



## The Shift of Legislative Power in Indonesia: A Review of the Legislative Function Within a Presidential System

Erham<sup>1</sup>, Miftahuddin<sup>2</sup>, Maskur<sup>3</sup>

<sup>1-3</sup>Muhammadiyah University of Bima, Indonesia

### Article Info

#### Corresponding Author:

Erham

✉ [erhambima@yahoo.com](mailto:erhambima@yahoo.com)

#### History:

Submitted: 01-12-2025

Revised: 25-01-2026

Accepted: 28-01-2026

#### Keyword:

Autocratic legalism; Checks and balances; Democratic backsliding; Executive dominance; Legislative power.

#### Kata Kunci:

Checks and balances; Dominasi eksekutif; Kekuasaan legislatif; Kemunduran demokrasi; Legalisme otokratis.

### Abstract

*This research examines the evolution of legislative power in Indonesia, shifting from an executive-heavy system to a legislative-heavy one post-1945 Constitutional amendments. Despite normative repositioning, contemporary practices reveal a paradoxical return to executive dominance, fueled by oversized coalitions and expedited legislative processes. This study uses a normative juridical method with statute, historical, and conceptual approaches to analyze this shift. Findings indicate that mechanisms such as the Omnibus Law and Perppu effectively marginalize checks and balances while reducing public participation to a mere formality. This phenomenon, categorized as autocratic legalism, reflects significant democratic backsliding where legal instruments are increasingly utilized for power consolidation rather than safeguard against authoritarianism. To restore constitutional balance, the study recommends institutionalizing political opposition, enhancing the DPR's independent technical capacity, and enforcing stricter judicial standards for meaningful public involvement. These measures are vital to ensuring legislative functions remain a true manifestation of popular sovereignty within modern democracy.*

### Abstrak

Penelitian ini mengkaji evolusi kekuasaan legislatif di Indonesia, bergeser dari sistem executive-heavy menuju legislative-heavy pasca-Amandemen UUD 1945. Meskipun terjadi reposisi normatif, praktik kontemporer menunjukkan kembalinya dominasi eksekutif yang paradoksal, didorong oleh koalisi gemuk dan proses legislasi yang dipercepat. Studi ini menggunakan metode yuridis normatif dengan pendekatan perundang-undangan, sejarah, dan konseptual untuk menganalisis pergeseran tersebut. Temuan menunjukkan bahwa mekanisme seperti Omnibus Law dan Perppu secara efektif meminggirkan prinsip checks and balances sekaligus mereduksi partisipasi publik menjadi sekadar formalitas. Fenomena ini, yang dikategorikan sebagai legalisme otokratis, mencerminkan kemunduran demokrasi yang signifikan di mana instrumen hukum semakin dimanfaatkan untuk konsolidasi kekuasaan alih-alih sebagai pelindung terhadap otoritarianisme. Untuk memulihkan keseimbangan konstitusional, penelitian ini merekomendasikan pelembagaan oposisi politik, peningkatan kapasitas teknis independen DPR, dan penegakan standar peradilan yang lebih ketat untuk keterlibatan publik yang bermakna. Langkah-langkah tersebut sangat penting untuk memastikan bahwa fungsi legislatif tetap menjadi sebuah manifestasi nyata dari prinsip kedaulatan rakyat dalam demokrasi.



Copyright © 2026 by Journal of State Democracy.

Copyright: © 2026 by the authors. Submitted for possible open access publication under the terms and conditions of the Creative Commons Attribution (CC BY SA).

 <https://doi.org/10.65101/jsd.v1i2.228>

## **A. INTRODUCTION**

### **1. Background**

The presidential system of government adopted by Indonesia following the amendments to the 1945 Constitution was established upon the philosophical foundations of limited government and the principle of checks and balances. This constitutional architecture was designed as a direct antithesis to previous state practices specifically during the New Order era whereby power was concentrated absolutely within the executive branch. Under the original 1945 framework, the Constitution granted the President dominant legislative authority, as articulated in Article 5, Paragraph (1), which stated that 'The President holds the power to form laws.' This construction relegated the House of Representatives (DPR) to a subordinate position, which in practice frequently rendered the body a mere rubber stamp for the political will of the executive.

The presidential system of government possesses fundamental characteristics that distinguish it sharply from the parliamentary system. According to Shugart and Carey (1992), the primary Pagemarks of a presidential system are a clear separation of powers between the executive and legislative branches, wherein both possess dual democratic legitimacy derived from being independently elected by the people.<sup>1</sup> Within this system, the survival of the two branches of power is mutually independent; the president lacks the authority to dissolve parliament, and parliament cannot dismiss the president based solely on political grounds excepting, of course, through the legal mechanism of impeachment.<sup>2</sup>

However, the implementation of the theory of separation of powers varies across nations. Indonesia does not adhere to a rigid separation of powers as practiced in the United States; rather, it utilizes a distribution of power governed by the principle of checks and balances.<sup>3</sup> In the legislative context, this is reflected in constitutional provisions requiring that every bill be jointly deliberated and approved by both the House of Representatives (DPR) and the President.

---

<sup>1</sup> Matthew Soberg Shugart and John M. Carey, *Presidents and Assemblies* (Cambridge University Press, 1992), Page, 1-7. <https://doi.org/10.1017/CBO9781139173988>.

<sup>2</sup> Hananto Widodo et al., "The House of Representatives Supervision As The Initial Instrument to Impeachment The President and Vice President," *International Journal of Emerging Research and Review* 2, no. 4 (November 1, 2024): 000086, <https://doi.org/10.56707/ijer.v2i4.86>.

<sup>3</sup> Daniel Reynaldi L Tobing and Wilma Silalahi, "Perbandingan Sistem Pemerintahan Indonesia Menurut UUD 1945 Asli Dan Setelah Amandemen: Implikasi Terhadap Pembagian Kekuasaan Dan Prinsip Checks And Balances," *Jurnal Pustaka Cendekia Hukum Dan Ilmu Sosial* 3, no. 2 (October 4, 2025): 159-69, <https://doi.org/10.70292/pchukumsosial.v3i2.151>.

Giovanni Sartori (1997) emphasizes that within a presidential system, the legislature must function as a robust countervailing force to preclude the emergence of executive absolutism.<sup>4</sup> However, the latent danger within a presidential system, as analyzed by Juan Linz (1990) in *'The Perils of Presidentialism'*, is the potential for unresolved conflict or deadlock between the executive and the legislature. Conversely, there is the risk of excessive dominance by one branch, which can effectively stifle or dismantle democracy.<sup>5</sup> In Indonesia, the post-amendment constitutional design attempts to balance these interests by vesting legislative power in the House of Representatives (DPR), while simultaneously preserving the President's veto authority through the mechanism of joint approval.

The spirit of the 1998 Reformasi ushered in a fundamental paradigmatic shift through four stages of constitutional amendments (1999–2002). Among the most critical achievements of this constitutional reform was the repositioning of legislative power. Through the amendment of Article 20, Paragraph (1) of the 1945 Constitution, the authority to form laws was explicitly transferred to the House of Representatives (DPR).<sup>6</sup> This textual shift was intended to terminate the 'executive heavy' era and transform the constitutional system toward a new equilibrium in which the legislature assumes a central role in lawmaking a phenomenon frequently characterized as a pivot toward a 'legislative heavy' framework.<sup>7</sup>

However, more than two decades after the amendments, Indonesia's legal-political landscape reveals a paradoxical and concerning phenomenon. Although the Constitution normatively guarantees the legislative supremacy of the DPR, empirical reality suggests that executive dominance in the lawmaking process is, in fact, re-emerging and in certain aspects, surpassing previous eras through more sophisticated modalities. This phenomenon is clearly evident in the formulation of strategic regulations utilizing the Omnibus Law method (such as the Job Creation Law), the controversial revision of the

---

<sup>4</sup> Carleton W. Sterling, "Parties Do Differ - Giovanni Sartori: Parties and Party Systems: A Framework of Analysis," *The Review of Politics* 39, no. 3 (July 5, 1977): 439–41, <https://doi.org/10.1017/S003467050001500X>.

<sup>5</sup> Juan J. (Juan José) Linz, "The Perils of Presidentialism," *Journal of Democracy* 1, no. 1 (December 1990): 51–69, <https://doi.org/10.1353/jod.2005.0026>.

<sup>6</sup> Widodo et al., "The House of Representatives Supervision As The Initial Instrument to Impeachment The President and Vice President."

<sup>7</sup> Muhammad Mutawalli Mukhlis et al., "Heavy Parliamentary v. Heavy Executive: Ambiguity of Power in Indonesian Constitutional Practices," *Jurnal Media Hukum* 31, no. 2 (July 8, 2024): 186–205, <https://doi.org/10.18196/jmh.v31i2.21703>.

KPK Act (Corruption Eradication Commission), and the enactment of the National Capital City (IKN) Law, which proceeded through fast-track legislation with minimal public participation.<sup>8</sup>

This condition raises fundamental questions regarding the effectiveness of Indonesia's institutional design. Rather than fostering an effective system of mutual oversight, the extreme multiparty system has instead birthed oversized governing coalitions, which in turn paralyze the legislature's oversight function.<sup>9</sup> The House of Representatives (DPR) no longer functions as a countervailing power; instead, it has been co-opted as a junior partner that streamlines the executive agenda. Constitutional law scholars and political scientists often categorize this phenomenon as a 'new volume' of executive heavy governance or even a progression toward autocratic legalism, wherein formal legal and democratic procedures are utilized to legitimize undemocratic power consolidation.

The term 'executive heavy' refers to a power configuration in which the executive branch (the President) possesses disproportionate dominance over other branches, particularly the legislature. In Indonesian constitutional history, this concept was deeply embedded in the design of the 1945 Constitution prior to its amendments. In his book *Pergeseran Fungsi Legislasi* (2010), Professor Saldi Isra explains that the post-amendment shift in legislative power was intended to pivot the paradigm from an executive-heavy model toward legislative empowerment or, at the very least, a balance of power. Isra emphasizes that the amendments to Article 5, Paragraph (1) and Article 20, Paragraph (1) of the 1945 Constitution served as corrective measures against the centralization of power in the hands of the President that occurred during the New Order era.<sup>10</sup>

However, Ni'matul Huda in *Hukum Tata Negara Indonesia* (2007) notes that despite the textual shift, remnants of strong executive characteristics persist most notably through the President's authority to issue Government Regulations in Lieu of Law (Perppu) and Government Regulations (PP), both of which carry broad-reaching legal

---

<sup>8</sup> Hengky Primana and Valina Singka Subekti, "Executive Dominance in the Ratification Process of Law Number 11 of 2020 Concerning the Omnibus Law on Job Creation," *Journal of Law, Politic and Humanities* 5, no. 3 (January 31, 2025): 1641–49, <https://doi.org/10.38035/jlph.v5i3.1230>.

<sup>9</sup> Jamaludin Ghafur, "Pengaruh Koalisi Partai Politik Terhadap Pembentukan Kabinet Profesional (Zaken Kabinet) Di Indonesia," *Konferensi Nasional Asosiasi Pengajar Hukum Tata Negara Dan Hukum Administrasi Negara* 1, no. 1 (December 31, 2023): 1017–44, <https://doi.org/10.55292/10eyh576>.

<sup>10</sup> Saldi Isra, *Pergeseran Fungsi Legislasi: Menguatnya Model Legislasi Parlementer Dalam Sistem Presidensial Indonesia* (Jakarta: Raja Grafindo Persada, 2010). Page, 23.

implications.<sup>11</sup> Furthermore, Jimly Asshiddiqie in *Hukum Tata Negara dan Pilar-Pilar Demokrasi* (2005) highlights that the legislative function is not merely the drafting of legal texts; rather, it is a political process for formulating the general will, which in practice is heavily influenced by the technical capacity and political support possessed by the executive.<sup>12</sup>

The most salient contemporary theoretical framework for analyzing current legislative phenomena in Indonesia is autocratic legalism. This concept elucidates how democratically elected leaders utilize formal legal instruments and electoral mandates to dismantle the constitutional constraints on their power.

In the Indonesian context, autocratic legalism manifests through:<sup>13</sup>

- a. The utilization of legislative methods that circumvent deliberative procedures (such as the Omnibus Law).
- b. The debilitating of independent oversight institutions through legislative revisions (such as the weakening of the KPK/Corruption Eradication Commission).
- c. Executive dominance bolstered by a supermajority coalition in parliament to push through elite-favored agendas without significant opposition.

This aligns with the analysis of hyper-presidentialism frequently observed in Latin American nations, wherein the president accumulates extraordinary legislative powers (such as decree authority) and politicizes the bureaucracy. This dynamic effectively blurs the boundaries between the executive and legislative branches while systematically eroding accountability.<sup>14</sup>

This research report aims to disentangle the complexities surrounding the shift in legislative functions in Indonesia, critically examining the gap between constitutional norms (*das sollen*) and political practice (*das sein*). Furthermore, it analyzes the implications of contemporary executive dominance on the quality of democracy and the rule of law in Indonesia. The analysis is grounded in a comprehensive literature review,

---

<sup>11</sup> Ni'matul Huda, *Hukum Tata Negara Indonesia* (Jakarta: Raja Grafindo Persada, 2007). Page, 15.

<sup>12</sup> Jimly Asshiddiqie, *Hukum Tata Negara Dan Pilar-Pilar Demokrasi* (Jakarta: Konstitusi Pres, 2005). Page, 30.

<sup>13</sup> Taufik Taufik, Muhamad M.N Nadzri, and Jamaie Hj. Hamil, "Declining Democracy: Autocratization in Indonesia during the Jokowi Years," *Otoritas: Jurnal Ilmu Pemerintahan* 13, no. 2 (August 31, 2023): 333–51, <https://doi.org/10.26618/ojip.v13i2.9277>.

<sup>14</sup> Alexandre de Avila Gomide, "Democracy and Bureaucracy in Newly Industrialized Countries: A Systematic Comparison between Latin America and East Asia," *Governance* 35, no. 1 (January 19, 2022): 83–102, <https://doi.org/10.1111/gove.12572>.

legislative statistical data, and relevant case studies of the lawmaking process.

## **2. Research Questions**

Based on the aforementioned background, this research is focused on addressing the following fundamental questions:

- a. How has the juridical evolution and shift of the legislative function in Indonesia progressed over time, specifically regarding the comparison between the pre- and post-amendment eras of the 1945 Constitution?
- b. Why does executive dominance persist and even intensify in contemporary legislative practice, despite the Constitution vesting primary authority in the House of Representatives (DPR)?
- c. What is the impact of current political configurations and novel legislative methods, such as the Omnibus Law, on the principle of checks and balances and meaningful public participation?

## **3. Research Methods**

This report is conducted using a normative legal research methodology with a descriptive-analytical approach. The research focus is centered on the analysis of positive legal norms, the principles of constitutional law, and the evolving dynamics of legal-political practice.<sup>15</sup>

### **a. Research Approach**

This study simultaneously employs three primary methodological approaches:

- 1) Statute Approach: An examination of the 1945 Constitution (both pre- and post-amendment), the Law on the Formation of Legislation (Law No. 12 of 2011 as amended by Law No. 13 of 2022), and other relevant organic laws.
- 2) Historical Approach: Tracing the historical dynamics governing the legislative function across the Old Order, New Order, and *Reformasi* eras to ascertain the original intent and the resulting paradigmatic shifts.
- 3) Conceptual Approach: Referencing constitutional law doctrines such as the separation of powers, checks and balances, and presidentialism as

---

<sup>15</sup> Tunggul Ansari Setia Negara, "Normative Legal Research in Indonesia: Its Originis and Approaches," *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (February 2, 2023): 1-9, <https://doi.org/10.22219/acjl.v4i1.24855>.

articulated by scholars including Saldi Isra, Jimly Asshiddiqie, Bagir Manan, and Mahfud MD.

**b. Data Sources**

The data utilized in this report is derived from a comprehensive literature review, comprising:

- 1) Primary Legal Materials: The 1945 Constitution, Constitutional Court Decisions (specifically Decision No. 91/PUU-XVIII/2020 regarding the Job Creation Law and Decision No. 79/PUU-XVII/2019 regarding the KPK Act), and relevant statutory regulations.
- 2) Secondary Legal Materials: Authoritative constitutional law textbooks, Scopus-indexed scholarly journals addressing presidential systems and Indonesian legislation, as well as DPR performance reports and the National Legislative Program (Prolegnas).
- 3) Tertiary Materials: Credible news articles and statistical data from parliamentary oversight organizations (such as PSHK and the Indonesian Parliamentary Center) relevant to legislative performance

## **B. DISCUSSION**

### **1. Historical Evolution of the Legislative Function in Indonesia**

The evolution of the legislative function in Indonesia serves as a mirror of the nation's political struggle to strike an ideal balance between governmental effectiveness and democratic principles.

#### **a. The Old Order and New Order Eras: Executive Hegemony**

From the early days of independence until the end of the New Order, the 1945 Constitution positioned the President as the gravitational center of legislative power. Article 5, Paragraph (1) of the 1945 Constitution (prior to the amendments) stated: 'The President holds the power to form laws with the approval of the House of Representatives.' The phrase 'holds the power' explicitly granted the primary attribution of authority to the President, while the DPR was relegated to a more passive role.

During the New Order era under President Suharto's leadership, this constitutional construction was fully exploited to build a centralized and authoritarian power system. The President not only dominated the executive branch but also exerted total control over the legislature. Mahfud MD, in his book *Politik Hukum di Indonesia*, explains that the

authoritarian political configuration of that period produced legal products with a conservative/orthodox character, wherein the law served as an instrument to perpetuate power rather than a tool for democratic social engineering.<sup>16</sup>

During this period, the DPR was frequently disparaged as a 'rubber stamp' legislature. Its legislative function was effectively sterile; nearly all enacted statutes originated from government initiatives. Legislative initiatives from the DPR were exceedingly rare, and when they did occur, they were often stifled through bureaucratic or political maneuvering. The dominance of the Golkar Party and the Armed Forces (ABRI) within parliament ensured that every bill proposed by the government would be ratified without meaningful substantive debate.

### **b. The Reformasi Era: A Constitutional Paradigmatic Shift**

The fall of the Suharto regime in 1998 paved the way for radical constitutional amendments. Reformists recognized that a primary root of authoritarianism was the concentration of legislative power within the executive. Consequently, the amendment agenda focused on the limitation of executive power and parliamentary empowerment.<sup>17</sup>

The amendment of Article 20, Paragraph (1) of the 1945 Constitution stands as a new historical milestone: 'The House of Representatives holds the power to form laws.' This amendment inverted the previous logic of power; the DPR is now the primary holder of legislative authority, while the President (under the amended Article 5, Paragraph 1) 'has the right to submit bills.' Theoretically, this shift transformed the system from an executive-heavy model to a legislative-heavy one.

Saldi Isra notes in *Pergeseran Fungsi Legislasi* that this transition was also accompanied by presidential term limits and a direct election mechanism, both of which strengthened the legitimacy of both institutions while necessitating a new, more egalitarian pattern of inter-branch relations.<sup>18</sup>

### **c. Remnants of Executive Power: The Mechanism of Joint Approval**

Although the power to form laws has shifted to the DPR, the amended 1945 Constitution retains a crucial role for the President through Article 20, Paragraph (2): 'Every bill shall be discussed by the House of Representatives and the President for joint

---

<sup>16</sup> Moh. Mahfud MD, *Politik Hukum Di Indonesia* (Depok: Rajawali Pers, 2020). Page, 4 & 76.

<sup>17</sup> Widodo et al., "The House of Representatives Supervision As The Initial Instrument to Impeachment The President and Vice President."

<sup>18</sup> Isra, *Pergeseran Fungsi Legislasi: Menguatnya Model Legislasi Parlementer Dalam Sistem Presidensial Indonesia*. Page, 238-254.

approval.'

The phrase 'joint approval' serves as a unique linchpin in the Indonesian presidential system. Unlike the United States system where Congress can enact legislation without the President's signature through a veto override (requiring a two-thirds majority vote) in Indonesia, the President's disagreement at the negotiating table is sufficient to effectively kill a bill.<sup>19</sup> This grants the President a de facto absolute veto akin to a pocket veto even prior to the formal enactment process. In his analysis of the presidency, Bagir Manan highlights that this provision effectively leaves room for executive dominance, provided the President commands strong political support within parliament.<sup>20</sup>

## **2. The Dynamics and Realities of Contemporary Legal-Politics**

In the post-Reformasi era, expectations for the establishment of a robust and independent legislature have collided with the reality of pragmatic politics. Instead of checks and balances, what has emerged is a collusion of power between the executive and legislative branches.

### **a. Oversized Coalitions and the Erosion of Opposition**

The Indonesian multi-party system, when combined with a presidential framework a configuration known as multi-party presidentialism creates significant challenges for governmental stability. To preempt potential deadlock with the legislature, the President tends to form exceptionally large governing alliances, commonly referred to as oversized coalitions.<sup>21</sup>

During the administration of President Joko Widodo, particularly in his second term (2019–2024), the governing coalition controlled more than 80% of the seats in the DPR. This phenomenon has had a destructive impact on both legislative and oversight functions. Political parties within the coalition tend to safeguard government policies in parliament in exchange for cabinet positions or access to other resources.<sup>22</sup> Consequently,

---

<sup>19</sup> Syofyan Hadi, "Fungsi Legislasi Dalam Sistem Pemerintahan Presidensial (Studi Perbandingan Indonesia Dan Amerika Serikat)," *DiH: Jurnal Ilmu Hukum* 9, no. 18 (August 1, 2013): 78–84, <https://doi.org/10.30996/dih.v9i18.275>.

<sup>20</sup> Susi Dwi Harijanti, "Khazanah: Bagir Manan," *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 2, no. 3 (2015): 626–43, <https://doi.org/10.22304/pjih.v2n3.a12>.

<sup>21</sup> M. Reza Saputra, Taufiqurrohman Syahuri, and Ahmad Ahsin Thohari, "Designing Institutional Framework for Political Parties in Indonesia: Democratic Analysis and Party Autonomy," *Journal of State Democracy* 1, no. 2 (December 17, 2025): 1–18, <https://doi.org/10.65101/jsd.v1i2.180>.

<sup>22</sup> Idul Rishan, "Risiko Koalisi Gemuk Dalam Sistem Presidensial Di Indonesia," *Jurnal Hukum Ius Quia Iustum* 27, no. 2 (May 1, 2020): 219–40, <https://doi.org/10.20885/iustum.vol27.iss2.art1>.

the DPR has lost its critical edge. Legislative deliberations are no longer an arena for the debate of ideas in the public interest; instead, they have become a mere formality to legitimize backroom deals struck among the elite.

In the absence of a significant opposition, the DPR's function has shifted from a countervailing institution to a 'rubber stamp' for the executive, replicating New Order patterns in a different format. This is evidenced by the negligible resistance from the DPR toward controversial government-initiated bills.

**b. Statistical Analysis of the Prolegnas: A Reflection of Executive Dominance**

Statistical data from the National Legislative Program (*Prolegnas*) provides empirical evidence regarding the executive branch's dominance in setting the legislative agenda.

**Table 1. Comparison of Legislative Targets and Achievements: Prolegnas 2020–2024**

Year	Priority Bills (Target)	Enacted Laws (Total)	Initiative: Govt vs. DPR (Substantive Dominance)	Notes
2020	37 Bills	13 Laws	<b>Executive Dominant</b>	Includes Job Creation Law & Mining Law (Govt initiative / DPR-sponsored with Govt essence)
2021	33 Bills	27 Laws	<b>Numerical Balance;</b> Executive dominant in strategic bills	Includes Revision of Prosecution Service Act & Tax Harmonization Law (HPP)
2022	40 Bills	33 Laws	<b>Executive Dominant</b>	Includes National Capital City (IKN) Law & Sexual Violence Crimes (TPKS) Law
2023	39 Bills	63 Bills*	<b>Executive Dominant</b>	Surge due to "open cumulative" bills and the ratification of Emergency Decrees ( <b>Perppu</b> )
2024	47 Bills	-	-	Majority consist of <b>carry-over</b> bills

*Note: Realization figures frequently include open cumulative bills (such as the ratification of international treaties and the National Budget), which are technically straightforward to enact. Consequently, these figures tend to distort the actual landscape of substantive legislative productivity*

Data analysis reveals several prevailing trends:

- 1) **Dominance of Strategic Proposals:** Bills concerning the economy, investment, and infrastructure (such as the Job Creation Law and the IKN Law) which constitute the President's primary agenda, consistently receive top priority and are expedited through the legislative process.
- 2) **Success Rates:** Government-initiated bills possess a significantly higher probability of enactment compared to those initiated by the DPR, unless a DPR initiative has secured full executive backing.
- 3) **Utilization of Cumulative Bills:** Legislative performance statistics are frequently 'inflated' by the passage of open cumulative bills (such as regional administrative subdivisions or international treaties) to obscure the low achievement rates of reform-oriented priority bills

#### **c. Technocratic Capacity Imbalance**

Another factor perpetuating executive dominance is the profound resource disparity between the branches. The Government possesses a permanent bureaucracy, thousands of subject-matter experts, and extensive data access to draft Academic Papers (Naskah Akademik) and legislative drafts. In contrast, the DPR operates with limited expert support (via the DPR Expertise Body). This imbalance forces the DPR to frequently rely on drafts prepared by the executive. During deliberations, the DPR's bargaining position is compromised by its inability to provide counter-data or alternative drafts of equivalent quality. Consequently, the substance of legislation is often steered by the bureaucratic interests of the initiating ministries.

### **3. Studi Kasus: Manifestasi Dominasi Eksekutif**

Tiga studi kasus berikut menggambarkan bagaimana dominasi eksekutif bekerja dalam praktik legislasi kontemporer, sering kali dengan mengabaikan prinsip-prinsip pembentukan peraturan perundang-undangan yang baik.

#### **a. The 2019 KPK Act Revision: A Calculated Weakening**

The revision of the Corruption Eradication Commission Act (Law No. 19 of 2019) serves as a stark illustration of how executive-legislative collaboration can effectively dismantle independent institutions. This revision was executed within an exceptionally truncated timeframe (less than two weeks), bypassed the standard procedures for inclusion in the current year's Priority Prolegnas, and was conducted behind closed

doors.<sup>23</sup>

Although the revision was formally initiated by the DPR, the public observed a clear 'silent consensus' and the full backing of the President (the Government). The President issued the Presidential Letter (Surpres) with remarkable speed to authorize the deliberations. The substance of the revision including the establishment of a Supervisory Board and the transition of employees into the civil service (ASN) systematically brought the KPK under the umbrella of the executive branch, thereby stripping it of its independence. Constitutional Court Decision No. 79/PUU-XVIII/2019, which rejected the formal judicial review of this law, further solidified the executive's position. In this instance, the Court (whose justices are partially nominated by the President and the DPR) failed to serve as the 'last bastion' of constitutional protection.

#### **b. The Omnibus Law (Job Creation Act): The Pinnacle of Autocratic Legalism**

Law No. 11 of 2020 on Job Creation represents the most extreme manifestation of executive dominance. Utilizing the Omnibus Law method, the government integrated revisions to more than 70 statutes into a single, massive legislative text. The primary objective was deregulation and the facilitation of investment, serving as the central vision of President Jokowi's administration.<sup>24</sup>

The enactment process was marred by procedural flaws: the academic papers were difficult to access, public participation was severely restricted, and deliberations were rushed through amidst the COVID-19 pandemic. The DPR, dominated by the ruling coalition, approved the bill within an abbreviated timeframe without in-depth, cluster-by-cluster examination. These conditions ultimately triggered a massive wave of public protests.

In Decision No. 91/PUU-XVIII/2020, the Constitutional Court declared the Job Creation Act 'conditionally unconstitutional' due to formal (procedural) defects and a failure to meet the requirements of meaningful participation. However, the government's response to this ruling further underscored the character of autocratic legalism. Rather than amending the law through a participatory legislative process in the DPR, the President issued Emergency Government Regulation in Lieu of Law (Perppu) No. 2 of

---

<sup>23</sup> Rahmad Prasetyo and Faisal Santiago, "KPK's Performance Dynamics in Combating Corruption After the 2019 Revision of the KPK Law," *Demokrasi: Jurnal Riset Ilmu Hukum, Sosial Dan Politik* 2, no. 3 (August 2, 2025): 329–40, <https://doi.org/10.62383/demokrasi.v2i3.1220>.

<sup>24</sup> Kaharuddin Kaharuddin et al., "Omnibus Law In The Dynamics Of Constitutional Law: A Comparative Research Of Indonesia, The United States, The Philippines, And Canada," *Administrative and Environmental Law Review* 6, no. 1 (April 22, 2025): 1–22, <https://doi.org/10.25041/aclr.v6i1.4054>.

2022 on Job Creation, citing 'compelling exigencies' due to global economic conditions. This maneuver effectively circumvented the Constitutional Court's ruling and bypassed the DPR's legislative function, demonstrating that under a powerful executive, the law can be bent to serve the interests of power.

**c. The National Capital City (IKN) Act: Fast-Track Legislation**

The enactment of Law No. 3 of 2022 on the National Capital City (IKN) further illustrates a recurring pattern: executive dominance in realizing high-stakes political mega-projects. This bill was deliberated and ratified with unprecedented speed taking a mere 42 days notwithstanding that it mandates the relocation of the nation's seat of government and carries massive budgetary and environmental implications.

Such velocity would have been impossible without the executive's total control over the parliamentary coalition. The DPR failed to exercise its checks and balances function to critically evaluate the financial and sociological viability of the capital's relocation. Once again, public participation was reduced to a mere formality, as input from critical environmental experts and indigenous communities was sidelined to meet the President's accelerated timeline.

**4. Critical Analysis: Democratic Backsliding and Constitutional Justice**

**a. Impact on Checks and Balances**

Excessive executive dominance, bolstered by a compliant legislature, has systematically undermined the mechanism of checks and balances. The DPR has ceased to function as a veto player, devolving instead into a 'rubber stamp' institution. In comparison to the United States presidential system where Congress maintains robust autonomy and frequently acts as an effective institutional barrier to the President's agenda (divided government) the Indonesian context of 'joint approval' and oversized coalitions has fostered a fusion of powers. This dynamic mirrors a parliamentary system but lacks the corresponding mechanism for dissolving parliament, creating an unhealthy condition characterized as quasi-presidentialism or 'presidentialism with parliamentary characteristics'.<sup>25</sup>

---

<sup>25</sup> Muh. Farhan Arfandy et al., "The Evolution of Legislative Power Relations between the Parliament and the President in Indonesia's Constitutional System," *Amsir Law Journal* 7, no. 1 (October 31, 2025): 22-39, <https://doi.org/10.36746/alj.v7i1.723>.

## **b. Meaningful Participation as an Illusion**

Constitutional Court Decision No. 91/PUU-XVIII/2020 introduced the standard of meaningful participation, which encompasses the right to be heard, the right to be considered, and the right to be explained.<sup>26</sup> In practice, however—as seen in the cases of the Job Creation Perppu and the Health Act this standard is frequently ignored or reduced to mere one-way socialization. This pseudo-public participation erodes the sociological legitimacy of the law, yielding elitist legislation that is fundamentally detached from the aspirations of the people.

## **c. Democratic Backsliding**

The current legislative patterns in Indonesia serve as a potent symptom of democratic backsliding. The law is no longer functioning as a constraint on power (rule of law); instead, it has been co-opted as an instrument of power (rule by law). This phenomenon aligns with the concept of hyper-presidentialism, wherein the President accumulates excessive power and systematically weakens countervailing institutions including the KPK and the Constitutional Court (evidenced by the revision of the Constitutional Court Act and the controversial removal of Justice Aswanto).<sup>27</sup> When legislation is utilized to secure oligarchic interests and silence dissent, the essence of substantive democracy is effectively lost. To restore the equilibrium of the presidential system and strengthen the legislative function of the DPR, the following measures are recommended:

- 1) **Strengthening DPR Institutional Capacity:** The DPR must establish an independent and robust legislative 'engine' analogous to the Congressional Budget Office (CBO) in the U.S. supported by high-quality, permanent expert staff. This would enable the DPR to draft Academic Papers and counter-bills independently, without relying on government data.
- 2) **Political Party and Opposition Reform:** There is a need for the formal institutionalization of the opposition's role within parliamentary regulations. The size of governing coalitions should be limited, whether through political ethics or formal regulation, to prevent the paralysis of the oversight function.

---

<sup>26</sup> Angga Prastyo, "Limitation of Meaningful Participation Requirements in the Indonesian Law-Making Process," *Jurnal Hukum Dan Peradilan* 11, no. 3 (December 1, 2022): 405, <https://doi.org/10.25216/jhp.11.3.2022.405-436>.

<sup>27</sup> Taufik, Nadzri, and Hamil, "Declining Democracy: Autocratization in Indonesia during the Jokowi Years."

- 3) Progressive Judicial Review: The Constitutional Court must consistently and rigorously apply the meaningful participation standard. The Court should demonstrate the courage to strike down procedurally flawed laws in their entirety rather than merely declaring them 'conditionally unconstitutional' to create a deterrent effect for lawmakers.
- 4) Strict Limitations on Emergency Decrees (Perppu): A more rigid definition of 'compelling exigencies' must be codified within the Law on the Formation of Legislation. This is essential to prevent the *Perppu* from being abused as a legislative shortcut by the Executive.

Through these steps, the legislative function can be restored to its fundamental purpose (*khittah*) as an embodiment of popular sovereignty, rather than serving as a mere technocratic instrument for the executive will.

### **C. CONCLUSIONS**

The study concludes that while constitutional amendments successfully repositioned the House of Representatives (DPR) as the primary law-making body, recent political dynamics have fostered a paradoxical return to executive dominance through oversized coalitions and expedited legislative processes. This "new executive heavy" era, characterized by the strategic use of Omnibus Law and Perppu mechanisms, has effectively marginalized the principle of checks and balances and reduced public participation to a mere formality. Consequently, these practices indicate a significant democratic backsliding where legal instruments are increasingly utilized for power consolidation rather than as safeguards against authoritarianism. To restore constitutional balance, it is imperative to institutionalize political opposition, bolster the independent technical capacity of the DPR, and enforce stricter judicial standards for meaningful public involvement in the legislative process.

### **REFERENCES**

- Arfandy, Muh. Farhan, Auliah Ambarwati, Amin Nugrah Santoso, and Wiwin Wiwin. "The Evolution of Legislative Power Relations between the Parliament and the President in Indonesia's Constitutional System." *Amsir Law Journal* 7, no. 1 (October 31, 2025): 22–39. <https://doi.org/10.36746/alj.v7i1.723>.
- Asshiddiqie, Jimly. *Hukum Tata Negara Dan Pilar-Pilar Demokrasi*. Jakarta: Konstitusi Pres, 2005.

- Avila Gomide, Alexandre de. "Democracy and Bureaucracy in Newly Industrialized Countries: A Systematic Comparison between Latin America and East Asia." *Governance* 35, no. 1 (January 19, 2022): 83–102. <https://doi.org/10.1111/gove.12572>.
- Ghafur, Jamaludin. "Pengaruh Koalisi Partai Politik Terhadap Pembentukan Kabinet Profesional (Zaken Kabinet) Di Indonesia." *Konferensi Nasional Asosiasi Pengajar Hukum Tata Negara Dan Hukum Administrasi Negara* 1, no. 1 (December 31, 2023): 1017–44. <https://doi.org/10.55292/10eyh576>.
- Hadi, Syofyan. "Fungsi Legislasi Dalam Sistem Pemerintahan Presidensial (Studi Perbandingan Indonesia Dan Amerika Serikat)." *DiH: Jurnal Ilmu Hukum* 9, no. 18 (August 1, 2013): 78–84. <https://doi.org/10.30996/dih.v9i18.275>.
- Harijanti, Susi Dwi. "Khazanah: Bagir Manan." *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 2, no. 3 (2015): 626–43. <https://doi.org/10.22304/pjih.v2n3.a12>.
- Huda, Ni'matul. *Hukum Tata Negara Indonesia*. Jakarta: Raja Grafindo Persada, 2007.
- Isra, Saldi. *Pergeseran Fungsi Legislasi: Menguatnya Model Legislasi Parlementer Dalam Sistem Presidensial Indonesia*. Jakarta: Raja Grafindo Persada, 2010.
- Kaharuddin, Kaharuddin, Dinar Karunia, Oemar Moechthar, and Ave Maria Frisa Katherina. "Omnibus Law In The Dynamics Of Constitutional Law: A Comparative Research Of Indonesia, The United States, The Philippines, And Canada." *Administrative and Environmental Law Review* 6, no. 1 (April 22, 2025): 1–22. <https://doi.org/10.25041/aelr.v6i1.4054>.
- Linz, Juan J. (Juan José). "The Perils of Presidentialism." *Journal of Democracy* 1, no. 1 (December 1990): 51–69. <https://doi.org/10.1353/jod.2005.0026>.
- MD, Moh. Mahfud. *Politik Hukum Di Indonesia*. Depok: Rajawali Pers, 2020.
- Mukhlis, Muhammad Mutawalli, Harlida Abdul Wahab, Zulhilmi Paidi, Nila Sastrawaty, and Haslinda Hasan. "Heavy Parliamentary v. Heavy Executive: Ambiguity of Power in Indonesian Constitutional Practices." *Jurnal Media Hukum* 31, no. 2 (July 8, 2024): 186–205. <https://doi.org/10.18196/jmh.v31i2.21703>.
- Negara, Tunggul Ansari Setia. "Normative Legal Research in Indonesia: Its Originis and Approaches." *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (February 2, 2023): 1–9. <https://doi.org/10.22219/aclj.v4i1.24855>.
- Prasetyo, Rahmad, and Faisal Santiago. "KPK's Performance Dynamics in Combating Corruption After the 2019 Revision of the KPK Law." *Demokrasi: Jurnal Riset Ilmu Hukum, Sosial Dan Politik* 2, no. 3 (August 2, 2025): 329–40. <https://doi.org/10.62383/demokrasi.v2i3.1220>.
- Prastyo, Angga. "Limitation of Meaningful Participation Requirements in the Indonesian Law-Making Process." *Jurnal Hukum Dan Peradilan* 11, no. 3 (December 1, 2022): 405. <https://doi.org/10.25216/jhp.11.3.2022.405-436>.
- Primana, Hengky, and Valina Singka Subekti. "Executive Dominance in the Ratification Process of Law Number 11 of 2020 Concerning the Omnibus Law on Job Creation." *Journal of Law, Politic and Humanities* 5, no. 3 (January 31, 2025): 1641–49. <https://doi.org/10.38035/jlph.v5i3.1230>.

- Rishan, Idul. "Risiko Koalisi Gemuk Dalam Sistem Presidensial Di Indonesia`." *Jurnal Hukum Ius Quia Iustum* 27, no. 2 (May 1, 2020): 219–40. <https://doi.org/10.20885/iustum.vol27.iss2.art1>.
- Saputra, M. Reza, Taufiqurrohman Syahuri, and Ahmad Ahsin Thohari. "Designing Institutional Framework for Political Parties in Indonesia: Democratic Analysis and Party Autonomy." *Journal of State Democracy* 1, no. 2 (December 17, 2025): 1–18. <https://doi.org/10.65101/jsd.v1i2.180>.
- Shugart, Matthew Soberg, and John M. Carey. *Presidents and Assemblies*. Cambridge University Press, 1992. <https://doi.org/10.1017/CBO9781139173988>.
- Sterling, Carleton W. "Parties Do Differ - Giovanni Sartori: Parties and Party Systems: A Framework of Analysis." *The Review of Politics* 39, no. 3 (July 5, 1977): 439–41. <https://doi.org/10.1017/S003467050001500X>.
- Taufik, Taufik, Muhamad M.N Nadzri, and Jamaie Hj. Hamil. "Declining Democracy: Autocratization in Indonesia during the Jokowi Years." *Otoritas: Jurnal Ilmu Pemerintahan* 13, no. 2 (August 31, 2023): 333–51. <https://doi.org/10.26618/ojip.v13i2.9277>.
- Tobing, Daniel Reynaldi L, and Wilma Silalahi. "Perbandingan Sistem Pemerintahan Indonesia Menurut UUD 1945 Asli Dan Setelah Amandemen: Implikasi Terhadap Pembagian Kekuasaan Dan Prinsip Checks And Balances." *Jurnal Pustaka Cendekia Hukum Dan Ilmu Sosial* 3, no. 2 (October 4, 2025): 159–69. <https://doi.org/10.70292/pchukumsosial.v3i2.151>.
- Widodo, Hananto, Elisabeth Septin Puspoayu, Intan Lovisonnya, and Sulaksono Sulaksono. "The House of Representatives Supervision As The Initial Instrument to Impeachment The President and Vice President." *International Journal of Emerging Research and Review* 2, no. 4 (November 1, 2024): 000086. <https://doi.org/10.56707/ijoerar.v2i4.86>.