



# Analysis of Indonesia's Constitutional System in Overcoming The Lamé Duck Session Period After The General Election (Case Study: Legislation Productivity of Legislative Institution in Indonesia)

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**Abstract:** This study discusses specifically about the Lamé Duck Session period that occurred in Indonesia, Lamé Duck can be said to be a situation where officials who are not re-elected but still sit in office until new officials are sworn in, the phenomenon arises because of a long time lag between polling day to inauguration day. this research aims to find out and analyze specific rules, as well as the political strategy of state law in overcoming and controlling the Lamé Duck Session after the general election. The method used in this research is a type of normative legal research with a statutory approach and comparative legal sourced from secondary data, literature data by being analyzed qualitatively. The urgency of legal regulation regarding Lamé Duck Session in Indonesia needs to be regulated, especially in the constitution of the 1945 Constitution, this is because there is no clear regulation compared to several other countries that have been contained in the highest constitution. However, in the constitutional system, not only law but politics or power is also an important instrument in the formation and exploration of law, especially in the constitutional law system to overcome a phenomenon such as the Lamé Duck Session.

**Keywords:** Constitutional System; Lamé Duck Session; Legal Politics

## 1. Introduction

A state of law like Indonesia is not free from various problems in the formulation and formation of legal arrangements, a country based on law or Rechtsstaat like Indonesia has a very complex constitutional law system, especially against state and government institutions. As is known, that Indonesia itself adheres to the Presidential system of government, where in the current constitutional system the division of the Presidential government system is divided into several things, including Presidential institutions (Executive) and also Ministerial (Legislative/Parliament), both have a relationship that controls each other, where between executive power and legislative power carry out supervision and control or checks and balances (Umumsetda, 2023).

Referring to the 1945 Constitution in Chapter III concerning State Government Power, article 4 regulates how the position of the President in holding government power in Indonesia which reads: "The President of the Republic of Indonesia holds government power according to the Basic Law". "In carrying out his duties, the President is assisted by one of the Vice Presidents"(Undang-Undang Dasar Negara Republik Indonesia 1945, n.d.).

Based on this article, it can be seen that the President has power over the government. In the state government system, all components of state government institutions must synergize in achieving the goals of state administration, especially in terms of the political system, this state institution has four main institutions including executive, legislative, bureaucratic and judicial, all four of which are supported by supporting institutions such as elections / General Election Commission, cabinet of ministers and so on. Talking about the General Elections Commission / KPU itself, is one of the state institutions that has independent independence in conducting general

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elections, this institution was created under the mandate of Legislation Number 7 of 2017 concerning General Elections (Undang-Undang Republik Indonesia Nomor 7 Tahun 2017 Tentang Pemilihan Umum, n.d.). Referring to the provisions of the article, this general election or election is a strong foundation and instrument in efforts to uphold democratization in Indonesia. However, in addition to the implementation of general elections which are an important instrument in upholding democracy in Indonesia, there is also a phenomenon that is quite foreign to be heard by the Indonesian people which can reduce democratization in the realm of elections themselves, namely the *Lame Duck Session Period* after the general election.

*Lame Duck Session* etymologically translates into Indonesian which can mean "Bebek Lumpuh". In congressional documents *Lame Duck United States*, states that the term refers to a history, where the term "Lame Duck" was first used in the 18th century by the British state specifically for businessmen who went bankrupt or considered "limping" like a game duck that has been injured by being shot, so that it cannot care for itself normally again for the rest of its life. Exactly in 1800 the parable was used and adopted by the United States for the poor political conditions for state officials after elections, where after the election of old officials who were not elected were considered "paralyzed" until the inauguration of new elected officials, because there were already new elected officials, the legitimacy of the people was very weak for the old officials to issue strategic policies and have a broad impact on society (Jane A. Hudiburg, 2022).

The *Lame Duck Session* period can broadly be interpreted as a period after the general election or it can also begin between the day of determining the results of the general election to the day of the inauguration of elected officials or better known as the transition period, this usually occurs after the general election is held it gives rise to a transition period, this transition period is also known as the *Lame Duck Session*, where in this period describes a condition of the President or Member of Parliament who is not re-elected but still holds power in the final days of office, so that he remains active in issuing policies when the Executive Branch or Members of the Legislature who have been elected but have not been sworn in (Nuryadin, 2022).

The phenomenon of *Lame Duck Session* in Indonesia is not well known and still sounds foreign to the public, especially in the constitutional law system in Indonesia, due to the lack of serious discourse to discuss the phenomenon of the *Lame Duck Session* period. So from an academic and practical point of view, it is also very rare to find a comprehensive study, especially in the field of constitutional law to support the formal constitutional arrangement and regulation of policies to overcome the *Lame Duck Session* phenomenon in the constitutional system in Indonesia. Indonesia itself is a country characterized by a democratic state in its constitutional system, as based on the constitution of the 1945 Constitution, namely with the regulation of general elections, this shows that state sovereignty and legitimacy are fully held by the people throughout the Unitary State of the Republic of Indonesia. The people directly elect the President and Vice President and Members of the Legislative Parliament through elections, when the President and Vice President and Members of Parliament of the new Legislature have been elected, then every time this *Lame Duck Session* period comes and becomes a phenomenon that raises various problems or serious problems after the implementation of the general election (Subiyanto, 2020). The *Lame Duck Session* in Indonesia is a period after the general election until the inauguration of new officials, but in practice the *Lame Duck* period is often used as an opportunity by old officials who are still silent in their positions to make strategic and far-reaching policies, so that it is not in accordance with the theory of people's legitimacy by being proven not to be re-elected by the people in the general election. This is the implication in this study to regulate and get around the *Lame Duck* period in Indonesia which is still not specifically regulated in the Indonesian constitutional legal system.

For example, there was an uproar in the 1801s in the United States of America where during that period President John Adams surprisingly appointed Supreme Court Justice John Marshall on March 3, 1801 even though the next day March 4, 1801 was the

day of the change, namely Thomas Jefferson was inaugurated as President of America replacing John Adams, until finally the inauguration of Supreme Court Justice John Marshall received serious insults from the people and political observers in the United States, the policy also reduced democracy in the United States and finally emerged the Marbury vs. Madison decision as a reference method or rule model for constitutional testing in the world (Judicial review) (Husein Kurnia, 2022).

The focus on the *Lame Duck* Session period in Indonesia, can be seen from the general elections in 2014 and also 2019, various serious problems emerged, problematic factors arose during that period because it had a long time duration gap. In Indonesia's own constitutional system, a common problem during *Lame Duck's* time was the productivity of legislation both the making of legal products and the passage of bills or bills from the initiative of the House of Representatives (DPR) itself, so that it suddenly increased dramatically in the last term before new officials would be inaugurated (Hasibuan & Irwansyah, 2023).

Launching a statement from Fitra Arsil, the frequency of the House of Representatives in 2014 and 2019 became very productive in carrying out its function as a positive legislator, the frequency was evidenced by the increase in bills entered in the plenary session of the House of Representatives, the inclusion of the bill was not only in terms of the 2nd level discussion where the discussion contained the approval of the House of Representatives (legislative) and the Government (executive) to make a The Bill becomes law, but there are also other things such as the initiator bill that enters the plenary session to be passed as a bill at the initiative of the House itself, so that increasing the frequency of legislation is not like normal times, this is not impossible to cause various questions of criticism from the wider community (Arsil, 2019).

In the *Lame Duck* period, the legitimacy of the old official was very weak, so it was not justified to take strategic and wide-ranging policies, but in practice this was not the case, as for example in 2019 yesterday, with the discussion of the revision of Law Number 19 of 2019 concerning amendments to Law Number 30 of 2002 concerning the Corruption Eradication Commission, this discussion in 2019 was considered very hasty to passed because it was discussed after the general election and before the newly elected DPR officials were sworn in on October 1, 2019 (Amedi, 2021).

Based on the representation of the 1945 Constitution, the full power is held by the people, so it should be in the case that all policy making by state officials must be based on the sovereignty and welfare of the people. The potential for a transition period that is too long also raises various proposals and criticisms, this is because old officials who have not been re-elected are still free to issue strategic policies and have a broad impact for certain interests. Reflecting on the previous period, the general election for the 2024-2029 period is not impossible and presents the *Lame Duck* Session period, as is known, that in 2024 the simultaneous election of the President and Vice President along with Members of the legislature will be held on February 14, 2024 and the inauguration of elected members of the House of Representatives and Regional Representative Council will only be held on October 1, 2024, while the swearing-in of the President and Vice President will only be held on October 20, 2024 (Tahapan Dan Jadwal Penyelenggaraan Pemilihan Umum Tahun 2024, 2022). Referring to the explanation of the background of the problem above, a problem formulation related to the phenomenon / issue can be formulated, including: first, are there special rules governing and controlling the *Lame Duck* Session after the general election?, second, how is the country's legal politics in overcoming the *Lame Duck* Session period in Indonesia?.

## 2. Materials and Methods

This research is a legal research (Soekanto, 1986), in this study using a type of normative legal / juridical research. Normative legal research itself is literature research or library search, this is because normative research is more based on secondary data and only exists in libraries (literature review), while normative research is also often known as doctrinal research, because basically this research is only based on regulations and legal

materials (Muhaimin, 2020). This type of research is Normative Law, using secondary data or literature data, document archive studies, and legal product studies, so that in general secondary data does not require validity and reality tests, but with secondary data sourced from primary legal materials, secondary legal materials and tertiary legal materials can be academically recognized or worthy of being believed.

The research approach chosen is the statutory approach (statue approach), comparative approach (comparative approach) and conceptual approach (conceptual approach). While the data used in this thesis research is adjusted to the type of normative legal research, which uses secondary data or library data, archival studies and documents, secondary data in this study consists of several sources of legal materials, including: primary legal materials, secondary legal materials, and tertiary legal materials (Solikin, 2021). In this study, secondary data is used sourced from primary legal materials such as Laws and Regulations, secondary legal materials such as Law Books, Legal Expert Opinions, Law Journals, Law Magazines and data from State and Government Institutions, and tertiary legal materials such as online news, legal encyclopedias and data from the official website of the government that are relevant to the research topic, especially regarding the Lame Duck Session.

The method used to analyze the data in this study is the qualitative analysis method, in line with that, specifically research with the type of normative legal research which only examines secondary data, then in fact in the construction of data processing and presentation of data construction is carried out at the same time analysis in the form of narrative and descriptive interpretation of the research topic, Qualitative analysis can be said to be a search or exploration of secondary data sourced from primary, secondary and tertiary legal materials that are processed and then interpreted into a narrative to describe a problem in the research raised, based on data that has been collected and has relevance according to existing problems (Raco, 2010). To ensure the validity of the data, this study uses a triangulation mechanism of data sources such as participatory observation by being involved in the process of legal product formulation meetings during the Lame Duck period and conducting data searches for documents, document archives on the legal government website, especially the Legislative Institution of the House of Representatives to strengthen the findings and ensure the feasibility of the truth to examine the research topic of the Lame Duck Session in Indonesia.

### 3. Results and Discussion

#### 3.1. *Special Arrangements Governing and Controlling Lame Duck Sessions After the General Election*

##### a. Lame Duck Session Legal Arrangements in Indonesia

Lame Duck Session or better known as lame duck session, can occur in a transition period after the implementation of general elections, elections According to Jimly As-shiddiqie, general elections are a way held to elect people's representatives democratically, departing from the concept of people's sovereignty with a representative system or commonly called (representative democracy), in practice those who exercise people's sovereignty are people's representatives who sit in institutions People's representatives or also called parliamentary institutions, so that in order for people's representatives to really act on behalf of the people, these people's representatives need to be determined by the people themselves, namely through general elections (Jurdi, 2018).

Legal arrangements regarding the Lame Duck Session, especially in the constitutional system in Indonesia, arguably have not been explicitly stated about its formal rules, especially in the constitution of the 1845 Constitution, where the formal legal arrangements governing and controlling the Lame Duck Session after the general election (election) in Indonesia have actually not been contained in the country's constitution or the so-called 1945 Constitution, This can be seen in Article 22E Chapter VIIB concerning General Elections of the 1945 Constitution (Undang-Undang Dasar Negara Republik Indonesia 1945, n.d.), which reads: (a) General elections are held

directly, generally, freely, secretly, honestly, and fairly every five years. (b) General elections are held to elect members of the People's Representative Council, Regional Representative Council, President and Vice President and Regional People's Representative Council. (b) Participants in the general election to elect members of the People's Representative Council and members of the Regional People's Representative Council are political parties. (d) Participants in the general election to elect members of the Regional Representative Council are individuals. (e) General elections are held by a national, permanent and independent electoral commission. (f) Further provisions on elections are regulated by Law.

It can be seen that the suspension of article 22E of the 1945 Constitution shows that there is no regulation on the transition period or time limit for the *Lame Duck* period after the implementation of general elections, but only contains the principles and positions that will be filled in the implementation of continuous general elections every five years.

Furthermore, the derivative regulations or organic regulations from article 22E of the 1945 Constitution, namely Law Number 7 of 2017 concerning General Elections, also do not specifically regulate in terms of time restrictions or pauses in the post-election transition period, it can be seen in Chapter XII concerning the Determination of Seat Acquisition and Determination of Selected Candidates in Law Number 7 of 2017, especially in article 167, it can be interpreted that in the substance of the chapter there are only regulations regarding the principle in determining and inaugurating candidates for elected members of the Legislature as fillers in the functions of the legislative institution as well as candidates for President and Vice President as fillers in the functions of the executive institution (Nuryadin, 2022). Referring to the Law, it is more regulating in the case of the election of the President and his deputy which is given a limitation on the determination of elected candidates to be carried out no later than 14 (fourteen) days before the term of office of the President and Vice President ends. Meanwhile, the limitation of determination regarding elected candidates for members of the Legislature in the article is not substantially regulated regarding the time limit for how long the determination of elected members before the term of office of the previous legislator ends.

Arrangements to shorten the transition period or *Lame Duck* Session after the general election are very useful, especially in tackling irregularities of authority during the *Lame Duck* period, as the Legislature has surged legislative achievements during the *Lame Duck* Session period, especially in the 2014 and 2019 election years.

**Table 1.** Number of Legal Products During *Lame Duck* (2014&2019)

Number	Types of Legal Products	Year 2014	Year 2019
1	Prolegnas Priority	66	55
2	Passed Laws	42	28
3	<i>Lame Duck</i> Laws	30	15
4	Cumulative Laws	12	14

Source: <https://peraturan.go.id/>, Secondary Data, processed, 2024

From these data, it can be concluded that, the DPR or legislative institution in 2014 issued legal products with a total of 150 pieces of legislative achievements, including 66 National Prolegnas laws, 42 passed laws, 30 *Lame Duck* laws and 12 cumulative laws. Meanwhile, in 2019, the DPR or legislative institution issued legal products with a total of 112 pieces of legislative achievements, as for the various categories, including 55 National Prolegnas Laws, 28 passed laws, 15 *Lame Duck* laws and 14 cumulative laws.

If you look back, there is one regulation that implicitly regulates the prohibition of issuing strategic policies during the transition period, namely in article 2 paragraphs (1) and (2) of the Regulation of the Minister of Home Affairs of the Republic of Indonesia

Number 73 of 2016 concerning Delegation of Authority to Bring Written Approval to Replace Officials within Local Governments. In the article, it implicitly states that the arrangement during the *Lame Duck* period is only for the realm of Local Government, where so that the Governors or Vice Governors, Regents or Vice Regents and Mayors or Deputy Mayors do not replace officials 6 (six) months before the determination of the pair of elected candidates until the end of the previous official's term, so that it has not been legally accommodated, especially in the realm of the Legislature and Executive Institutions which in fact requires higher arrangements such as the constitution of the 1945 Constitution or the Law (Peraturan Menteri Dalam Negeri Republik Indonesia Nomor 73, 2016).

The urgency of legal regulation in the 1945 Constitution and the Law on *Lame Duck* Session in Indonesia is very important, especially in the Indonesian constitutional system which is a state of law, where the establishment of a national law must be based on *pancasila*, so that the concept of the state of law *pancasila* in terms of the process of forming and implementing law is combined with various elements both contained in the concept of *Rechtsstaat* or the principle of the Rule of Law (Rena Aminwara Ady Supryadi, Fahrurrozi, Imawanto, 2023)

#### b. *Lame Duck* Session Legal Arrangements in the United States

The United States is a country in the form of a federal republic consisting of 50 (fifty) states, the capital of this country is Washington D.C which is directly adjacent to the District of Columbia, where the federal capital was formed in 1790, the form of government of the United States itself is a federal republic that has two legislative houses namely the Senate and the House of Representatives (Gopnik, 2024).

Focusing on the regulation of the *Lame Duck* Session in the United States, in the American government system has been formally regulated for the first time regarding the *Lame Duck* Session, namely in the United States Constitution 20th Amendment which was ratified on January 23, 1933, so this amendment became the most important where the 20th Constitutional Amendment actually made the government in America more responsive to the problem of American politicians who lost elections, or decide not to run again, but still hold office for a short time (NCC Staff, 2019).

The 20th amendment to the United States constitution is devoted to regulating the issue of the *Lame Duck* Session, in the amendment it has at least 6 (six) chapters or sections of substance, 2 chapters that specifically regulate the principles regarding the transition period of *Lame Duck* in the United States system of government (LII, 2022). As for the sound of the substance chapter in the 20th amendment to the United States constitution as follows:

Section 1. , The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Section 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

The substance of the 20th Amendment to the United States Constitution emphasizes the abolition of long periods of time, especially for executive functions such as the President and Vice President and legislative executors such as members of Congress who lost elections, but are still in office for the last term after failing in their re-election efforts (Peltason, 2004).

Initially, congressional and federal officials who held their seats on March 4, which is four months after election day, namely November of the previous year, pursuant to article 1, paragraph 4 of the U.S. Constitution, members of Congress must meet at least once in each year, which meeting must take place on the first Monday of December,

unless the members of Congress designate a different day by the Act. Thus, it will take a while before the new congress meets, and there will be a necessary congressional session after the November elections, so that politicians who were not elected and who lost the previous election will fall into the *Lame Duck* category, and legitimately not represent their constituents effectively in deciding public policy (Smentkowski, 2024).

In substance the 20th Amendment to the United States Constitution amends and removes the long time gap, which in Section 1 (first) or Section 1 states that the term of office of the President and his deputy ends at noon on January 20 while the term of office of Senators and Representatives (House) at noon on January 3 in the years in which the term of office will expire and the term of office of his successors will begin, where the previous new officials were due to take seats on March 4 was shortened to January 3. While Section 2 summarizes the time of congressional meetings which were originally the first week in December changed to noon on the third day of January, this also indicates that special arrangements regarding the *Lame Duck Session* in America already exist and are regulated in sections 1 (one) to 6 (six) of the 20th Amendment to the United States Constitution (Jeffery A. Jenkins, 2008).

#### c. *Lame Duck Session* Legal Arrangements in the Austria

Chapter II of the Austrian Constitution of the Federal Law Part A of the National Council states that the legislative power of the federation is exercised by the National Council with the Federal Council, where the National Council is based in Vienna (European Union, 2020), the capital of Austria, just as the parliament that exercises legislative functions Austria also has two chambers of the federal parliament. namely the lower house (Nationalrat) or House of Representatives which is directly elected with the principle of proportional representation, while the upper house (Bundesrat) or Senate is elected by parliament in each region or region with the principle of proportional representation (Austria Constitution Law Of 1920, 2004).

The substance of article 27 of the Austrian Constitution provides for the limitation of the period of the session of the Nationalrat or House of Representative, that the period of legislative office of the Nationalrat or House of Representatives lasts for 5 (five) years and starts from the first date the first session is held, or in certain cases the newly elected members of the House of Representatives hold the inaugural meeting. Furthermore, in paragraph 2 (two) article 27 explains specifically about the short and efficient *Lame Duck* period, the paragraph explains that for newly elected members of the House of Representatives the election will be held by the Federal President no later than 30 (thirty days) after the election, this situation is more likely to allow the newly elected members to meet on the day after the end of the fifth year of the legislative period. In general the period for ordinary proceedings for the House of Representatives begins before September 15 of each year and may not exceed July 15 of the following year, while the next paragraph emphasizes that the Federal President may also propose an extraordinary session, if the federal government or one-third of the members (Nationalrat) or House of Representatives) or members (Bundesrat) or Senate request a meeting (Austria Constitution Law Of 1920, 2004).

#### d. *Lame Duck Session* Legal Arrangements in the Germany

The German state is a country that adheres to a federal parliamentary republic system, with the head of government held by the chancellor or chancellor and the head of state is held by the President who has the main responsibility as a representative of the German state itself, by adhering to the federal system, the German state has 16 states (Länder) each state has its own constitution and has free autonomy in managing internal organizations each (Michael Angenendt, 2022).

Based on the German constitution, especially in Chapter III regulating The Bundestag or House of Representatives and Chapter IV regulating The Bundesrat or Senate, both chapters indicate that the legislative power of the German parliament has

two chambers. The first chamber, The Bundestag or House of Representatives whose members are directly elected through free, fair and secret elections, and for the term of office The Bundestag is to serve for 4 (four) years, general elections for Bundestag members are held no earlier than 46 (forty-six months) and no later than 48 (forty-eight months) or even 4 (four) years of Bundestag incumbent officials who have previously completed their term of office, while the term of office of the incumbent Bundestag will end when the newly elected Bundestag members hold their first session. The second chamber, The Bundesrat or Senate whose members are elected by a system of proportional representation from the executive branch of each state, the function of the Bundesrat itself is authorized to approve or not draft laws concerning state governments and courts in each state jurisdiction, so that states must participate through the Bundesrat in matters of legislation as well as related to the European Union, Although the terms of the session period are not specifically stipulated, the specific period of the *Lame Duck Session* in the parliamentary realm of the German government is only about 30 (thirty) days, not to allow incumbent Bundestag officials or Bundesrat incumbent officials who failed or were not re-elected in the election to sit in their last office for months (Germany Constitution of 1949 (Rev. 2012), n.d.).

### *3.2 State Legal Politics in Overcoming the Lame Duck Session Period in Indonesia*

Determining the strategic direction of legal arrangements to overcome the *Lame Duck Session* phenomenon in Indonesia is not impossible to do, but to determine a legal arrangement regarding something new needs to involve a lot of elements in it, especially in the constitutional system there are many elements that need attention, especially legal political issues certainly require synchronization between politics or power with the law itself, For example, the institutions of power to implement legislative functions which contain an important role to make a legal arrangement and the implementation of executive and judicial functions as important instruments of the principle of checks and balances in the constitutional law system (Yani, 2018).

Countries based on law certainly have a complex constitutional legal system, in overcoming a phenomenon, especially the *Lame Duck Session* in Indonesia, it can use a system concept that is interconnected between institutions of power, in order to provide legal benefits in the future. In the context of the state itself provides a construction that the state was created by humans or human creation to form a pattern of relationships between humans in social life that is organized to achieve common goals, while in the context of constitutional law itself it can be said to examine more phenomena in legal aspects that form or are formed by state institutions and government institutions (Asshiddiqie, 2006). The enactment of legal arrangements to overcome the *Lame Duck Session* period must pay attention to the direction of political policy, especially for solutions in getting around the existence of *Lame Duck Session* in Indonesia through changes to the 1945 NRI Constitution, where if *Lame Duck* is regulated in the 1945 Constitution it will provide legal certainty and will provide general rules to be derived to its organic law to be regulated rigidly and specifically regarding the *Lame Duck Session* period. According to Prof. Mahfud MD, providing an explanation of legal politics which is a legal policy or policy line, especially about the choice of law that will be applied by making new laws or by replacing old laws in order to achieve the goals of statehood as contained in the preamble to the 1945 Constitution (MD, 2020).

The crucial substance that must be applied in the amendment of the 1945 NRI Constitution to overcome the *Lame Duck Session* period is regarding the period of session of the executive legislative function, namely the House of Representatives (DPR) and the abbreviation of the *Lame Duck* period, by providing specific arrangements for the time of general elections until the time of inauguration of new officials who have been elected, this also involves the institutions of power to synergize in the formation of laws to overcome or To outsmart the *Lame Duck* period so that it is not used arbitrarily according to the interests of each ruler, there are several ways for the political direction of law to formulate a regulatory formula as a solution for the *Lame Duck* period, especially



in the legislature of the House of Representatives (Aditya Wahyu Saputro, Rafi Damar Bungsadewo, Rahmi Amelia, 2021), namely:

First, it is stipulated to prohibit the conduct of sessions for both the People's Representative Council and the Regional Representative Council from polling day to the day of inauguration of new officials who have been elected in general elections, hereby to avoid the passage of laws or strategic policies issued by incumbent officials who no longer have full legitimacy because they are not re-elected in general elections except in dangerous or emergency circumstances. Second, establishing formal and specific arrangements regarding when the general election begins, which is initially held every April of the election year and only the inauguration of new officials is held in October, this provides too long a time gap or about 5 (five) months between polling day and the inauguration day of elected officials. If reflecting on the constitutions of other countries, especially in the 20th Amendment to the United States Constitution, general elections in Indonesia must be held in the last 2 (two) weeks of July and the inauguration of new officials in the first week of October, thus cutting the time between polling day and the inauguration day of new elected officials (Yudhistira, 2020).

State legal politics can be used as an important instrument in an effort to overcome an existing legal phenomenon including such as the *Lame Duck Session* period, a good legal political policy direction will provide legal policies and legislation in the context of the formation of new legal arrangements and legal reforms that are outdated or long consumed by the times, so it can also be said that political instruments or power are run through regulations. Legislation and legal instruments or legislation itself are often hampered by which legal needs need to be formed and which laws need to be maintained gradually in order to realize the goals of the state in accordance with the principles, rule of law, legal certainty and the principle of legality in the law itself (Kusumaatmadja, 2002).

The principle of the rule of law will actually continue to rely on the principle of legality, where an act that is carried out if it is contrary to political ethics or that is considered unlawful, but there is no regulation that regulates on the basis of these actions cannot be subject to legal sanctions, as well as officials who no longer have full legitimacy, especially legislative officials who take advantage of the *Lame Duck* period after the general election to carry out sufficient legislative achievements productive, and issuing strategic policies in accordance with their interests cannot be subject to legal sanctions because there is no specific regulation regarding the *Lame Duck Session* period. This is contrary to the principle of the rule of law which must continue to rely on the principle of legality, which explains that all activities of state and government institutions should be carried out together in accordance with appropriate laws and regulations, in order to maintain legal certainty and the rights of all citizens. Thus, the implementation of the principle of legality is based on clarity regarding regulations, transparency and strict law enforcement, especially in terms of regulating the post-election *Lame Duck Session* period (Alivia Fitri Salsabila, et al, 2023).

#### **4. Conclusions**

The phenomenon of the *Lame Duck Session* period is common in countries with a Presidential system or a Parliamentary system, this phenomenon can arise due to the problem of a long time gap between the day of voting in the general election to the inauguration day of new elected officials, so that incumbent officials who enter the *Lame Duck* period should in principle legitimacy not be allowed to issue strategic policies and have a broad impact. The prohibition must also have a specific and clear legal or regulatory basis, in Indonesia itself does not yet have a regulatory arrangement that specifically regulates the issue of *Lame Duck Session*, both in the constitution of the 1945 Constitution, Law Number 7 of 2017 concerning General Elections and its implementing regulations, this is very different when compared to other countries such as the United States, Germany, and Austria which have regulatively regulated the *Lame Duck Session* phenomenon even in a supreme constitution.

The strategy in determining the direction of policy to overcome and get around the Lamé Duck phenomenon cannot be separated from the direction of legal politics in a country, especially in Indonesia, politics or power is also an important instrument in the formation and exploration of law, especially in the constitutional system to overcome a phenomenon such as the Lamé Duck Session, changes to the Constitution into a strategic direction in overcoming the Lamé Duck phenomenon by applying several general formulas. In the substance of the constitution, namely by stipulating the prohibition of the implementation of sessions, especially for legislative institutions during the Lamé Duck period, or setting a limit on the schedule for the implementation of elections so that they are not too far from the inauguration schedule, the appointment of newly elected officials and arrangements for the implementation of parliamentary sessions must be regulated in detail, especially after the general election. Based on the discussion and a comparison of legal arrangements regarding the Lamé Duck Session, especially those contained in the highest constitutions of several other countries, it should first be established special arrangements for the Lamé Duck period to be effective, by shortening the schedule of voting results in elections with the schedule for the appointment or inauguration of elected officials, which initially had a gap of about 5 (five) months shortened to 2 (two) to 3 (three) months only, this is expected to limit the productivity of legislative legislation during the Lamé Duck period. Secondly, it is necessary that special arrangements regarding the Lamé Duck Session should be contained in the highest constitution of the 1945 Constitution, considering that the regulation is very political in nature, it is feared that only in the regulation of the Law the DPR may easily change according to the interests of the majority vote of parliamentarians. The limitations in this study are the lack of comprehensive empirical studies, as well as the limitations of the legislation productivity data during the Lamé Duck period which was only more in the general election years, namely 2019 and 2014, and also this study has limitations in the references used because there has not been much research on the Lamé Duck Session in Indonesia, especially in the study of constitution and the course specifically on Lamé Duck in Indonesia. So that this can be used as a gap for future research to expand the boundaries of research such as conducting a comprehensive empirical study not only of the legislature but also of the executive institutions in Indonesia, especially during the Lamé Duck Session in the following general election years, in order to achieve the constitutional goal that the regulation of the Lamé Duck Session in Indonesia is immediately regulated formally and specifically in the Law.

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