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*Research Paper*

# When the Vice President Resigns: Constitutional Problems and the Mechanism for Filling the Vacant Position in Indonesia's Constitutional System

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**Abstract**

Article 8(2) of the 1945 Constitution requires the People's Consultative Assembly (MPR) to elect a new Vice President from two candidates nominated by the President within 60 days of a vacancy, but it does not regulate resignation as a cause of vacancy. This study examined the legal status of a Vice President's resignation, the mechanism for filling the resulting vacancy and the problems that arise in its application, using the resignation letter submitted to the MPR leadership on 12 November 2026 as an illustrative case. Normative legal research with statutory, conceptual and comparative approaches was applied to the 1945 Constitution, Law Number 17 of 2014 and MPR Regulation Number 1 of 2024. A resignation is a unilateral act that ends the term of office without the dismissal grounds and procedure of Articles 7A and 7B. The mechanism comprises seven stages with specified time limits, but four problems remain: no rule on the form, addressee and effective time of a resignation; an undefined starting point for the 60-day period; a deadline that covers the session but not the inauguration; and a tie-break rule that returns the final choice to the President. Implementing rules should fix the moment at which a resignation takes effect and set a deadline for completing the whole process.

**Keywords:** Vice President; Resignation; Vacancy of office; Article 8(2) of the 1945 Constitution; People's Consultative Assembly.

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## 1. Introduction

Indonesia declares itself a state based on law in Article 1(3) of the 1945 Constitution [1], so the termination and filling of a state office must follow procedures that are known in advance. Legal certainty is particularly important for the termination of the highest executive offices, because uncertainty about who holds them affects the continuity of government [2]. After the constitutional amendments of 1999–2002, the President and Vice President are elected as a pair by the people (Article 6A(1)), the President holds governmental power (Article 4(1)) and the Vice President assists the President (Article 4(2)) [1].

Studies of the Vice Presidency have concentrated on its position and powers. They report that the 1945 Constitution does not define the duties of the Vice President, so the office depends on what the President delegates and is difficult to distinguish from that of a minister [3]–[7]. Proposals to strengthen the office range from a statutory definition of its powers [5], [8] to comparisons with the United States, China and the Philippines [9]. A second group of studies examines vacancies. The mechanism for filling presidential and vice-presidential vacancies has been compared with those of the United States, Brazil and France [10], and Article 8(2) has been criticised because its 60-day limit applies to the MPR session rather than to the completion of the election [11]. Other studies address simultaneous vacancies of both offices and the choice of an interim president [12], [13], temporary incapacity of the President [14] and emergencies [15], while the grounds and procedure for dismissal under Articles 7A and 7B have been analysed separately [2], [16], [17].

None of these studies treats resignation as a distinct cause of a vice-presidential vacancy. The question became practical on 12 November 2026, when Vice President Gibran Rakabuming Raka submitted a resignation letter to the MPR leadership, and the Chair of the MPR stated that the Assembly had at most 60 days from the resignation to elect a replacement [18]. The case raises questions that existing provisions do not answer directly: when a resignation takes legal effect, from which moment the 60-day period runs and how the authority of the President and the MPR is divided at each stage.

This article addresses three questions: (1) what is the legal status of a Vice President's resignation in Indonesia's constitutional system and how does it differ from dismissal; (2) how is the resulting vacancy filled under Article 8(2) of the 1945 Constitution and its implementing rules; and (3) which legal problems arise in applying this mechanism and how should the rules be improved?

## 2. Method

This study is normative legal research using statutory, conceptual and comparative approaches. The primary legal materials were the 1945 Constitution [1], Law Number 17 of 2014 on the MPR, the House of Representatives (DPR), the Regional Representative Council (DPD) and the Regional Houses of Representatives, as amended (the MD3 Law) [19], and MPR Regulation Number 1 of 2024 on the Rules of Procedure of the MPR [20]. Secondary legal materials were peer-reviewed journal articles on the Vice Presidency, vacancies in executive offices and dismissal, and on Section 2 of the Twenty-Fifth Amendment to the United States Constitution as a comparative reference. Reports of the November 2026 resignation were used only to illustrate how the provisions were applied. The materials were collected through library research and analysed qualitatively with grammatical, systematic and comparative interpretation. The analysis reflects the legal materials and events available up to mid-November 2026.

## 3. Results and Discussion

### The Constitutional Position of the Vice President

The Vice President is a constitutional office with its own electoral mandate. Because the Vice President is elected with the President as a pair, the office carries popular legitimacy, but the 1945 Constitution assigns governmental power to the President alone [1]. The literature agrees that the absence of defined vice-presidential powers makes the role depend on presidential delegation and political practice [3], [5], [6]. It differs on the remedy: some authors propose regulating the division of duties by statute [5], [8], whereas others propose a broader reconstruction of the office within the presidential system [3], [4].

The most concrete constitutional function of the Vice President is succession. Under Article 8(1), the Vice President replaces the President until the end of the term if the President dies, stops, is dismissed or is permanently unable to perform the duties of office [1]. A vice-presidential vacancy does not disrupt the presidency directly, but it removes the designated successor; if the presidency also became vacant, Article 8(3) would transfer the presidency to a triumvirate of ministers [1], a situation that the studies on interim presidents regard as the weakest point of the succession design [12], [13]. Filling a vice-presidential vacancy promptly therefore protects the continuity of government as well as the office itself.

**Resignation as a Legal Act and Its Distinction from Dismissal**

A resignation is a unilateral declaration by the officeholder to end the term of office. The 1945 Constitution uses the term *berhenti* (stops) for the President in Article 8(1) and the general term *kekosongan* (vacancy) for the Vice President in Article 8(2), but it does not regulate the form of a resignation, the institution to which it must be addressed, whether it requires acceptance or the moment at which it takes effect [1]. The MD3 Law and the MPR Rules of Procedure regulate the steps after a vacancy occurs, not the resignation that causes it [19], [20]. Indonesia's only earlier vice-presidential resignation, that of Mohammad Hatta in 1956, took place under the 1950 Provisional Constitution: Hatta addressed his letter to the DPR, which approved the resignation with effect from 1 December 1956, and the office remained vacant for more than 16 years because no filling mechanism existed. The current procedure is therefore being applied for the first time to a resignation.

Resignation differs from dismissal in its basis, procedure and consequences. Dismissal under Article 7A requires proof of treason, corruption, bribery, another serious crime or disgraceful conduct, or loss of the requirements for office, and Article 7B requires a DPR proposal, a decision of the Constitutional Court and a decision of the MPR [1], [2]. These provisions serve as an accountability mechanism and are subject to judicial review of the DPR's opinion [16], [17]. A resignation requires none of these steps and contains no finding of wrongdoing. Once a resignation takes effect, the office is vacant and Article 8(2) applies; a pending dismissal procedure loses its object, because its constitutional sanction is removal from office [1]. The resignation does not, however, settle any criminal or ethical liability that is regulated outside Articles 7A and 7B.

**The Mechanism for Filling a Vacancy**

Article 8(2) divides authority between two institutions: the President nominates two candidates and the MPR elects one of them, at a session held no later than 60 days after the vacancy [1]. The MD3 Law gives the MPR the duty to elect a Vice President from two candidates nominated by the President when the office becomes vacant [19], and the MPR Rules of Procedure set out the stages in Articles 134–142 [20]. Table 1 summarises the stages, their legal basis and their time limits.

**Table 1. Stages for filling a vacancy in the office of Vice President**

| Stage | Legal basis | Time limit |
|---|---|---|
| 1. Vacancy occurs | Article 8(2) of the 1945 Constitution [1] | Starting point not defined for resignation |
| 2. Joint meeting sets the plenary schedule | MPR Rules, Article 134 [20] | ≤ 3 × 24 hours after the vacancy |
| 3. Notice of the schedule and candidate requirements to the President | MPR Rules, Article 135 [20] | ≤ 3 × 24 hours after the joint meeting |

| Stage | Legal basis | Time limit |
|---|---|---|
| 4. Nomination of two candidates with supporting documents | Article 8(2) [1]; MD3 Law, Article 46 [19]; MPR Rules, Article 136 [20] | ≥ 14 days before the plenary session |
| 5. Verification of the candidates' documents | MPR Rules, Articles 137–139 [20] | 7 days after the documents are received |
| 6. Election in the plenary session | MD3 Law, Article 46 [19]; MPR Rules, Article 140 [20] | ≤ 60 days after the vacancy |
| 7. Decree and oath of office | MD3 Law, Article 47 [19]; MPR Rules, Articles 141–142 [20] | Not specified |

*Source: Compiled by the authors from [1], [19] and [20].*

Before the vote, both candidates state their readiness to be elected, and the candidate with the most votes is elected. If the vote is tied, it is repeated once; if it is still tied, the President chooses one of the two candidates [20]. The elected Vice President takes the oath before an MPR plenary session or, if the MPR cannot convene, before a DPR plenary session [19]. The only post-reform precedent of an MPR election to fill the office, the election of Hamzah Haz in July 2001 after Megawati Soekarnoputri succeeded to the presidency, preceded the adoption of Article 8(2) and was conducted under the earlier constitutional framework, so the current mechanism has no completed precedent.

**Problems in Applying the Mechanism to a Resignation**

Four problems arise when this mechanism is applied to a resignation. First, no provision determines when a resignation takes effect. A letter may be effective on submission, on a date stated in it or on acknowledgement by the MPR, and each reading produces a different starting point for the 3 × 24-hour and 60-day periods. In the 2026 case, the Chair of the MPR counted the 60 days from the resignation itself [18], whereas the Rules of Procedure count from the occurrence of the vacancy [20]. The 1956 precedent, in which the DPR approved the resignation, suggests a third reading that requires acceptance, which is incompatible with the unilateral nature of resignation from an elected office.

Second, the 60-day limit governs the convening of the election session, not the completion of the process. Article 8(2) does not set a deadline for the decree and the oath, a gap that has been identified as a problem of effectiveness and efficiency [11]. Because the President must submit the candidates at least 14 days before the session and verification takes up to 7 days, a late nomination can compress the time left for verification and for completing missing documents.

Third, the division of authority is not balanced in every situation. The President controls the candidate pool, and if two rounds of voting are tied, the tie-break rule returns the final choice to the President [20]. The MPR's electoral authority is thus confined to a choice between nominees and can be displaced entirely by a tie. This design favours continuity of the President's coalition, which is consistent with the pair-based election of Article 6A, but it reduces the role of the MPR to ratification in the tie scenario.

Fourth, the provisions do not distinguish between causes of vacancy. Death, dismissal, succession to the presidency and resignation produce different documentary evidence and different degrees of certainty about the moment of vacancy, yet the same stages apply to all of them [1], [20]. For death or dismissal, the moment is fixed by a fact or by an MPR decision; for resignation, it depends on the interpretation of a letter.

**Comparison with Other Studies and with the United States**

The findings agree with the conclusion that Article 8(2) regulates the time limit for the session rather than for the election result [11] and with the view that vacancy provisions must guarantee continuity of government [10]. They differ from studies that locate the main weakness

of the Vice Presidency in its lack of defined powers [3], [5], [6]: in the resignation scenario, the weakness lies in the rules on termination and replacement rather than in the powers of the office. They also differ from the studies on simultaneous vacancies [12], [13], which focus on the absence of an elected successor; a single vice-presidential vacancy leaves the presidency intact but removes the successor for the duration of the filling process.

In the United States, Section 2 of the Twenty-Fifth Amendment requires the President to nominate a Vice President who takes office on confirmation by a majority of both Houses of Congress, and the provision was first applied after the resignation of Vice President Spiro Agnew in 1973 [21], [22]. That system also gives the President the power of nomination and the legislature the power of approval, but it does not impose a time limit, and the resignation itself takes effect through a written instrument delivered to a designated officer under a federal statute rather than through a constitutional provision. The Indonesian mechanism is faster on paper because of the 60-day limit, while the American practice is clearer about the moment of vacancy.

**Improving the Rules and Limitations of the Study**

Implementing rules, preferably at the level of statute through an amendment of the MD3 Law, should cover three matters without altering the authority assigned by Article 8(2). First, a resignation should be made in writing, addressed to the MPR leadership and effective on receipt unless a later date is stated, and the MPR leadership should announce the vacancy in a joint meeting on that basis. Second, the law should set a deadline for the oath of office, counted from the occurrence of the vacancy, in addition to the deadline for the session. Third, the tie-break rule should be reconsidered, for example by a further round of voting rather than a return of the choice to the President. Publication of the vacancy announcement, the nominations, the verification results and the vote would strengthen the legitimacy of the process. Amendment of Article 8(2) itself, as proposed in the literature [11], is a longer-term option.

This study has three limitations. It relies on legal texts and secondary sources, and the Rules of Procedure were analysed as summarised in the sources available to the authors. The 2026 case was still in progress at the time of writing, so its outcome could not be assessed. The comparison was limited to the United States, and further studies should examine constitutions that regulate vice-presidential resignation explicitly.

## 4. Conclusion

A Vice President's resignation is a unilateral legal act that ends the term of office without the dismissal grounds and the procedure of Articles 7A and 7B of the 1945 Constitution, and once it takes effect the office is vacant within the meaning of Article 8(2). The vacancy is filled in seven stages: the occurrence of the vacancy, a joint meeting of the MPR, notice to the President, nomination of two candidates, verification, election in a plenary session no later than 60 days after the vacancy, and the decree and oath. The mechanism divides authority between the President, who nominates, and the MPR, which elects. Its application to a resignation faces four problems: the effective time of a resignation is not regulated, the starting point of the 60-day period is uncertain, the deadline covers the session but not the oath, and the tie-break rule returns the final choice to the President. Lawmakers should regulate the form, addressee and effective time of a resignation, set a deadline for completing the whole process and reconsider the tie-break rule, so that the filling of the office provides legal certainty and continuity of government.

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**Authors' contributions and responsibilities**

All authors contributed to the formulation of the research problem, the collection and analysis of legal materials and the writing of the manuscript, and all authors approved the final version.

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**Availability of data and materials**

All legal materials analysed in this study are published and are listed in the references.

**Competing interests**

The authors report no competing interests related to this article.

**Ethical approval**

Not required; the study analysed published legal materials only.

**Declaration of generative AI use**

Claude (Anthropic) was used to edit the English text, reorganise the structure of the article, verify and format the references and prepare Table 1. The authors reviewed the legal analysis and take responsibility for the content.

**Additional information**

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