024) | Inaugurated on 20 October 2024; no MPR Decree issued |

*Source: Compiled by the authors based on KPU decisions, Constitutional Court decisions, and MPR inauguration practices, 2004–2024.*

This consistent pattern shows that the authority once concentrated in the MPR before the amendment has, since 2004, been distributed among the KPU, the MK, and the MPR in accordance with the principle of checks and balances embedded in the amended 1945 Constitution. At the same time, it shows that across five consecutive election cycles the MPR has never issued a formal legal product specifically establishing the President and Vice President, a consistent absence that this article treats as the empirical foundation for the analysis that follows.

**Comparative Perspectives: Civil Law and Common Law Models**

A comparative reading of civil law and common law traditions helps explain, and evaluate, this Indonesian pattern. In the civil law tradition, developed from Roman law and codified extensively following the French Code Civil of 1804, legislation is treated as the primary source of law, so that every exercise of governmental authority must obtain legitimacy through a clear written legal instrument; Philipus M. Hadjon notes that in this tradition the principle of legality is the foundation of administrative action, and government may not act on political considerations alone. Consequently, in France, the results of a presidential election are announced and validated by the Conseil constitutionnel under the Constitution and the Code électoral; in Germany, although the Federal President is elected by the Bundesversammlung, the appointment follows a written constitutional procedure under the Grundgesetz; and in the Netherlands, administrative acts concerning public office are consistently grounded in the principle of legality that characterizes Dutch administrative law. In the common law tradition, by contrast, legitimacy tends to arise from the whole of a consistently followed constitutional

process rather than from a single formal instrument; in the United States, the legitimacy of the President rests on a sequence of constitutional steps, the vote of the Electoral College, certification by the states, the official count by Congress, and inauguration under the Constitution, without any single administrative decision establishing the presidency, while in the United Kingdom, absent a single written constitution, legitimacy is built through a combination of statute, precedent, and constitutional conventions. Indonesia, having developed since independence within the civil law tradition influenced by Dutch law, places strong emphasis on legislation as the primary source of law and on the principle of legality as a pillar of administrative action; the need for a formal legal instrument in the appointment of the President and Vice President is accordingly not a mere administrative preference but a logical consequence of Indonesia's position within the civil law family. At the same time, the post-reform development of checks and balances shows that this need not necessarily be met through a single instrument as before reform; what matters is that legal certainty consistent with the character of the Indonesian state based on law and the value of Pancasila justice is ultimately guaranteed, whether through one instrument or through an integrated set of constitutional acts performed by different institutions.

**The Concept of Normative Incompleteness**

The redistribution of authority described above carries both advantages and disadvantages. Its advantage is a reduced possibility of the monopolization of power by a single state institution; its disadvantage is the emergence of normative gaps at points previously covered by the MPR's single, comprehensive authority. Before reform, there existed a relatively complete chain of legal action: the MPR elected the President and Vice President, established them through an MPR Decree, and then inaugurated them, producing a clear link between political legitimacy and legal legitimacy. After reform, political legitimacy is obtained through an election organized by the KPU, but formal legal legitimacy after the determination of the election result is no longer expressed through any MPR legal product as it once was. This article characterizes this condition as a normative incompleteness (ketidaklengkapan konstruksi normatif) rather than a legal vacuum (rechtsvacuum): the process of filling the presidency retains a valid constitutional basis and can be lawfully carried out under the 1945 Constitution and its implementing legislation, yet, viewed from the perspective of administrative law and the theory of governmental administrative action, there is no single normative construction that expressly identifies which legal act formally gives rise to the legal status of the President and Vice President, in the way the MPR Decree once did.

**The Urgency of a Formal Legal Instrument in the Reform Era**

The relevance of a formal legal instrument to the process of filling the presidency cannot be separated from the President's position as the holder of governmental power under the 1945 Constitution. As both head of state and head of government, the President exercises very broad authority: setting governmental policy, appointing and dismissing certain state officials, forming the cabinet, proposing legislation, and exercising numerous other constitutional powers. Clarity regarding the legal basis on which this authority arises is therefore essential to avoid doubt about the validity of the President's state actions. A formal legal instrument is also relevant to the continuity of government: leadership succession is inherent to any democracy, yet it must proceed in an orderly manner with a clear legal basis to avoid a vacuum of power or disputes over legitimacy. In this respect, a formal legal instrument

functions to give certainty as to when the status of the elected President and Vice President arises and when their constitutional authority may begin to be exercised. Before reform, this relevance was expressed through the MPR Decree, which linked the result of the MPR's own election to the legal status of the President and Vice President; after reform, the same function is discharged, in part, by the KPU's decision determining the winning candidate pair, which becomes the basis for the subsequent stage of inauguration by the MPR. What has changed is therefore not the underlying need for a formal legal instrument, but the institution performing that function and the form of the instrument used, and the persistence of that need, despite institutional change, is the central premise on which this article's proposal for reconstruction rests.

**Is an MPR Decree the Only Possible Form?**

A question that follows directly from this analysis is whether the pre-reform MPR Decree is the only form capable of satisfying the need for a formal legal instrument, or whether that need can be met through another form consistent with the post-reform constitutional design. This article argues that the function of establishing the President and Vice President has, as a logical consequence of direct popular election, properly shifted to the KPU, and that reviving the MPR's pre-reform authority to elect and establish the President and Vice President would not be consistent with the constitutional design adopted after reform. At the same time, the MPR remains capable of issuing a form of formal legal instrument that represents, and formally records, the exercise of its constitutional authority to inaugurate the President and Vice President, without that instrument constituting an act of appointment. Such an instrument may find its basis in the doctrine of the constitutional convention, understood in Indonesian constitutional law scholarship as a practice that develops to complete the administration of the state where written law has not regulated a matter in full, and that, once established, tends to be observed as consistently as legislation itself. Following K.C. Wheare's account, as discussed in the source material, a convention need not arise only from long-repeated practice; it may also arise from an agreement among state administrators as to how a particular constitutional authority is to be exercised, so that it becomes binding as a convention without first having to become a habit of long standing. On this view, the MPR's issuance of a document formally recording the completion of its inauguration function, consistently repeated at every presidential transition, could develop into precisely such a convention, providing a formal record without reopening the question of who is entitled to determine the winning candidate pair.

**Table Presentation: Alternative Models for Reconstructing the Legal Formality of Inauguration**

Three alternative models for addressing the normative incompleteness identified above are considered in the source material and are summarized comparatively in Table 5.

**Table 5.** Alternative Models for Reconstructing the Legal Formality of Presidential Inauguration

| Model | Core Mechanism | Consistency with Post-Reform Design | Main Limitation |
|---|---|---|---|
| Model 1: Restoring the MPR's authority to establish the President-elect | MPR issues a Decree determining the winning pair before inauguration, as before reform | Requires reversing the post-amendment allocation of authority to the KPU | Risks re-concentrating authority in the MPR, contrary to the checks-and-balances rationale of reform |
| Model 2: Strengthening the legal standing of the KPU's determination | KPU decision is expressly treated as the sole legal formality of appointment, with no further MPR instrument | Consistent with direct popular sovereignty; requires no constitutional amendment | Leaves the MPR's constitutional act of inauguration itself without any accompanying legal record |
| Model 3: A dedicated legal instrument formalizing the MPR's act of inauguration, developed as a constitutional convention | MPR issues a document recording the completed inauguration, integrated with the prior KPU determination and, where relevant, the MK ruling | Preserves the existing distribution of authority among KPU, MK, and MPR while completing the normative chain | Requires consistent institutional practice over successive inaugurations to mature into a recognized convention |

*Source: Authors' analysis based on the Indonesian constitutional framework and constitutional law literature.*

Of the three models, this article favours Model 3, because it does not require reopening the constitutional allocation of authority achieved through the 1999-2002 amendments, yet it closes the normative gap identified in the preceding discussion by giving the MPR's act of inauguration a documented legal form consistent with Indonesia's civil law tradition.

**Integrating KPU, MK, and MPR: A Proposed Sequence**

Building on Model 3, the source material proposes a sequence in which the KPU's decision determining the winning candidate pair is first issued as the formal legal instrument recording the outcome of the exercise of popular sovereignty; where a dispute over the result is filed, the Constitutional Court's ruling becomes an inseparable part of the same sequence, since it validates the constitutionality of the result reached by the KPU; the KPU then formally notifies the MPR of its determination, accompanied, where applicable, by the Constitutional Court's ruling, as the administrative basis for the MPR to convene a plenary session; the MPR conducts the inauguration in accordance with Article 3 paragraph (2) and Article 9 of the 1945 Constitution; and, following the inauguration, the Leadership of the MPR issues a document formally representing the completed act of inauguration. Consistently repeated at each transition of power, this final step would develop into a constitutional convention that closes the normative incompleteness identified in this article without disturbing the existing distribution of authority among the KPU, the MK, and the MPR.

**Legal Implications for the Principle of the State Based on Law and Presidential Accountability**

The absence of a formal legal instrument accompanying the inauguration of the President and Vice President has implications beyond procedure. From the perspective of the

state based on law, every act of a state organ should, in principle, take a legal form as a manifestation of the exercise of its authority, particularly where that act, as with the inauguration of the President, has fundamental legal consequences for the exercise of governmental power. The absence of such a form weakens the full application of the principle of legality, because legality in this context requires not merely that each institution act within powers granted by legislation, but that the successive acts of different institutions, the KPU's determination, the MK's ruling where applicable, and the MPR's inauguration, be linked into one coherent administrative-constitutional chain. It also has implications for how presidential accountability is understood. Before reform, the President's accountability to the MPR was reinforced by the fact that the MPR itself had elected and legally established the President; after reform, presidential accountability runs instead to the people through periodic elections, and to the mechanism of impeachment under Articles 7A and 7B, which requires a prior Constitutional Court ruling before the MPR may act. That later development itself illustrates the broader lesson of this article: Indonesia's constitutional history, including the events surrounding President Suharto's resignation in 1998, shows that where written procedure is absent, practice tends to be filled by constitutional convention, a solution serviceable in the short term but one that, absent eventual documentation, continues to leave a gap in legal certainty. Extending a comparable, modest degree of formalization to the act of inauguration itself, through Model 3 as described above, would accordingly strengthen legal certainty without requiring any redistribution of the substantive authority that the 1999-2002 amendments deliberately placed outside the MPR's hands.

## CONCLUSION

From the 2004 election through 2024, no MPR Decree or other written legal instrument specifically establishing the elected President and Vice President had been issued. In each electoral cycle, the KPU determined the election results, the Constitutional Court resolved any disputes, and the MPR proceeded directly to the inauguration. This situation did not constitute a legal vacuum because the process remained constitutionally valid under the 1945 Constitution; rather, it represented normative incompleteness in formalizing the constitutional act of inauguration. This incompleteness affected accountability, legal protection for both government institutions and citizens, and the principle that governmental authority, including the extensive powers exercised by the President as head of state and head of government, should be based on a clear and traceable legal foundation. Because legal certainty requires clarity regarding the legal subject, legal basis, and consequences of a state action, and because the rule of law requires that governmental authority not be based solely on political facts or majority support, the absence of an accompanying formal instrument weakened the formal grounding of presidential accountability within the framework of a state based on law.

This article therefore recommended that a formal legal instrument for the inauguration of the President and Vice President be institutionalized through the People’s Consultative Assembly as an evolutionary development of constitutional practice. Such a mechanism would emerge from established state practice rather than from an amendment to the distribution of constitutional authority already determined by the 1945 Constitution. The instrument could be issued by the MPR as a beschikking-type legal act without requiring a legislative process within the MPR or constitutional review by the Constitutional Court. Through consistent repetition in

successive inauguration processes, this practice could develop into a recognized constitutional convention that addresses the identified normative gap while maintaining the post-reform distribution of authority among the KPU, the Constitutional Court, and the MPR.

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