



The Evolution of Legislative Power Relations between the DPR and the President in the Indonesian Constitutional System

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ABSTRACT

This study examines the evolution of the legislative power relationship between the House of Representatives (DPR) and the President within Indonesia's constitutional framework, particularly before and after the amendments to the 1945 Constitution. It aims to identify how constitutional reforms have reshaped the distribution of legislative authority and whether they have succeeded in achieving a substantive balance of power. Using a qualitative, normative juridical approach with historical and comparative analysis, the study explores relevant constitutional documents, laws, and Constitutional Court decisions. The findings reveal that although the constitutional amendments shifted the Indonesian system from presidential dominance to a formal balance of power, lawmaking practices remain heavily influenced by executive control. The president retains significant authority in legislative initiation and formulation, while the role of the DPR is often constrained by political and institutional constraints. Consequently, the principle of checks and balances in Indonesia's presidential system tends to be cooperative rather than competitive, with procedural balance lacking substantive equality. The study concludes that constitutional reforms must be complemented by institutional strengthening of the DPR through increased research capacity, professional legislative drafting, and increased public participation. This study contributes to the theoretical discourse on constitutionalism by proposing a cooperative checks and balances model suitable for presidential systems characterized by asymmetric power relations.

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1. Introduction

The legislative function is one of the main foundations of a legal supremacy system based on democratic principles. Legislation is not merely interpreted as a technical activity in the formation of laws and regulations, but furthermore, it is a manifestation of the principle of popular sovereignty institutionalized through constitutional mechanisms. From the perspective of constitutional theory, the existence of the legislative function is an important distinction between democratic and authoritarian governments. This is because the legislative process not only establishes generally applicable legal norms but also serves to limit and direct the implementation of state power so that it is always subject to the principles of law and justice. Conceptually, the idea of the legislative function cannot be separated from the theory of separation of powers formulated by Montesquieu. In his classic work *L'Esprit des Lois*, Montesquieu emphasized that political freedom can only be guaranteed if state power is divided into three main branches: legislative, executive, and judicial. Among the three, the legislative function occupies a central position as the creator of general legal norms (general rules) that form the basis of the legitimacy of every government action and judicial decision. Thus, from the outset, the theory of separation of powers has placed legislation as the main pillar in building a democratic and equitable rule of law.

In modern constitutional practice, the legislative function is no longer solely the sole responsibility of the legislature. Lawmaking is the result of interactions between the legislative and executive branches of government, operating within a framework of checks and balances. Virtually no modern system of government adheres to an absolute separation of powers; what prevails is a division of powers accompanied by mechanisms of mutual oversight. Therefore, the legislative process in a democracy is always an arena for meetings and negotiations between the people's representative body (*parliament*) and the head of government (president or prime minister), with variations depending on the system of government adopted, whether presidential or parliamentary.⁵ In the Indonesian context, the legislative function plays a crucial role in the development of the national legal system. The 1945 Constitution of the Republic of Indonesia explicitly states that Indonesia is a state based on law (*rechtsstaat*), not a state based on power (*machtsstaat*). The implication of this provision is that all actions of state administrators must rely on and be rooted in law. In this order, law occupies a fundamental position as a legal instrument born through the democratic process.⁶ Article 1 paragraph (3) of the 1945 Constitution provides the constitutional basis for establishing the principle of the supremacy of law, while the following articles explicitly regulate the positions and authorities of the DPR and the President in the process of making laws.

Following the amendments to the 1945 Constitution, the legislative function in Indonesia underwent significant changes. These constitutional amendments strengthened the position of the House of Representatives (DPR) as the primary legislative body.⁷ However, the President still plays a crucial role in initiating and approving draft laws. This creates a collaborative power structure, where the legislative process is the result of joint efforts between the two branches of state power. This relationship has resulted in a protracted academic debate about the duality of legislative authority within Indonesia's presidential system of government. This initial discussion of the legislative function in a democratic system aims to provide a theoretical foundation and conceptual framework for

⁵ Asshiddiqie, J. (2006). *Pengantar Hukum Tata Negara*. Jakarta: Rajawali Pers., p. 112.

⁶ Montesquieu. (1989). *The Spirit of the Laws*. Cambridge: Cambridge University Press. p. 157.

⁷ Strong, C. F. (1973). *Modern Political Constitutions: an Introduction to the Comparative Study of Their History and Existing Form*. London: Sidgwick & Jackson. p. 201.

further analysis. First, it is important to understand that the legislative function is a direct manifestation of the principle of popular sovereignty. Laws, as legislative products, gain legitimacy not only because they are created by state institutions but also because these institutions are democratically elected representatives of the people. Second, the legislative function is a key instrument in realizing the principle of the rule of law, as through legislation, state power can be limited, directed, and aligned with the will of the constitution. Third, legislation serves to ensure legal certainty, justice, and the benefit of the wider community.

However, the ideal function of legislation often does not function as intended. In practice, the quality of legislative products in Indonesia is often low, characterized by overlapping norms, weak harmonization between regulations, and a lack of public involvement in the drafting process. Practical political interests often dominate the legislative process, resulting in the substance of laws reflecting political compromises rather than societal needs. This phenomenon emphasizes that discussions of legislative functions are inseparable from efforts to improve the quality of laws and regulations and strengthen the system of checks and balances that form the foundation of democratic legal supremacy. From a constitutional law perspective, the legislative function is not only related to the procedural aspects of lawmaking but is also closely related to the principle of legal legitimacy. In a modern state, every legal product is required to have two forms of legitimacy: formal legitimacy and substantive legitimacy. Formal legitimacy is achieved if the lawmaking process is carried out in accordance with the provisions stipulated in the constitution and laws and regulations, while substantive legitimacy is achieved if the resulting laws reflect the values of justice, benefit, and protection of citizens' constitutional rights. The legislative process should not be understood merely as an administrative activity, but rather as a constitutional forum where the aspirations of various people are articulated into legal norms that bind all levels of society. Through legislation, the people indirectly participate in determining the direction of state policy and the content of the laws that govern their lives together.

The legislative function also plays a crucial role in ensuring legal certainty. Legal certainty is a key characteristic of a state based on the rule of law and can only be achieved if legal norms are formulated in a clear, written, and predictable manner. Within the framework of pure legal theory proposed by Hans Kelsen, valid law is law derived from basic norms (*Grundnorm*) and arranged hierarchically in a sequence of norms. Laws, as products of the legislative function, occupy a strategic position in the hierarchy because they serve as a bridge connecting the constitution as a basic norm with its implementing regulations.⁸ The position of law in the Indonesian national legal system reflects the importance of the legislative function in maintaining norm consistency and legal stability. Law is the primary means for interpreting, implementing, and translating constitutional values into positive legal rules. Therefore, the success of the legislative function is measured not only by the number of laws produced, but also by the extent to which these products reflect the principles of democracy, social justice, and respect for human rights. In the context of future-oriented legal development, the legislative function must be directed towards creating a legal system that is adaptive, responsive to social change, and ensures a balance between legal certainty and justice. Therefore, reforming the national legislative system is an urgent need to ensure that every legal product is not only procedurally valid, but also substantially meaningful for the public interest.

Studies on the legislative power relationship between the House of Representatives (DPR) and the President have been divided into three main historical phases. Previous

⁸ Kelsen, H. (1970). *Pure Theory of Law*. Berkeley: University of California Press. p. 193.

studies, such as those exemplified by Dr. M. Yusrizal Adi S., in "The Relationship between the DPR and the President in the Formation of Laws" (2021), have successfully mapped the formal shift of legislative power from the President to the DPR following the Amendment to the 1945 Constitution. However, these studies tended to stop at textual changes and failed to deeply analyze the normative implications of *the co-governance* imposed by the Amendment. This proposed research will expand the analysis by examining conflicting interpretations of norms (particularly Articles 5 and 20 of the 1945 Constitution) arising from the practice of presidential coalitions, as well as reviewing the decisions of the Constitutional Court (MK) as a judicial mechanism that serves as a primary counterbalance to such political practices.

Furthermore, studies focusing on political dynamics, such as "Supervision and Balance Between the House of Representatives and the President in the Indonesian Constitutional System" (Journal UII, 2015), have highlighted the potential for conflict or political *deadlock* resulting from a multiparty system. A fundamental difference with this research is that, while those studies focused on empirical political outcomes, this study takes a doctrinal legal approach to specifically analyze the adequacy and clarity of constitutional norms in regulating disputes over legislative authority. We will examine whether existing norms are sufficient to prevent covert executive domination, particularly in the context of executive control of the National Legislation Program (Prolegnas) agenda.

Finally, research that thoroughly examines political influence, such as "The Power Relations of the President and the House of Representatives in a Presidential System" (Journal UNAS, 2017), suggests that the support of the parliamentary majority coalition determines presidential dominance. The gap filled by this research is that we do not simply accept this political dominance as fact, but analyze it from the perspective of deviations/erosion of the principle of *checks and balances* institutionalized in the constitution. This research will focus on the extent to which the structural strengthening of the House of Representatives (through its apparatus and rights) has been contaminated normatively and politically by coalition interests, thereby weakening its legislative function as a balance of power.

Based on the above description, this research has substantial urgency because, although the Amendment to the 1945 Constitution has expressly transferred legislative power to the House of Representatives (DPR), the post-reform political reality shows normative erosion and constitutionally legitimized executive dominance through coalition mechanisms and control of the legislative agenda. The urgency of this research lies in the need to doctrinally analyze the adequacy and consistency of constitutional norms (especially Articles 5 and 20 of the 1945 Constitution) in restraining the practice of *coalition presidentialism* and recurring conflicts of authority, as reflected in the *omnibus law process* and Prolegnas issues. The results of this research are crucial for providing scientific contributions to the development of democratic constitutional law, particularly by formulating recommendations regarding the restructuring of the *checks and balances mechanism* so that the DPR's legislative function is truly autonomous and effective as a balance of power, not merely a political formality tool for the executive agenda.

2. Method

This research uses a legislative approach and a conceptual approach, and a comparative approach with a normative legal research type.⁹ This approach was chosen because the focus of the research is to analyze the legal norms that regulate the legislative function in

⁹ Juliardi, B., Runtunuwu, Y. B., Musthofa, M. H., TL, A. D., Asriyani, A., Hazmi, R. M., ... & Samara, M. R. (2023). Metode penelitian hukum. CV. Gita Lentera.

the Indonesian state system, particularly the relationship of authority between the House of Representatives (DPR) and the President in the formation of laws based on the 1945 Constitution. Law in this context is understood as a system of norms that has rationality, hierarchy, and constitutional legitimacy, not just an empirical phenomenon.¹⁰

Research data was obtained from primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution, Law Number 12 of 2011 concerning the Formation of Legislation and its Amendments, and Constitutional Court decisions relevant to the legislative function. Secondary legal materials include books, reputable and accredited scientific journals, and previous research on the theory of separation of powers and legislative systems in democratic countries. Tertiary legal materials include legal dictionaries and legal encyclopedias that help clarify key concepts.

Data analysis was conducted through qualitative-descriptive analysis, interpreting legal norms grammatically, systematically, historically, and teleologically to uncover the substantive meaning of the legislative function. This technique allows researchers to understand the interrelationships between the principles of the rule of law, popular sovereignty, and checks and balances mechanisms in Indonesian legislative practice. The results of the analysis are expected to produce a comprehensive and argumentative understanding of strengthening the legislative function in a presidential system, as well as provide a scientific contribution to the development of democratic and just constitutional law.

3. Analysis and Results

Dynamics and Conflicts in the DPR-President Relationship in Legislation

The dynamics of the relationship between the DPR and the President in the legislative process in Indonesia reflect the long journey of establishing a constitutional system that continues to adapt to political, constitutional, and social changes. This relationship is not merely a technical matter of lawmaking, but a manifestation of the balance of power between the legislative and executive branches within the framework of the presidential system adopted by the 1945 Constitution of the Republic of Indonesia. In practice, the relationship between the DPR and the President often shows fluctuating dynamics, starting from the phase of executive dominance in the early days of independence and the New Order regime, to the post-reform phase that marked a shift towards strengthening the legislature, although the President's dominance in initiating legislation remained. Political changes following the amendments to the 1945 Constitution have had a significant impact on the national legislative architecture. The DPR gained a stronger constitutional position through Article 20 of the 1945 Constitution, which affirms its authority to formulate laws. However, on the other hand, Article 5 paragraph (1) still gives the President the right to propose draft laws (RUU), creating room for interpretation and the potential for clashes of authority. In this context, a check and balance mechanism is important to ensure that the legislative process runs in accordance with the principles of constitutional democracy, where each institution monitors and balances each other.

Furthermore, the involvement of the Regional People's Representative Council (DPD) in the legislative process through Article 22D of the 1945 Constitution adds a new dimension to the asymmetric bicameral system. While the DPD lacks the power to directly enact laws, its presence strengthens the role of regional representatives in national policy deliberations. Thus, the dynamics of the DPR-President relationship in legislation not only reflect the power struggle between institutions, but also reflect constitutional efforts to

¹⁰ Marzuki, P. M. (2014). *Legal Research*. Jakarta: Kencana Media Group. p. 34.

balance power, strengthen legal legitimacy, and ensure that the lawmaking process is in accordance with the principles of democratic rule of law.

3.1. Evolution of the Power Relations between Parliament and the President in Legislative Functions

3.1.1 Period Before the 1945 Constitutional Amendment: Presidential Dominance in the Legislative Process

The Indonesian Constitution, first ratified on August 18, 1945, was actually formed in a political emergency and a compromise between the ideals of constitutional democracy and the need for stability in a newly independent nation. In its original draft, the 1945 Constitution placed the President in a very powerful position-not only as head of state and head of government, but also as the holder of the power to form laws together with the DPR. This is emphasized through Article 5 paragraph (1) which states that "The President holds the power to form laws with the approval of the DPR." Normatively, the formulation of this article does not explicitly explain who is more dominant between the President and the DPR, but in practice, the developing political interpretation shows that the President holds full initiative in the legislative process.

Historically, the DPR's position in the early days of independence lacked functional independence. Soepomo, one of the drafters of the 1945 Constitution, envisioned an integralist system of government, in which the President served as a unifying figure who carried out the will of the people without being strictly constrained by the legislature.¹¹ This idea subsequently gave birth to a strong presidential system, even approaching a single executive system. The DPR, formed through the President's election of members, in the early days functioned only as an advisory body, providing official approval for draft laws proposed by the government. In practice, legislative power was granted to the President through the exercise of the right to propose and enact government regulations in lieu of laws (Perppu), as stipulated in Article 22 of the 1945 Constitution. This demonstrates that the Indonesian government system before the amendment substantially adhered to an executive-heavy pattern, in which legislative power was subordinated to executive power. According to Jimly Asshiddiqie, this concept reflects an "administrative presidential government oriented toward political stability," in which the President had ample room to establish policy without adequate legislative control.¹² During the 1945-1949 period, the President even played a direct role as a key policymaker, including in the creation of the 1949 Provisional Constitution and the 1950 Constitution, which subsequently transformed the structure of the executive-legislative relationship. However, in both the federal (1949 RIS) and parliamentary (1950 Provisional Constitution) systems, the legislative-executive power relationship still did not reflect the ideal balance.

In early legislative practice, the DPR was merely a body that "approved" government drafts without the technical capacity to initiate laws independently. This is evident from the BPUPKI and PPKI session documents, which emphasized that the primary need after independence was effective governance, not a rigid division of power. Thus, the principle of mutual cooperation, as originally intended in Article 5 paragraph (1), was transformed into a practice of presidential dominance. Bagir Manan noted that the relationship between the DPR and the President at that time was not based on a system of checks and balances, but rather a hierarchical system in which the President was positioned as the pinnacle of state power. This condition was also reinforced by political factors. The absence of established political parties at the beginning of independence meant that the legislative

¹¹ Manan, B. (2004). *DPR, DPD Dan MPR Dalam UUD 1945 Baru*. Yogyakarta: FH UII Press. p. 23.

¹² Asshiddiqie, J. (2011). *Konstitusi dan konstitusionalisme di Indonesia*. Jakarta: Sinar Grafika. p. 44.

process was entirely dependent on the will of the central government.¹³ The DPR lacked strong legitimacy because most of its members were appointed, not the result of democratic elections. As a result, the relationship between the DPR and the President was administrative rather than constitutional. This situation contrasts sharply with the concept of bicameralism or parliamentary control that has developed in established democracies such as the United States or the United Kingdom.

The new model of relations began to change when the 1949 RIS Constitution and the 1950 Provisional Constitution came into effect, introducing a parliamentary system of government. Under this system, the DPR (or Parliament at the time) gained a stronger position because it could bring down the cabinet through a motion of no confidence. However, this transition was short-lived as political tensions between the executive and legislative branches arose, leading to the Presidential Decree of July 5, 1959. With this decree, President Sukarno dissolved the Constituent Assembly and reinstated the 1945 Constitution, thus returning the power structure to its original state—a return to a heavily executive system. The post-1959 rehabilitation of the 1945 Constitution marked the return of presidential dominance in the legislative process. All bills were drafted by the government, while the DPR only exercised a formal legitimizing function through mutual consent. The mechanism for deliberating bills was carried out hierarchically, with DPR members' arguments constrained by executive policy guidelines. In the context of constitutional law theory, this phenomenon indicates that the legislative function in the pre-amendment period was administrative, not deliberative. Legislation is not the result of political compromise between branches of power, but rather the product of a state bureaucracy oriented towards government stability.¹⁴

This state of executive dominance is a logical consequence of the authoritative interpretation of Article 4 paragraph (1) of the 1945 Constitution which states that "The President holds governmental power according to the Constitution." This interpretation was then expanded to provide legitimacy to the President to control the entire national legislative process. In terms of constitutional design, the pre-amendment DPR-President relationship can be understood as a form of quasi-unitary executive, a system that places legislative power as a derivative function of executive power.

3.1.2 The Old and New Order Periods: Legislation as a Formality of Parliamentary Politics

The Old Order (1959-1966) and New Order (1966-1998) periods were periods that clearly demonstrated the imbalance in power relations between the President and the House of Representatives (DPR), where the legislative function actually became a tool for legitimizing executive politics. After the Presidential Decree of July 5, 1959, was passed, the government system returned to the 1945 Constitution under the pretext of upholding stability and government effectiveness. However, in practice, the decree paved the way for the centralization of executive power in the hands of President Sukarno, who combined the positions of head of state and head of government.

In Sukarno's concept of Guided Democracy, the legislature no longer functions as a counterweight to the executive, but as a revolutionary tool to carry out the "mandate of the people's suffering." In his political speeches, Sukarno emphasized that the DPR must not conflict with the government because both are united revolutionary will. This is reflected in the formation of the DPR-Gotong Royong (DPR-GR) through Presidential Decree No. 6

¹³ Manan, *DPR, DPD and MPR in the New 1945 Constitution*.

¹⁴ Isra, S. (2016). *The Role of The Constitutional Court in Strengthening Democracy*. Jakarta: Raja Grafindo Persada. p. 65.

of 1960, which replaced the DPR from the 1955 Election. DPR-RG members were appointed directly by the President without going through a general election, so that the legislative-executive relationship was completely subordinate.

Legislative practice during Guided Democracy was essentially an extension of the President's policies. The government was the sole party with the capacity and authority to draft laws, while the DPR-GR only had the function of approving them. According to Bagir Manan, the legislative function during this period "was not an instrument of limiting power, but rather a tool to strengthen the President's political position within the framework of the national revolution." This explains why almost all laws passed during the 1959-1965 period originated from government initiatives, while legislative initiatives from the DPR were virtually non-existent. This situation did not change significantly when power was handed over to Suharto in 1966. Although Suharto introduced the concept of Pancasila Democracy as a corrective to the previous system, the constitutional structure and political practices continued to place the President above the DPR. In constitutional law theory, the New Order period is often described as a form of "administrative presidentialism," in which the President's power rested on formal legality but was exercised hegemonically. National development policies were implemented through a top-down approach, and the DPR became a partner of the government, functioning more as a rubber stamp than as a watchdog of public policy.¹⁵ The relationship between the DPR and the President during the New Order era was regulated in a legalistic manner through MPR Decree No. III/MPR/1978 concerning the status and working relationship of state institutions, which emphasized that "the President is responsible to the MPR," not to the DPR. This meant that the DPR did not have an effective political mechanism to control the President.¹⁶ In the legislative context, the provisions of Article 5 paragraph (1) of the 1945 Constitution, which remained unchanged, remained the basis for the President's control over the right to formulate laws. As a result, all strategic bills, such as the State Budget Bill, the Tax Bill, and the Development Bill, were drafted by the executive, then passed by the DPR with little debate.

Empirically, data shows that during Suharto's three-decade rule, over 80 percent of laws originated from government proposals.¹⁷ This situation demonstrates that although the House of Representatives (DPR) had a formal legislative function, the President still controlled the initiative and substance of legislation. In practice, ministries and the National Legal Development Agency (BPHN) became the centers of legal technocracy that drafted laws, while the DPR acted only as an approval body. In addition to legal factors, the President's dominance was also reinforced by political and institutional factors. The Golkar Party, as the main political force during the New Order, was not an opposition party, but rather a political vehicle for the government. The DPR was dominated by the Golkar faction, while other parties, such as the PDI-P and PPP, played only symbolic roles. Under these conditions, the checks and balances function could not be effective because the DPR lacked the political independence to reject or amend government initiatives. The New Order's political configuration resulted in a "one-way system" that eliminated legislative corrective mechanisms for executive policies.

On the other hand, the legal oversight mechanism over the President was also weak due to the absence of a constitutional guardian institution such as the Constitutional Court. As a result, any law passed by the House of Representatives (DPR) could hardly be tested

¹⁵ Manan, B. (2001). *Teori Dan Politik Konstitusi*. Yogyakarta: FH UII Press. p. 94

¹⁶ Huda, N. (2008). *Hukum Tata Negara Indonesia*. Jakarta: Rajawali Pers. p. 157.

¹⁷ Carlos, R. J. (2019). *Kelsen, the New Inverted Pyramid and The Classics of Constitutional Law*. Russian Law Journal, 7(1), 87-118. <https://doi.org/10.17589/2309-8678-2019-7-1-87-118>.

for constitutionality. The judiciary's function at that time was more directed towards supporting development policies. Thus, the legislative mechanism became entirely part of the government's version of national development planning, rather than the result of democratic deliberation between the branches of government. In addition to political subordination, there were also structural limitations within the legislative system that strengthened the executive's role. Lawmaking during the New Order era was regulated through multi-layered Presidential Instructions (Inpres) and Government Regulations (PP), further narrowing the DPR's legislative authority. In practice, the most frequently issued legal products were not laws, but government regulations and presidential decrees. For example, in the economic sector, industrial and investment deregulation in the 1980s was largely regulated through Presidential Instructions and Perpres without DPR intervention.⁷ This phenomenon indicates a shift in legislative function from the DPR to the President, both administratively and politically.¹⁸

This situation has led to what Miriam Budiardjo calls legislative marginalization, a situation in which representative institutions lose their constitutional bargaining power due to the dominance of politics and the executive bureaucracy.¹⁹ For more than three decades, legislative practice in Indonesia has been oriented toward development policies, rather than the process of legal democratization. Law has been used as an instrument of social control to maintain political and economic stability. From the perspective of progressive legal theory, this situation demonstrates a disconnect between law and society, as the legislative process no longer reflects public aspirations.

Toward the end of the New Order, socio-political pressure arose to restore Parliament's legislative function. Demands for legal and constitutional reform became a key agenda item in the 1998 student movement. The crisis of confidence in the government demonstrated that an overly executive-centric legislative system created a gap between legal products and societal needs. This prompted fundamental changes to Indonesia's constitutional system through amendments to the 1945 Constitution. These amendments clarified the division of authority between the House of Representatives (DPR) and the President and introduced the principle of checks and balances in lawmaking. Thus, the Old and New Order periods can be understood as periods of legislative subordination to the executive, during which the DPR's legislative function lost its deliberative substance. During both Sukarno's Guided Democracy and Suharto's Pancasila Democracy, the legislature acted not as a control mechanism but as a legitimation mechanism. This phenomenon provided an important historical backdrop for the post-1998 constitutional reforms, which sought to re-establish the principle of separation of powers and restore the DPR's dignity as a lawmaking body equal to the President.

3.1.3 Post-1945 Reform and Constitutional Amendment Period: Parliament is Stronger, but the President Remains Dominant

The 1998 Reformation marked a significant milestone in the reconstruction of Indonesia's constitutional system, including in the area of lawmaking. The reform movement, led by students and civil society, demanded a clear separation of powers between the executive and legislative branches and an end to the President's dominance in all political processes. These demands led to four amendments to the 1945 Constitution (1999–2002), which fundamentally changed the structure and distribution of state power, particularly in the

¹⁸ Muh Farhan Arfandy. (2024). *The Role of the Regional People's Representative Council (DPRD) in the Formation of Democratic Regional Regulations*. Recht Studiosum Law Review 03, No. 01: 37–49.

¹⁹ Harahap, I. A. R., & Raharja, S. (2025). *Legality Analysis of Baros Mangrove Area Designation with the Status of Essential Ecosystem Area on Sultan Ground Land*. JUSTISI, 11(2), 346-367. <https://doi.org/10.33506/js.v11i2.3960>.

legislative mechanism. Prior to the amendments, legislative power was substantially vested in the President. However, following the constitutional amendment, Article 20 paragraph (1) of the 1945 Constitution, resulting from the first amendment, explicitly stated that "the People's Representative Council holds the power to enact laws." This change was a significant paradigm shift because it placed the DPR as the primary holder of legislative functions. Thus, the DPR's function was no longer a political formality, but rather played an active role in planning, discussing, and passing laws.

However, this normative shift does not completely eliminate the President's dominance. Although the DPR textually "holds the authority to form laws," Article 5 paragraph (1) still grants the President the right to submit bills to the DPR. With this provision, the legislative process continues to proceed within a framework of mutual consent, where the DPR and the President must jointly approve each bill for it to be passed into law. In practice, this creates a new form of legislative dependence on the executive, because the majority of bills discussed in the DPR originate from government initiatives. Saldi Isra's research shows that between 2004-2009, approximately 79 percent of bills discussed in the DPR were proposed by the government, while the remainder came from the DPR and DPD.²⁰ This phenomenon illustrates that although the DPR has the legal right to take initiatives, the legislative institutional capacity and resources are not as strong as the executive, which has a more established bureaucratic network, technocratic ministerial support, and legal tools. As a result, executive dominance in legislation continues in a more subtle and procedural form.²¹

Furthermore, the National Legislation Program (Prolegnas), which should be a joint planning instrument between the House of Representatives (DPR) and the government, has instead strengthened the dominant role of the executive branch. According to Law No. 15/2019 concerning the Formation of Legislation, the Prolegnas is prepared by the DPR's Legislative Body, together with the Ministry of Law and Human Rights and the Regional Representative Council (DPD). However, in reality, the initial drafts of the Prolegnas almost always originate from ministries and government agencies. The DPR generally only approves the list of priorities proposed by the government without conducting in-depth substantive planning. According to Bivitri Susanti, this indicates that "formally, the DPR is stronger, but substantively, the legislative process is still controlled by the executive branch." The amendments to the 1945 Constitution have indeed succeeded in normatively affirming the principle of checks and balances. However, in its implementation, the multiparty political structure and presidential system, which require coalition support, have created a symbiotic relationship between the DPR and the President. The President, to ensure political stability and smooth deliberation of bills, often forms large coalitions in the DPR, ultimately weakening the legislative oversight function. Ni'matul Huda calls this phenomenon coalition presidentialism, a political practice that causes the DPR to lose its independence in controlling executive policy because it is tied to an alliance of parties supporting the government.²²

In addition to political factors, administrative factors also influence the President's dominance in the legislative process. The President has institutional tools such as the State Secretariat, the Ministry of Law and Human Rights, and the Cabinet Secretariat, which are capable of quickly compiling academic papers, analyzing regulatory impacts, and harmonizing regulations. The House of Representatives (DPR), on the other hand, still

²⁰ Saldi Isra. (2009). The Relationship Between the President and the DPR in the Formation of Laws Post-Amendment of the 1945 Constitution. *Constitutional Journal* 6, No. 1: 45–63

²¹ Ghafur, J., & Wardhana, A. F. G. (2019). *President of threshold*. Malang: Setara Press. p. 15.

²² Huda, N. (2008). *Indonesian constitutional law*. Jakarta: Rajawali Pers.

faces limited resources, both in terms of expertise, research support, and public participation mechanisms in drafting bills. Maria Farida Indrati emphasized that the DPR's institutional weakness in the technical aspects of lawmaking means the legislature remains dependent on drafts prepared by the government.²³ Another major change in the post-amendment period is the involvement of the Regional Representative Council (DPD) in the legislative process, as stipulated in Article 22D of the 1945 Constitution. The DPD has the right to submit certain bills related to regional autonomy, central-regional relations, and natural resource management. However, this right is limited, as the DPD does not have the authority to decide on or approve the bills with the DPR and the President. In practice, the DPD's presence does not alter the balance of legislative power, as its role is more consultative than deliberative. Bagir Manan assessed that "the presence of the DPD is more of a symbol of regional representation than a major actor in the formation of national law."

From a legal perspective, the strengthening of the House of Representatives' (DPR) role is also reflected in its oversight mechanism for the implementation of laws. Through the rights of interpellation, investigation, and expression of opinion, the DPR can pressure the President or relevant ministers if there are irregularities in the implementation of laws. However, in practice, the exercise of these rights is highly dependent on the political configuration and support of political parties in parliament. Under a multiparty presidential system, broad political coalitions often prevent the DPR from exercising its constitutional right to oversee the President, as most parliamentarians come from parties that support the government. As a result, the legislative and oversight functions are unbalanced. Nevertheless, the post-amendment of the 1945 Constitution has brought significant changes to the quality of democracy and national legislative governance. The establishment of the Constitutional Court (MK) through Article 24C of the 1945 Constitution provides a new mechanism to safeguard the constitutionality of laws. The Constitutional Court has the authority to hear laws that conflict with the 1945 Constitution (judicial review), which indirectly functions as a corrective mechanism for procedurally or substantively flawed legislation. The Constitutional Court's existence introduced a new dimension to the relationship between the House of Representatives (DPR) and the President, as any law passed by either party could be independently reviewed by the judiciary. Jimly Asshiddiqie argued that the establishment of the Constitutional Court marked a "new era of constitutional supremacy" that placed law above political power.

However, despite the establishment of constitutional mechanisms, the issue of executive dominance remains pervasive in contemporary legislative practice. In some cases, such as the deliberations on Law No. 11 of 2020 concerning Job Creation, the legislative process appears to be controlled by the government through expedited discussion mechanisms, a lack of public participation, and the use of omnibus laws initiated by the executive.²⁴ This situation demonstrates that, although the House of Representatives (DPR) formally has the authority to enact laws, substantively, the initiative, direction, and substance of regulations are still largely controlled by the President and the executive. From a theoretical perspective, the post-amendment developments illustrate a new pattern in Indonesia's presidential system, constitutionally legitimized executive dominance. This means that the President's power remains substantial, but is tempered by democratic mechanisms that involve the DPR in the legislative process. This pattern differs from the

²³ Lailam, T., & Chakim, M. L. (2023). *A Proposal to Adopt Concrete Judicial Review in Indonesian Constitutional Court: A Study on the German Federal Constitutional Court Experiences*. *Padjadjaran Jurnal Ilmu Hukum (Journal of Law)*, 10(2), 148-171. <https://doi.org/10.22304/pjih.v10n2.a1>.

²⁴ Arsil, F. (2021). *Omnibus Law Legislation From the Perspective of Democratic Lawmaking*. *Constitutional Journal*, 18(4), 703-728.

authoritarian New Order era, which still exhibited a tendency toward executive supremacy in lawmaking. In the long term, the balance between the DPR and the President remains largely determined by the quality of parliamentary institutions, the independence of political parties, and the consistent application of the principle of checks and balances in constitutional practice.

Thus, it can be concluded that the Reformation period and the post-amendment period of the 1945 Constitution saw a formal shift from executive dominance to a balance of power, but did not substantially eliminate the legislature's dependence on the executive. The House of Representatives (DPR) did gain legal legitimacy as the holder of lawmaking power, but in reality the President remained the central actor determining the direction and substance of national legislation. Constitutional reform succeeded in changing the structure, but not the legal political culture. The historical evolution of the power relationship between the DPR and the President in Indonesia's legislative function presents a dynamic transformation from executive dominance to a more balanced, yet still asymmetrical, configuration. Each constitutional phase reflects a different paradigm of governance and lawmaking shaped by the political ideology, institutional maturity, and constitutional design of each era. The pre-amendment period of the 1945 Constitution embodied a system strongly oriented towards presidential supremacy, in which the legislature acted largely as an institution of formal legitimacy. During the Old and New Order regimes, this imbalance became more entrenched; the legislature was subordinated to executive interests and functioned merely as a political instrument to formalize government policy. In contrast, the Reformation period and the post-amendment of the 1945 Constitution introduced substantial normative changes that sought to restore legislative autonomy and strengthen democratic accountability through the principle of checks and balances.

However, empirical reality shows that executive dominance has not completely diminished. While the DPR officially holds legislative power under Article 20 paragraph (1) of the amended Constitution, the President continues to exert considerable influence through his right of initiative, control over the National Legislative Program (Prolegnas), and bureaucratic-technical capacity. The following comparative table summarizes these shifts across three historical periods, highlighting the distinctive characteristics of executive-legislative relations, their constitutional foundations, and their practical implications for Indonesia's lawmaking process.

Table 1. Evolution of Legislative Power Relations between the DPR and the President in Indonesia

Period / Era	Constitutional Basis & Political Context	Characteristics of Legislative-Executive Relations	Dominant Power Configuration
Pre-Amendment of the 1945 Constitution (1945-1959)	a. Based on the 1945 Constitution in its original form, drafted in a state of emergency and transitional politics;	a. The legislative process is almost entirely controlled by the President;	Executive dominance (Presidential supremacy), the President exercises almost absolute control over lawmaking.
	b. Article 5 paragraph (1): <i>"The President holds the authority to make laws with the approval of the DPR."</i> ;	b. The DPR functions as an administrative complement to a policy-making institution;	
	c. This system reflects Soepomo's integralistic concept, emphasizing unity between the state and the people under the leadership	c. Laws were mostly drafted by the executive through <i>Government Regulations in Lieu of Law (Perppu)</i> ;	
		d. There is no real political deliberation between the two branches.	

	of the president; d. The DPR is not democratically elected and functions as an advisory and legitimating body.		
Old and New Order Period (1959-1998)	a. Returning to the 1945 Constitution through Presidential Decree dated July 5, 1959, re-established the president's authority; b. Guided Democracy (Soekarno) and Pancasila Democracy (Soeharto) institutionalized centralized executive control; c. MPR Decree No. III/MPR/1978 positions the President as accountable to the MPR, not the DPR; d. Legislative representation is dominated by Golkar and appointed factions.	a. The legislative function becomes formalistic and subject to government policy; b. The DPR acts as a "rubber stamp" institution that legitimizes executive programs; c. More than 80% of laws are drafted by the government, with minimal debate or amendment in parliament; d. Legislative control mechanisms are absent; judicial review is not yet available.	Authoritarian presidentialism, legislative initiatives and policy-making monopolized by the executive; DPR independence is suppressed structurally and politically.
Reform and Post-Amendment Period (1999-present)	a. Four constitutional amendments (1999-2002) fundamentally restructured power relations; b. Article 20(1): <i>"The DPR holds the power to make laws."</i> ; c. Article 5(1): The President has the right to submit a bill to the DPR; d. Law No. 15/2019 concerning the Making of Laws formalizes the joint DPR mechanism, Government Prolegnas; e. Introduction of the DPD and the Constitutional Court (MK) as part of the legislative examination.	a. The DPR officially holds legislative power, but the majority of bills still come from the government ($\pm 70-80\%$); b. The President maintains substantive influence through control of the Prolegnas, ministerial bureaucracy, and legal drafting expertise; c. Political coalitions in parliament often weaken legislative oversight; d. The Constitutional Court functions as a judicial balance to ensure compliance with the constitution.	Power together with executive dominance, formal balance is achieved, but the substantive dominance of the President remains due to political and bureaucratic advantages.

3.2. Check and Balance Mechanism and Conflict of Authority between the DPR and the President in Legislation

The configuration of Indonesia's constitutional system following the amendments to the 1945 Constitution of the Republic of Indonesia was designed to achieve a balance of power between the branches of government. The checks and balances mechanism became the fundamental principle governing the relationship between the legislative and executive branches, including the legislative function. Constitutional amendments from 1999 to 2002 not only emphasized the separation of powers in a formal sense but also introduced the concept of a coordinating division of authority. In this context, the power to enact laws was not solely vested in the legislature but was exercised jointly by the House of Representatives (DPR) and the President within a constitutional framework that required cooperation and mutual oversight. According to the thinking developed in the Indonesian constitutional law literature, the presidential system adopted by the 1945 Constitution does not recognize a rigid separation of powers like in the US system, but rather a more flexible

model. In this model, each state institution holds primary power but still interacts and collaborates with other institutions. The relationship between the DPR and the President in lawmaking is a concrete manifestation of this interaction. The mechanism for discussing bills that must be jointly approved by the DPR and the President, as stipulated in Article 20 paragraph (2) of the 1945 Constitution, demonstrates the principle of balance, where neither party can issue a law without the approval of the other. Thus, inter-institutional control occurs not through confrontation, but through a deliberation process that demands constitutional compromise.

This concept demonstrates that the checks and balances in Indonesia's presidential system are cooperative, not competitive. In practice, the House of Representatives (DPR), as the people's representative body, holds a deliberative function, while the President, through the cabinet and ministries, holds a proposing and harmonizing function. This relationship demonstrates a dynamic balance model: each institution has a certain authority, but none is absolute. Constitutional amendments have attempted to strengthen the DPR by explicitly granting it the authority to form laws in Article 20(1). However, political reality shows that this balance has not been fully realized, as the executive remains the dominant factor in determining the direction and substance of national legislation. In the context of the right to initiate bills, the 1945 Constitution divides authority equally between the DPR and the President. Article 5(1) grants the President the right to propose bills, while Article 21(1) grants the DPR the same right. This division theoretically illustrates the principle of equality in the legislative process. However, in practice, empirical data shows that the majority of bills passed originate from government initiatives. This is because ministries and executive institutions have a more established bureaucratic infrastructure and technocratic capabilities than the DPR. The government has access to human resources, budgets, and research and regulatory harmonization institutions like the Ministry of Law and Human Rights, capable of producing academic papers and draft laws to a high standard. In contrast, the House of Representatives (DPR) often faces limitations in research expertise and capacity, meaning that legislative processes originating from parliamentary initiatives are less productive than those initiated by the government.²⁵

This imbalance creates a constitutional dilemma regarding the interpretation of Articles 5 and 20 of the 1945 Constitution. Article 20 affirms that the House of Representatives (DPR) holds the authority to enact laws, while Article 5 grants the President the right to submit bills. Normatively, the two articles should complement each other. However, in practice, this division is often interpreted as justifying executive dominance in lawmaking. This raises legal questions about who actually holds primary legislative power: the DPR, the institution purportedly holding the power to enact laws, or the President, who actually controls the resources, process, and substance of legislation. In theory, this division is intended to create balance. However, in reality, executive dominance is evident in the large proportion of bills originating from the government and its administrative control over the legislative process. In many cases, bill deliberations in the DPR rely heavily on data and analysis provided by ministries. The government also exerts control over the legislative agenda through the National Legislation Program (Prolegnas), which is developed jointly with the DPR, but its drafts and priorities are generally submitted first by the Ministry of Law and Human Rights. This pattern suggests that while the DPR is formally equal to the President, functionally the legislature is in a weaker position. This imbalance is further exacerbated by the multiparty political system, which

²⁵ Bokiev, J. (2022). Problems of constitutional protection of individual rights to education in Uzbekistan and developed countries. *World Bulletin of Management and Law*, 12, 126–129. <https://scholarexpress.net/index.php/wbml/article/view/1179>

encourages the formation of grand coalitions in parliament. In Indonesia's presidential system, the President requires political support from parties in the DPR to maintain government stability and a smooth legislative agenda. As a result, the DPR is often dominated by parties that support the government. Such grand coalitions weaken the legislative oversight function, as the DPR tends to avoid confrontation with the President, who is supported by the majority party. Thus, the principle of checks and balances, which should create oversight, has shifted to a symbiotic relationship. The DPR and the President often collaborate more within a transactional political framework than within a constitutional oversight framework.

Another factor reinforcing the President's dominance is his administrative and technocratic superiority. The government has a large and professional bureaucratic structure, such as the State Secretariat, the Cabinet Secretariat, and the Ministry of Law and Human Rights, which is responsible for harmonizing laws and regulations. These institutions play a crucial role in drafting policies, conducting legal consequence reviews, and ensuring the alignment of bills with national policy. The House of Representatives (DPR), on the other hand, still faces limited human resources and legal research facilities, and in many cases remains dependent on executive explanations. As a result, the DPR's position in lawmaking is often corrective rather than constructive. Executive dominance in lawmaking can also be seen in several strategic legislative products whose processes are controlled by the government. For example, in the formation of Law No. 11/2020 concerning Job Creation, the government used a centralized omnibus law approach. The DPR, in this case, only acted as an institution that approved and adjusted the structure of deliberations without the flexibility to substantially reject them. This process demonstrates that the checks and balances mechanism has not functioned optimally because the direction of legislation is still controlled by the executive through its administrative and political tools. A similar thing can be seen in the discussion of the revision of the Corruption Eradication Commission Law, where the DPR's role is more as a facilitator than as a counterweight to the President's power.²⁶

This imbalance has serious implications for the principle of the rule of law. One of the key principles of the rule of law is the limitation of power to prevent abuse of power. If the legislative function is controlled by the executive, control over government policy is weakened and the potential for deviation from constitutional principles increases. Therefore, it is crucial that oversight of the legislative process is carried out not only by the House of Representatives (DPR), but also by the judiciary, particularly the Constitutional Court (MK). The Constitutional Court plays a crucial role as a guardian of the constitution, ensuring that any laws produced through the cooperation of the DPR and the President do not conflict with the 1945 Constitution. Through its judicial review authority, the Court can correct procedural and substantive violations in the legislative process. The existence of the Constitutional Court complements the checks and balances mechanism that previously only involved the DPR and the President. With the existence of the MK, the balance of power in lawmaking is not only horizontal between the legislative and executive branches, but also vertical through judicial oversight.²⁷

The Court's corrective role is evident in several of its landmark decisions. In its decision regarding the formal review of Law No. 11 of 2020 concerning Job Creation, the Constitutional Court deemed the lawmaking process did not meet the principles of transparency and meaningful public participation. Therefore, the Court declared the law

²⁶ Arfandy, M. F., & Maharani, A. R. *Politik Hukum Dalam Program Legislasi di Indonesia*. PUSKAPSI Law Review, 4, 26-41.

²⁷ Mustafa, M. E. (2019). *Antologi Hukum dan Keadilan* (Edisi ke-2). Bandung: PT Alumi. p. 5.

conditionally unconstitutional and granted parliamentarians time to improve the procedure. This decision underscores the importance of the principle of public participation as an element of constitutional legitimacy. The Court also emphasized that all legal deliberations must be conducted equally between the House of Representatives (DPR) and the President and must not be controlled by any single party. Thus, the Constitutional Court's role is to strengthen the application of the principle of checks and balances in lawmaking and ensure legislative practices align with the values of constitutional democracy. Although the structural system of checks and balances is well established, its implementation still faces serious challenges. The DPR's dependence on the executive for resources, weak internal legislative capacity, and the dominance of coalition politics mean that a balance of power has not yet been achieved. Going forward, strengthening the DPR's legislative function should be directed at improving the professionalism of its experts, establishing an independent parliamentary research institute, and establishing more inclusive public participation mechanisms at every stage of lawmaking. Only in this way can the principle of checks and balances be applied substantively, not just procedurally.

Overall, the checks and balances mechanism within the legislative function under the 1945 Constitution is a normatively advanced concept but remains weak in its implementation. The DPR and the President are formally equal in their authority in lawmaking, but the political and technocratic power of the executive branch makes the President the dominant actor. The conflict of interpretation between Article 5 and Article 20 has not been fully resolved in practice, and the desired balance remains normative. The Constitutional Court does exist as a guarantor of constitutional supremacy, but its effectiveness depends heavily on the political compliance of members of parliament. Therefore, reforms to the legislative system must continue to be directed at strengthening parliament, increasing executive accountability, and implementing the principle of transparent public deliberation.

4. Closing

The study concludes that the dynamics of legislative functions in Indonesia have undergone significant constitutional transformation, moving from an era of presidential dominance to a more balanced yet asymmetrical configuration of power between the House of Representatives (DPR) and the President. This transformation illustrates that constitutional reforms have successfully transformed *the structure* of authority but have not yet completely transformed *the culture* of lawmaking. The President remains a central actor in legislative practice due to his superior institutional, technocratic, and political resources, even though the DPR has been normatively strengthened through amendments to the 1945 Constitution. Theoretically, this study asserts that the principle of *checks and balances* under Indonesia's presidential system is cooperative rather than competitive. However, its implementation still faces structural and political obstacles, such as coalition dependence, weak parliamentary research capacity, and executive control over the National Legislative Program (Prolegnas). These factors have resulted in procedural balance without substantive equality, where the legislative process continues to reflect executive dominance under democratic legitimacy.

Practically, the research findings highlight the urgency of strengthening the institutional and epistemic capacity of the DPR to ensure legislative independence and accountability. Future improvements should focus on (1) establishing an independent parliamentary research and analysis institution; (2) enhancing the professionalism and expertise of legislative drafters; (3) institutionalizing meaningful public participation in every stage of lawmaking; and (4) increasing the transparency of executive-led legislative initiatives. These steps are crucial for realizing *substantive legal supremacy* that is not merely

formal, but that truly embodies democratic deliberation and constitutional supremacy. In broader application, this research contributes to the development of constitutional law by providing an evaluative framework for assessing the balance of power in presidential systems. The model proposed here *cooperative checks and balances* supported by judicial oversight through the Constitutional Court can serve as a normative reference for other democratic countries experiencing similar asymmetric executive-legislative relations. Thus, the consolidation of democratic constitutionalism in Indonesia does not only depend on textual amendments but on cultivating a political and legal culture that respects equality between branches of power and upholds the supremacy of the Constitution in every legislative act.

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The author declares that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

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