

PRESIDENTIAL DISMISSAL AND MAKAR

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Presidential dismissal and makar are two words that inflict the same effects yet different consequences. Both lead to terminating the president from his term of office before it officially ends by legislation, which is five years for two terms. The presidential dismissal is conducted through legal mechanisms and regulated in the Constitution, whereas makar is prohibited by statutory regulations.

Regulations regarding the dismissal of the president and/or vice president are regulated in Article 7A and 7B of the 1945 Constitution of the Republic of Indonesia. The Constitution stipulates that the dismissal of the president can only be carried out if it is proven, by the Constitutional Court, to have violated the laws involving: betrayal of the state, corruption, bribery, other serious crimes and despicable acts, and/or no longer qualifying as president and/or vice president. Besides, some political mechanisms must be passed through before and after the Constitutional Court's decision. In other words, it requires political and legal mechanisms after the amendment of the Constitution; thus, nowadays it seems impossible to dismiss the present president, from both the legal aspects and the political aspects.

Makar or *aanslag*, on the other hand, is a criminal act prohibited and regulated in the Criminal Code. Article 104 of the Criminal Code determines the form of makar as an act of killing, depriving independence, and making president or vice president incapable of governing. Moreover, article 106 of the Criminal Code regulates the form of makar as an action intending that all or part of the country's territory falls into the enemy's hands and to separate parts of the country's territory.

Hence, it is obvious that the presidential dismissal and makar are two very different things. Dismissal of the president, because it is regulated in the Constitution, is included as a constitutional act. Meanwhile, makar is prohibited in statutory regulations due to an unconstitutional act. Here is the logical consequence; if a party discusses the mechanisms of the presidential dismissal, which is indeed an

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important material in the department of state administration law, it cannot absolutely be labeled as makar. Discussions or discourses concerning the dismissal of the president, as long as based on the procedure, are legal wherever whenever. Different from it, makar is prohibited and not justified at all.

This situation has lately happened in a discussion entitled "“Meluruskan Persoalan Pemberhentian Presiden Ditinjau dari Sistem Ketatanegaraan” by students of the Faculty of Law, Universitas Gadjah Mada. The discussion was to be canceled since some individuals accused the act as inappropriate makar. This was such a real mistake, which in fact many people still hold, in distinguishing between makar and dismissal of the president. In addition, the discussion was in the academic room, unintervenable academic freedom platform, to develop science and to voice social criticisms.