

## Legal Responsibility of the Implementation of Presidential Campaign Promises in Indonesia

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### Abstract

Political promises in presidential campaigns are a powerful way to attract public votes, but people are often disappointed when these promises are not fulfilled. Some have tried to equate them with civil contracts, even bringing them to general courts, but this is beyond their jurisdiction. So, where do campaign promises stand in the eyes of the law, and what are the legal responsibilities for it? This research employs a doctriner approach by analyzing relevant norms, doctrines, and cases in a qualitative descriptive form. The findings indicate that campaign promises are material for the formulation of the National Medium-Term Development Plan (RPJMN) and therefore fall within the scope of state administration. Some ways to hold them accountable include utilizing the authority of the House of Representatives (DPR) to either accelerate or hold an proportionate response to the execution of RPJMN, establishing legal effect of a normative provision provided in the Law No. 17/2024, constructing legal accountability scheme, and establishing easy-to-access platform to monitor promises by KPU. Thus, the accountability is not punitive, but rather aims to push the fulfillment of these promises.

**Keywords:** Legal responsibility, Presidential campaign promises, State administration,.

### *Pertanggungjawaban Hukum Pelaksanaan Janji Kampanye Kepresidenan di Indonesia*

### Abstrak

*Janji politik dalam kampanye kepresidenan merupakan salah satu bentuk penawaran yang kuat dalam memikat suara masyarakat, namun masyarakat tidak jarang kecewa dengan tidak terlaksananya janji-janji tersebut. Beberapa telah mencoba membandingkannya dengan kontrak perdata, bahkan membawanya ke badan peradilan umum, namun hal tersebut tidak sesuai dengan kompetensinya. Lalu di mana tempat janji kampanye di mata hukum dan bagaimana pertanggungjawabannya? Penelitian ini menggunakan metodologi yuridis-normatif dengan menganalisis norma, doktrin, dan kasus terkait yang dihasilkan dalam bentuk kualitatif deskriptif. Hasil dari penelitian ini menunjukkan bahwa janji kampanye merupakan bahan dari penyusunan Rencana Pembangunan Jangka Menengah Nasional (RPJMN) dan oleh karenanya masuk ke dalam ruang lingkup administrasi negara, dan beberapa cara untuk dapat mempertanggungjawabkannya adalah dengan memanfaatkan kewenangan Dewan Perwakilan Rakyat (DPR) untuk mengakselerasi program atau memberikan respons yang proporsional terhadap pelaksanaan RPJMN, menetapkan sanksi dari ketentuan normatif yang diatur dalam Undang-Undang No. 17 Tahun 2024, menyusun skema pertanggungjawaban hukumnya, dan membangun platform yang mudah diakses untuk memantau janji-janji tersebut oleh KPU. Sehingga pertanggungjawaban hukumnya tidak bersifat menghukum, melainkan mendorong agar terpenuhinya janji-janji tersebut.*

**Kata Kunci:** *Pertanggungjawaban hukum, Janji kampanye presiden, Administrasi negara.*

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## INTRODUCTION

Indonesia's political framework is without a doubt rooted in a democratic perspective<sup>1</sup> as intrinsically declared in the fourth pillar of Pancasila (Indonesia's *Grundnorm*), "...democratic life guided by wisdom in deliberation/representation",<sup>2</sup> that includes the decision to elect its leaders, with a majority of votes. The traditional model candidates use to gain those votes relies on campaign promises, or the so-called 'promissory representation'<sup>3</sup> (although it's not the only type of measure—for example, candidate debates), where they attract voters by making promises regarding future policy choices, thus gaining votes through people's evaluation and perception of such promises.<sup>4</sup> This practice is embodied in their **visions, missions, and programs**,<sup>5</sup> for example the elected candidates of the 2024 Presidential Election, Prabowo – Gibran, formed 'Bersama Indonesia Maju Menuju Indonesia Emas' with '8 Misi Asta Cita' as their campaign drafts,<sup>6</sup> the remaining two, Anies-Muhaimin<sup>7</sup> and Ganjar-Mahfud,<sup>8</sup> also formed their own drafts in a similar manner.

This model is governed by two regulations; Law No. 7/2017 (Election Act) and specifically in Electoral Commission Regulation (*Peraturan Komisi Pemilihan Umum*, "PKPU") No. 15/2023. Both regulations view campaign promises as a bargaining tool for candidates in order to convince people/voters/citizen with the promises.<sup>9</sup> Article 2 of PKPU No. 15/2023 outlines certain principles to this *transaction*, notably 'accountable' and 'responsible' which happens to be the one principle provided by Law No. 7/2017 in Article 267(1). Of course, given the context, those principles apply only within the scope of presidential campaign period, for example, in carrying a campaign, candidates are not allowed to insult other candidates, groups, and/or persons, disturb public order, use government facilities, places of worship, and educational institutions, and other prohibitions provided in Article 280 Law No. 7/2017.

However, the question arises when Article 325(3) of Law No. 7/2017 stated that one of the sources of presidential campaign fund is the state budget (*Anggaran Dasar dan Pendapatan Negara/APBN*), that can be utilized for three purposes; (a) installation of campaign materials in public places; (b) advertisements in print media, electronic media, and the internet; and (c) debate between candidate pairs.<sup>10</sup> The involvement of the state budget gives rise to consequences for the two principles beyond the presidential campaign period, as it involves not only political parties, personal, and legitimate contribution funds (as stated in Article 325(2)), but also the taxpayer money. In 2009, before the ruling on the use of APBN in presidential campaigns was enforced,<sup>11</sup> there was an attempt to sue the elected president – vice president of the presidential election 2004 - 2009, Susilo Bambang Yudhoyono – Jusuf Kalla (SBY-JK), on the grounds of *a breach of contract* (Judgement of Central Jakarta District Court No. 17/PDT.G/2009/PN.JKT.PST). They argued that SBY-JK failed to fulfill their promises of increasing economic growth to 7.6% and lowering the poverty rate from 17,14% to 8,7% (and many others

<sup>1</sup> Miriam Budiardjo. *Dasar-Dasar Ilmu Politik*, Jakarta: Gramedia Pustaka Utama, 2020, pg. 5.

<sup>2</sup> The 1945 Constitution of the Republic of Indonesia (the Constitution), pg. 4.

<sup>3</sup> Jonathan Mellon (et.al.), "Which Promises Actually Matter? Election Pledge Centrality and Promissory Representation", *Political Studies*, 2023 Vol. 71, No. 3, 574.

<sup>4</sup> *Ibid.*

<sup>5</sup> Khairul Fahmi, *Pemilihan Umum dan Kedaulatan Rakyat*, Jakarta: Rajawali Pers, 2015, pg. 12, see also: Article 1(21) PKPU No. 15/2023, [https://jdih.kpu.go.id/data/data\\_pkpu/PKPU%2023%20THN%202018.pdf](https://jdih.kpu.go.id/data/data_pkpu/PKPU%2023%20THN%202018.pdf).

<sup>6</sup> H. Prabowo Subianto and Gibran Rakabuming Raka, "Bersama Indonesia Maju", [https://va.medcom.id/2023/pemilu/others/PRABOWOGIBRAN\\_VISI\\_MISI.pdf](https://va.medcom.id/2023/pemilu/others/PRABOWOGIBRAN_VISI_MISI.pdf).

<sup>7</sup> Anies Rasyid Baswedan and Abdul Muhaimin Iskandar, "Indonesia Adil Makmur untuk Semua", [https://va.medcom.id/2023/pemilu/others/AMIN\\_VISI\\_MISI.pdf](https://va.medcom.id/2023/pemilu/others/AMIN_VISI_MISI.pdf).

<sup>8</sup> Ganjar Pranowo and Mahfud MD, "Menuju Indonesia Unggul", [https://va.medcom.id/2023/pemilu/others/GANJARMAHFUD\\_VISI\\_MISI.pdf](https://va.medcom.id/2023/pemilu/others/GANJARMAHFUD_VISI_MISI.pdf).

<sup>9</sup> Article 1(35) Law No. 17/2017 and Article 1(21) PKPU No. 15/2023.

<sup>10</sup> Article 27(2) Law No. 17/2017 and Article 23(2) PKPU No. 15/2023.

<sup>11</sup> **The law applicable at that time was Law No. 23/2003 (Presidential Election Act), back when the sources of campaign funds were only political parties, personal, and legitimate contributions (Article 43(1) Law No. 23/2003).**

that were not fulfilled).<sup>12</sup> The Central Jakarta District Court found the claim could not be considered as breach of contract, the court ruled that it is not the same as a regular private contract,<sup>13</sup> but perhaps a mere *political statement—a way to maintain one's political reputation*<sup>14</sup>—if you will.

The court's approach is generally viewed as correct as the differences between a private contract and a political statement, such as campaign promises, are clear. For example, it is difficult—if not impossible—to prove an agreement of a campaign promise between the candidate and the people<sup>15</sup> because the election process itself is governed by the principle of confidentiality provided in Article 2 Law No. 7/2017 (*langsung, umum, bebas, rahasia, jujur, dan adil*), meaning people don't generally publicly announce their vote and there is no way to verify it either. However, with the distinctions between fields of law, General Judiciary is not the only legal remedy available within Indonesia's legal framework. Moreover, considering various theories of administrative law, such as the doctrine of legitimate expectations, the possibility of demanding accountability for presidential campaigns is not limited to conventional legal efforts.

To address the issues mentioned above, it is essential to consider these two questions: (a) What is the legal status of presidential campaign promises in Indonesia, and (b) What are the legal responsibilities for unfulfilled presidential campaign promises?

## RESEARCH METHODOLOGY

This research will employ a doctrinal approach methodology, analyzing secondary sources such as national norms, legal concepts, opinions, and case studies. The analysis will be conducted using a qualitative descriptive approach, which includes data findings, analysis, presentation, conclusions, and recommendations. The results of this study are expected to provide a comprehensive overview of how a campaign promise can be legally accountable, ensuring that it becomes more than just a political commitment.

## RESEARCH DISCUSSION

### Legal Scope of Presidential Campaign: Where Does It Belong?

Presidential campaigns are a period during which the public can assess how they will be governed and how their tax contributions will be utilized over the next five years,<sup>16</sup> providing significant bargaining power for candidates, who ultimately receive votes as a reward.<sup>17</sup> However, sometimes a promise is merely a statement made to maintain political reputations and may not be legally enforceable as an unlawful act or breach of contract.<sup>18</sup>

A person may have a legitimate expectation that, as a result of governmental conduct, holds an expectation to future government activities and in turn, able to require those expectations—unless there are compelling public interests that disallow/suspend it—to be fulfilled.<sup>19</sup> In common law countries, the doctrine of legitimate expectations can be found in cases that

<sup>12</sup> Riana Susmayanti, et al. "The President's Failure in Implementing Presidential Visions, Missions and Programs: Tort or Breach of Contract (Civil Law Perspective).", *JL Pol'y & Globalization*, Vol. 75, 2018, pg. 9, <https://www.iiste.org/Journals/index.php/JLPG/article/view/43466>, in relation to Judgement of Central Jakarta District Court No. 17/PDT.G/2009/PN.JKT.PST, LPI v. SBY & JK.

<sup>13</sup> *Ibid.*

<sup>14</sup> Matthias Lang and Simeon Schudy, "(Dis)honesty and the value of transparency for campaign promises.", *European Economic Review*, Vol. 159, 2023, pg. 2, <https://www.sciencedirect.com/science/article/pii/S0014292123001885>.

<sup>15</sup> *Ibid.*

<sup>16</sup> Article 22E jo. 23 of the Constitution.

<sup>17</sup> James Andreoni and Marta Serra-Garcia. "The pledging puzzle: How can revocable promises increase charitable giving?" *Management Science*, Vol. 67, No. 10, 2021, pg. 846, <https://doi.org/10.1287/mnsc.2020.3811>.

<sup>18</sup> Nick Feltovich and Francesco Giovannoni. "Campaign messages, polling, and elections: theory and experimental evidence." *American Journal of Political Science* Vol. 68, No. 2, 2024, pg. 410, <https://doi.org/10.1111/ajps.12722>.

<sup>19</sup> Arian Petoft, "The concept and instances of general principles of administrative law: Towards a global administrative law." *Cuestiones constitucionales*, Vol. 42, 2020, pg. 339,

intersect with promises and policies of a public body in their implementation toward the public, for instance, in the case of *R (Lumba) v Secretary of State for the Home Department*, the detention of foreign national prisoners (FNP) pending deportation by the Secretary of State was based on an unpublished policy.<sup>20</sup> The Court, led by Lord Dyson, argued that, quote:<sup>21</sup>

“[when] a public authority gives an undertaking to an individual that a discretionary power will be used in a particular way, this creates a legitimate expectation in the individual that the authority will comply with that undertaking.”

Furthermore, Laws LJ (as quoted by Lord Dyson), in his judgement in the Court of Appeal in *R (Nadarajah) v Secretary of State for the Home Department* (2005), stated that the legitimate expectation—as a result of public authority’s promise—is a requirement of good administration, and failure to held their promise should only be justified with a proportionate response (with the court as the judge (or the last judge)).<sup>22</sup> This argument led Lord Dyson to rule in favor of Lumba, declaring the Secretary of State liable because the unpublished policy used as justification for the detention of FNPs pending deportation was inconsistent with the previously published policy that had created legitimate expectations in the minds of the public that the Secretary of State would act in accordance with it.<sup>23</sup>

Speaking of legitimate expectations, it is important to note that presidential campaign promises, as reflected in the **elected candidate’s** visions, missions, and programs, **must be incorporated** into the state's National Medium-Term Development Plan/*Rencana Pembangunan Jangka Menengah Nasional* (NMTDP/RPJMN), a five-year development planning documents, which, according to the explanatory note of Article 274(1)(c) of Law No. 7/2017, **'legalizes'** the campaign. Additionally, the explanatory note specify that the campaign **must align with** the Long-Term Development Plan (NLTD/ RPJPN), a 20-year development planning documents covering the period from 2005 to 2025.<sup>24</sup> The ‘legalization’ of presidential campaigns effectively arises **legitimate** expectations—not genuine expectations, wishes, and aspirations—from the people as the campaigns are incorporated as a law itself.<sup>25</sup>

Therefore, the elected candidate’s campaigns (different from candidates’ campaigns on election period) occupy a distinct status, separate from civil law and **fall within the scope of administrative law**.<sup>26</sup>

Several issues arise with these provisions. **First**, Article 274(1)(c) of Law No. 7/2017 lacks any legal effect. The phrases 'must be included' and 'must align with' are found in the explanatory note. According to Law No. 12/2011 (Legislative Drafting Act) Appendix II No. 177, explanatory notes should not contain normative formulations. Appendix II No. 269 states that the word ‘must’ is used to indicate the fulfillment of a specific condition or requirement; if this obligation is not met, they will not receive something that they would have obtained if they had met the condition or requirement. Therefore, legally, elected candidates have no obligation to include all their campaign promises in the NMTDP/RPJMN. Other provisions, such as Article 2 of Presidential Decree No. 18/2020 (Regarding the NMTDP/RPJMN)<sup>27</sup> also lack legal effect, as they merely describe the NMTDP/RPJMN. **Second**, the Decree imposes only an internal responsibility,

<sup>20</sup> Judgement of *R (Lumba) v. Secretary of State*, 2011, pg. 5, para. 5, <https://www.supremecourt.uk/cases/docs/uksc-2010-0062-judgment.pdf>.

<sup>21</sup> *Ibid.*, pg. 105, para. 309.

<sup>22</sup> *Ibid.*, pg. 106.

<sup>23</sup> *Ibid.*, pg. 107, para. 313.

<sup>24</sup> Article 1(1) Law No. 17/2007 (National Long-Term Development Plan Act).

<sup>25</sup> *Union of India v. Hindustan Development Co.*, 1993, pg. 540, **it is mentioned that the legitimacy of legitimate expectations can be inferred only if it's founded on the sanction of law or custom.**

<sup>26</sup> Lisa Marshall Manheim, "Presidential control of elections.", *Vanderbilt Law Review*, Vol. 74, No. 2, 2021, pg. 406, <https://ssrn.com/abstract=3616390>.

<sup>27</sup> Article 2: *National Middle-Term Development Plan is an elaboration of the vision, missions, and programs of the elected presidential candidate from the 2019 General Election*. See: Presidential Decree No. 18/2020.

requiring the minister to conduct periodic monitoring and evaluations mid-year and at year-end.<sup>28</sup> The monitoring and evaluation, based on Ministry of National Development Planning/Head of Bappenas Regulation (“PermenPPN”) No. 1/2023, are carried out in three stages:

- (a) monitoring and controlling the implementation of the work plans of ministries/agencies (*kementerian/lembaga*) and the government in terms of national development for one year;<sup>29</sup>
- (b) evaluation of the implementation of the annual development plan, which is divided into:<sup>30</sup>
  - a. during the implementation of the work plans for one year; and
  - b. after the implementation of the work plans for one year.
- (c) evaluation of the implementation of the NMTDP/RPJMN, which is divided into:<sup>31</sup>
  - a. during the implementation of the strategic plans of ministries/agencies and the RPJMN; and
  - b. after the implementation of the strategic plans of ministries/agencies and the RPJMN.

Article 10(2), 10(3), and 47(2) of PermenPPN No. 1/2023 contain interesting provisions regarding the acceleration, refinement, adjustment, and even suspension/permanent termination of program implementation, whether within the scope of ministries/agencies or NMTDP/RPJMN programs. These actions are based on the results of the evaluation during program implementation, providing sort of balance to one another. On one hand, fulfilling the vision, missions, and programs is an obligation for the elected candidate. On the other hand, if this fulfillment is done without clear indicators, relevancy, and merely to meet legal responsibilities, it is better for the program to be postponed or terminated.<sup>32</sup>

**Third**, and surprisingly, looking back at the NMTDP/RPJMN evaluation of 2015-2019, out of 107 main development goals (the overall vision, missions, and programs of the president) programs, there are 77 (41.85%) programs that were identified as “too difficult to achieve” by the end of the period.<sup>33</sup> Each main development goal had an average fulfillment rate of 58.8%, with the details as follows:<sup>34</sup>

- (a) Economic Development Dimension: 57,14% fulfilled;
- (b) Human and Community Development Dimension: 55,26% fulfilled;
- (c) Key Sector Development Dimension: 54,84% fulfilled;
- (d) Equity and Regional Development Dimension: 56,76% fulfilled; and
- (e) Political, Legal, Defense, and Security Development Dimension: 70% fulfilled.

The report of NMTDP/RPJMN that fell short of almost half its targets should raise concerns about the sanctity of political statements in the state practices in order to obtain good administration. There should be a strict approach in order to, or at least try to fulfill a much higher percentage of these promises.<sup>35</sup> This may be where the role of the “people” in House of Representatives, as a tool of checks and balances, comes into effect.

<sup>28</sup> Article 4 Presidential Decree No. 18/2020.

<sup>29</sup> Article 4 PermenPPN No. 1/2023.

<sup>30</sup> Article 18 PermenPPN No. 1/2023.

<sup>31</sup> Article 35 PermenPPN No. 1/2023.

<sup>32</sup> Article 47(2)(d) PermenPPN No. 1/2023.

<sup>33</sup> Kementerian Perencanaan Pembangunan Nasional/ Badan Perencanaan Pembangunan Nasional 2019 (PPN/Bappenas), “Evaluasi Akhir RPJMN 2015-2019”, pg. 215-216, [https://perpustakaan.bappenas.go.id/e-library/file\\_upload/koleksi/migrasi-data-publikasi/file/Evaluasi\\_Perencanaan\\_Pembangunan/Evaluasi%20Akhir%20RPJMN%202015-2019.pdf](https://perpustakaan.bappenas.go.id/e-library/file_upload/koleksi/migrasi-data-publikasi/file/Evaluasi_Perencanaan_Pembangunan/Evaluasi%20Akhir%20RPJMN%202015-2019.pdf).

<sup>34</sup> *Ibid.*, pg. 216-218, the reason almost half of the programs are considered too difficult to achieve is, as pg. 216 suggests, (a) the acceleration of competitiveness enhancement, (b) labor issues, and (c) the implementation of the Industry 4.0 era as the *key focuses*, and several external issues, including (a) the continuation of the United States' monetary policy normalization, (b) tensions in US-China trade relations, (c) the unfolding of Brexit, (d) commodity price fluctuations, and (e) the rising trend of protectionism in global trade. However, many of the programs are *unlikely* to be affected by those reasons, as pg. 216-218 suggest, (a) high percentage of stunting, (b) high maternal mortality rate (MMR), and (c) disparities in regional contributions to the GDP (Jawa was at 50%, while Maluku and Papua was 2%).

<sup>35</sup> Stefania Bortolotti, Felix Kölle, and Lukas Wenner. “On the persistence of dishonesty.” *Journal of Economic Behavior & Organization*, Vol. 200, 2022, pg. 1053, <https://doi.org/10.1016/j.jebo.2022.07.007>.

### Legal Responsibility of Fulfilling Campaign Promises: A Role of Checks and Balances

As a country that follows Montesquieu's doctrine of the separation of powers,<sup>36</sup> it is not sufficient for Indonesia to merely have separate branches of government (primarily the big three: executive, legislative, and judicial),<sup>37</sup> but also to have the system that ensures no branch holds supremacy over the others,<sup>38</sup> one way to do it is by creating checks and balances within the three branches.<sup>39</sup> The first amendment of the Constitution provides slight balance between the House of Representatives as the legislative body and the President as the executive body in terms of legislative drafting.<sup>40</sup> The second amendment (Article 20A), followed by the enactment of Law No. 16/1969 (Article 32(1)(c)), granted sufficient power to the House of Representatives to properly perform a role of checks and balances with the executive body through the introduction of the right of:<sup>41</sup>

- (a) interpellation, meaning the right **to obtain information** from the government in regards to important and strategic policies that have wide impact on the life of the people;
- (b) *enquête*, meaning the right **to conduct investigations** in regards to the implementation of law and/or government policies that have wide impact on the life of the people, which are suspected to be in conflict with the legislation; and
- (c) expression, meaning the right **to express an opinion** in regards to government policies or extraordinary international events, follow-up of the aforementioned rights, and allegations that the President and/or Vice President no longer meet the qualifications for their positions.

Now, it's not like once the President fails to fulfill a single promise these rights must be put into effect immediately, rather they have to be based on the neglect of the House of Representatives' authority and duties in providing recommendations that must be followed up.<sup>42</sup> For example, although few in number,<sup>43</sup> we can find several Minutes of Working Meetings discussing decisions for the government. One such instance is in the Working Meeting of Commission IX, where **they urged the Ministry of Health together with the Ministry of Education to finalize regulations** for Hospital-Based Specialist Doctor Education by July 2024.<sup>44</sup> The Ministry of Health eventually issued Government Regulation (*Peraturan Pemerintah*) No. 28/2024 as the implementing regulation of the Health Act on July 26<sup>th</sup>, 2024.

Because the presidential campaign is embedded in state legislation, the House of Representatives can perform its duties as stated in Article 72(d) of Law No. 17/2014, namely to monitor the implementation of laws, the state budget, and government policies. This would be much easier if the government were still held accountable for neglecting binding decisions that must be implemented based on the results of commission Working Meetings or joint

<sup>36</sup> Ibnu Sina Chandranegara, "Architecture of Indonesia's Checks and Balances." *Constitutional Review*, Vol. 2, No. 2, 2016, pg. 273, <https://www.neliti.com/id/publications/226556/>.

<sup>37</sup> Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, Jakarta: Sinar Grafika, 2017, pg. 33.

<sup>38</sup> National Conference of State Legislatures, "Separation of Powers: An Overview", United States, <https://www.ncsl.org/about-state-legislatures/separation-of-powers-an-overview>.

<sup>39</sup> Saldi Isra, *Sistem Pemerintahan Indonesia*, Depok: Rajawali Pers, 2019, pg. 62.

<sup>40</sup> **Both branches must now come into terms in order to pass the bill. Before the amendment, the power of passing drafts falls heavily on the President side. If the President did not agree with it, even with the House of Representative's approval, the bill would not be passed. See:** Article 21(2) of the Constitution before amendment in comparison to Article 20 of the first amendment.

<sup>41</sup> Article 79(1) - (4) Law No. 17/2014, a replacement of Law No.16/1969 (People's Consultative Assembly, House of Representatives, Regional Representative Council, and Regional House of Representatives Act).

<sup>42</sup> Article 74(1) and (2) Law No. 17/2014.

<sup>43</sup> Dwi Kurnia, "Minimnya Transparansi dan Aksesibilitas Risalah Masih Menjadi Permasalahan DPR", Indonesia Parliamentary Center, 2023, <https://ipc.or.id/minimnya-transparansi-dan-aksesibilitas-risalah-masih-menjadi-permasalahan-dpr/>. **According to their data, out of 402 legislative meetings held in 2022, only 33 minutes (0.08%) were published on the House of Representatives' website.**

<sup>44</sup> *Rapat Kerja Komisi IX DPR RI dengan Menteri Kesehatan RI dan Menteri Pendidikan, Kebudayaan, Riset dan Teknologi RI*, 2024, pg. 2, <https://berkas.dpr.go.id/akd/dokumen/komisi9-14-398ef039336176ce1a8247e26c91a1ae.pdf>.

commission Working Meetings, instead, in the first and second revision of Law No. 17/2014, without further explanation, they decided to remove that, even going so far as to eliminate the legal basis for exercising all three rights completely in the first revision.<sup>45</sup> Nevertheless, looking at the examples above, there are several ways the government can fulfill their elected president's promises effectively:

- a. Accelerating the process of the program to avoid it being uncompleted within the presidential term (5 years), especially if the presidential period is coming to an end. This can be done through:
  - i. pressure from the House of Representatives in working meetings with relevant ministries/agencies, as also regulated in Article 74(1) and (2) of Law No. 17/2014 in terms of the legal basis for the importance of recommendations (pressure) itself, refraining the House of Representatives from using its three rights (interpellation, *enquête*, and expression); and
  - ii. implementing Article 10(2), 10(3), and 47(2) of PermenPPN No. 1/2023 as the legal basis of accelerating the implementation of the program.
- b. Terminating a program altogether in response to the lack of relevancy of the program, providing space and resources for other, more relevant programs to get done, this is what Laws LJ refer to as **proportionate response**, the difference being that this action is conducted by the court.

In Indonesia's law, this can be done through both articles (from Law No. 17/2014 and PermenPPN No. 1/2023). However, the termination of the program shall not be done after the program has been completed to a certain percentage as it would end up being a waste. Instead, one can consider suspending the program for the next term.

It appears that addressing the issues raised in the first chapter does not extend to the impeachment of the elected president because, besides impeachment requiring proof that the President committed legal violations such as treason, corruption, bribery, other serious crimes, or disgraceful acts, and/or it being proven that the President no longer meets the qualifications,<sup>46</sup> the thought of the elected president's campaign promises will not be a focus when the president is brought to the plenary session for examination. Hence, the legal responsibility of the elected candidate in fulfilling their promises does exist, but it is intended not to punish, rather to push and support the implementation to the fullest extent possible.

## CONCLUSION

### Summary

The traditional way to win votes in democratic presidential campaigns is to make promises as the main bargaining power, apart from factors like an established reputation and debates. A good promise creates a good reputation,<sup>47</sup> no matter how unrealistic it is, since it doesn't have the same characteristics as a regular contract, and there is no legal basis to sue the elected candidate for not fulfilling it.<sup>48</sup> The question arises with recent legislation, the state budget is involved in order to promote the campaign period of the presidential elections, do campaign promises really mean nothing but a way to sustain political reputations? Well, turns out the elected candidate's promises will eventually be, or at least according to the law, 'legalized' through the NMTDP/RPJMN, which effectively arises legitimate expectations from the people, and in order to obtain good administration, the government is legitimately expected to fulfill those promises unless there are proportionate measures to take in the case of, for instance,

<sup>45</sup> See: Article 74 and 98 Law No. 42/2014.

<sup>46</sup> Article 37(2) Law No. 17/2014.

<sup>47</sup> Filip Matějka and Guido Tabellini, "Electoral competition with rationally inattentive voters." *Journal of the European Economic Association*, Vol. 19, No. 3, 2021, pg. 1900, <https://doi.org/10.1093/jeea/jvaa042>.

<sup>48</sup> Muhammad Adiguna Bimasakti, "Merekonstruksi paradigma gugatan citizen lawsuit di Indonesia sebagai sengketa administrasi." *Jurnal Hukum & Pembangunan*, Vol. 50, No. 1, 2020, pg. 236, <https://doi.org/10.21143/jhp.vol50.no1.2492>.

public interest. Unfortunately, this 'legalization' process is based on an explanatory note in Law No. 7/2017, granting little to no legal effect at all. At least, this clarifies the question of where the campaign promises belong in the state; the scope of administrative law. However, this is not without issues, such as the lack of external responsibility for the implementation of NMTDP/RPJMN programs (also no clear involvement of checks and balances with the legislative branch<sup>49</sup>) and the surprisingly low fulfillment percentage of the previous year's programs.

Understanding where this problem belongs narrows down the parties involved in overseeing its fulfillment, namely The House of Representatives. Despite many changes, they still have clear authority and duties to ensure the implementation of NMTDP/RPJMN programs through Working Meetings that result in binding recommendations that must be followed up. Therefore, the legal responsibility of the elected candidate does exist and can be fulfilled in two ways: (a) accelerating programs to achieve them before the presidential term ends, and (b) terminating or suspending programs to provide space and resources for more relevant programs, assuming both ways were a product of recommendation through that very Working Meetings. Failure to implement those recommendations may lead to the exercise of their three rights, namely the right of interpellation, *enquête*, and expression, which can lead to impeachment. At that point, the focus will shift from mere campaign promises to a much broader issues.

### Recommendations

As mentioned earlier, there are several issues that could be obstacles in addressing the fulfillment of presidential campaign promises, and some recommendations that might help overcome these obstacles, however small, are as follows:

1. There needs to be an elaboration for the principles in campaign period, such as accountability by both the candidates and the Electoral Commission (KPU) to accurately state and record promises that align with the candidates' draft visions, missions, and programs. For example, revitalizing the KPU website so that the visions and missions can be easily and accurately reviewed by the public.
2. Shifting the normative provisions from the explanatory notes of Article 274(1)(c) of Law No. 7/2017 into the main articles to create a legal effect that can be accounted for.
3. Developing a legal accountability framework for (a) the incorporation of presidential campaign promises as outlined in Article 274(1)(c), and (b) the failure to fulfill campaign promises that have been integrated into the NMTDP/RPJMN. For instance, this could involve reintroducing and repurposing the General Assembly of the People's Consultative Assembly (*Sidang Umum Majelis Permusyawaratan Rakyat*) to shift the focus back to substantive accountability rather than merely routine accountability reports.
4. Reinstating the basis for the exercise of the rights of interpellation, enquiry, and expression that were once in Article 98 of Law No. 17/2014 before being removed, or clarifying that the decisions and recommendations of the House of Representatives equally form the basis for the exercise of these rights, if they were ignored.

By implementing these recommendations, there is no guarantee that the landscape of political integrity will change drastically, but we as a society must keep advocating our rights and not let them take our votes for mere promises that cannot even be kept. *Fiat justitia ruat caelum*.

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<sup>49</sup> Herlambang P. Wiratraman, "Constitutional struggles and the court in Indonesia's turn to authoritarian politics." *Federal Law Review*, Vol. 50, No. 3, 2022, pg. 322, <https://doi.org/10.1177/0067205X22110740>.

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