



Executive-Dominated Legislation and the Rule of Law in Indonesia's Presidential System

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Abstract. Despite the constitutional reforms of 1999–2002 aimed at strengthening the legislative role of the House of Representatives, Indonesian lawmaking has precisely to reflect substantial executive influence over the formulation of statutory norms. This study aims to analyzes the structural causes of that phenomenon and evaluates its implications for the principle of the democratic rule of law. Using normative legal research with statutory, conceptual, and case approaches, it measures the phenomenon against a composite benchmark uniting the formal *rechtsstaat* with democratic legitimacy through meaningful participation. The study finds that executive dominance is sustained by multiparty presidentialism, oversized coalitions, and loose delegation, reducing the legislature to a formal-procedural role and eroding both the limitation of power and meaningful participation, as confirmed by the Constitutional Court's conditional invalidation of the Job Creation Law. It proposes a normative and institutional reconstruction of executive–legislative relations and a four-pronged evaluative parameter. The article concludes that reordering these relations within constitutionalism is a precondition for preventing formal legality from becoming an instrument for the erosion of democracy.

Keywords: Democratic Rule of Law, Executive-Dominated Legislation, Law-Making, Meaningful.

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Abstrak. Meskipun terdapat reformasi konstitusi tahun 1999–2002 yang bertujuan memperkuat peran legislatif Dewan Perwakilan Rakyat, proses pembentukan undang-undang di Indonesia justru mencerminkan pengaruh eksekutif yang substansial terhadap perumusan norma hukum. Studi ini bertujuan menganalisis penyebab struktural fenomena tersebut serta mengevaluasi implikasinya terhadap prinsip negara hukum yang demokratis. Dengan menggunakan metode penelitian hukum normatif yang mencakup pendekatan perundang-undangan, konseptual, dan kasus, studi ini mengukur fenomena tersebut berdasarkan tolok ukur gabungan yang memadukan konsep **rechtsstaat** (negara hukum) formal dengan legitimasi demokratis melalui partisipasi yang bermakna. Hasil studi menunjukkan bahwa dominasi eksekutif ditopang oleh sistem presidensial multipartai, koalisi yang terlalu gemuk, dan pendelegasian wewenang yang longgar; hal ini mereduksi peran legislatif menjadi sekadar formal-prosedural serta mengikis pembatasan kekuasaan maupun partisipasi yang bermakna, sebagaimana dikonfirmasi oleh putusan Mahkamah Konstitusi yang menyatakan Undang-Undang Cipta Kerja inkonstitusional bersyarat. Studi ini mengusulkan rekonstruksi normatif dan kelembagaan atas hubungan eksekutif-legislatif serta merumuskan parameter evaluatif yang mencakup empat aspek. Artikel ini menyimpulkan bahwa penataan ulang hubungan tersebut dalam kerangka konstitusionalisme merupakan prasyarat untuk mencegah legalitas formal berubah menjadi instrumen yang mengikis demokrasi.

Kata kunci: Negara Hukum Demokratis, Legislasi yang Didominasi Eksekutif, Pembentukan Undang-Undang, Partisipasi Bermakna.

1. Introduction

The four amendments to the 1945 Constitution of the Republic of Indonesia (UUD 1945) between 1999 and 2002 were designed to reinforce the limitation of power and to restore the legislative function to the House of Representatives (*Dewan Perwakilan Rakyat* or DPR) after decades of executive-centred authoritarian rule. Modern constitutionalism, at its core, concerns limited government: it regulates both the relationship between the state and its citizens and the relationship among state institutions.¹ Consistent with that aim, Article 20(1) of the UUD NRI 1945 vests the power to form statutes in the DPR, while Article 5(1) and Article 20(2) confine the President to submitting bills and to joint deliberation and approval.

The legal problem arises from the gap between constitutional norm and constitutional practice. In terms of *das sollen*, the constitutional design positions the DPR as the primary law-maker and the President as a co-legislator subject to mutual checks. In terms of *das sein*, however, practice reveals the opposite tendency: an executive-dominated legislation in which the executive effectively controls the initiation, drafting, and substance of statutes, while the DPR's role narrows to formal-procedural ratification.² This normative-empirical gap statutory primacy of the legislature on paper, executive dominance in fact is the central problem this article examines.

The urgency of the topic is heightened by contemporary practice. The dominance now operates through new techniques the omnibus method used in Law Number 11 of 2020 on Job Creation, fast-track deliberation, and government regulations in lieu of law (*Peraturan Pemerintah Pengganti Undang-Undang* or Perpu), such as Perpu Number 2 of 2022, later enacted as Law Number 6 of 2023. Comparative scholarship warns that formally lawful instruments can be used to hollow out democracy from within captured by the concepts of abusive constitutionalism and autocratic legalism.³ Recent studies document precisely this

¹ Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia [Constitution and Constitutionalism in Indonesia]* (Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2006), 3. See also, Ahmad Redi, and Mohammad Ryan Bakry, "Institutional Relations of the Ombudsman with the House of Representatives of the Republic of Indonesia: Instrumental Design and Governance," *Lex Publica* 7, no. 1 (2020): 65.

² Firman Manan, "Relasi Eksekutif-Legislatif Dalam Sistem Presidensial Multipartai di Indonesia," *Jurnal Wacana Politik* 2, no. 2 (2017): 3. See also, Saldi Isra et al., "Designing a constitutional presidential democracy in Indonesia," *J. Pol. & L.* 13 (2020): 22.

³ David Landau, "Abusive Constitutionalism," *UC Davis Law Review* 47, no. 1 (2013): 192. See also, Kim Lane Scheppele, "Autocratic Legalism," *University of Chicago Law Review* 85, no. 2 (2018): 548.

dynamic in Indonesia, describing executive aggrandizement and a gradual decline of democratic quality under successive administrations.⁴

Existing scholarship approaches the problem from three angles. A first strand documents executive dominance in particular statutes, most notably the Job Creation Law, and links the omnibus method to the concentration of executive power.⁵ A second strand analyzes the overlapping authority of the DPR and the President and the resulting weakness of oversight.⁶ A third strand examines the Constitutional Court's doctrine of meaningful participation as a new standard of legislative legitimacy.⁷ These strands, however, remain largely descriptive or single-doctrine. What is missing is, first, a systematic normative measurement of executive-dominated legislation against the democratic rule of law understood as a composite standard not merely the separation of powers or the openness principle in isolation and, second, a reconstructive proposal capable of reordering executive legislative relations.⁸ These two gaps define the contribution of this article.

Theoretically, the article integrates the *rechtsstaat* tradition with the democratic dimension of law-making into a single, operational parameter, advancing the concept of the democratic rule of law beyond the customary *trias politica* framing. Practically, it offers a checklist usable by the DPR and the executive during the formation of statutes, and an analytical framework usable by the Constitutional

⁴ Marcus Mietzner, "Elite Collusion in Indonesia: How It Has Both Enabled and Limited Executive Aggrandizement," *The Annals of the American Academy of Political and Social Science* 712, no. 1 (2024): 225. See also, Asrinaldi and Mohammad Agus Yusoff, "Power Consolidation and Its Impact on the Decline of Democracy in Indonesia under President Jokowi," *Cogent Social Sciences* 9, no. 1 (2023): 2579.

⁵ Tunggul Anshari Setia Negara et al., "Indonesian Job Creation Law: Neoliberal Legality, Authoritarianism and Executive Aggrandizement under Joko Widodo," *Law and Development Review* 17, no. 1 (2024): 157. See also, Nor Fadillah, "Penerapan Asas Keterbukaan dalam Pembentukan Undang-Undang tentang Cipta Kerja dan Undang-Undang tentang Ibu Kota Negara [The Application of the Principle of Openness in the Formation of the Job Creation Law and the Capital City Law]," *Lex Renaissance* 7, no. 2 (2022): 249.

⁶ Elva Imeldatur Rohmah, "Dinamika Overlapping Kewenangan DPR dan Presiden dalam Pembentukan Kebijakan Negara [The Dynamics of Overlapping Authority of the DPR and the President in State Policy-Making]," *Jurnal Magister Ilmu Hukum* 13, no. 1 (2023): 69.

⁷ Nyoman Adhi Pratama, "Meaningful Participation sebagai Upaya Kompromi Idee des Recht Pasca Putusan MK No. 91/PUU-XVIII/2020 [Meaningful Participation as a Compromise of the Idee des Recht after Constitutional Court Decision No. 91/PUU-XVIII/2020]," *CREPIDO* 4, no. 2 (2022): 139. See too, Prastyo, "Limitation of Meaningful Participation Requirements in the Indonesian Law-Making Process," *Jurnal Hukum dan Peradilan* 11, no. 3 (2022): 409.

⁸ Ridho Imawan Hanafi, "Menelaah Relasi Eksekutif-Legislatif dalam Sistem Presidensial Multipartai di Indonesia," *Jurnal Penelitian Politik* 12, no. 1 (2015): 9.

Court in reviewing the constitutionality of the law-making process thereby contributing to both legal doctrine and institutional practice.⁹

The objective of this research is to explain the structural causes of executive-dominated legislation, to evaluate its implications for the democratic rule of law, and to formulate a reconstruction of executive–legislative relations in law-making. Accordingly, three research questions are examined: (1) what structural factors have caused the strengthening of executive-dominated legislation in Indonesia’s presidential system after the amendments to the UUD NRI 1945; (2) what are the implications of that phenomenon for the principle of the democratic rule of law; and (3) what reconstruction of executive–legislative relations can restore the constitutional balance of law-making? These questions structure the analysis in the results and discussion that follow.

2. Research Methods

This study employs normative (doctrinal) legal research, treating law as a system of norms, principles, and doctrines. Three approaches are combined: the statutory approach, examining the primary legal materials governing law-making; the conceptual approach, elaborating the doctrines of constitutionalism, separation of powers, the *rechtsstaat*, and the democratic rule of law; and the case approach, analyzing the leading decisions of the Constitutional Court. Primary legal materials comprise the UUD NRI 1945 (notably Articles 1(2), 1(3), 5(1), 20, and 22), Law Number 12 of 2011 on the Formation of Laws and Regulations as amended by Law Number 13 of 2022, Law Number 11 of 2020, Perpu Number 2 of 2022, Law Number 6 of 2023, and Constitutional Court Decisions Number 138/PUU-VII/2009 and Number 91/PUU-XVIII/2020; secondary materials comprise books, journal articles, and comparative literature, predominantly from the last five years. The materials are analyzed qualitatively through descriptive-prescriptive legal reasoning, applying a four-pronged democratic rule-of-law parameter developed in Section D as the analytical instrument, and are oriented toward reconstruction.

3. Results and Discussion

3.1. Structural Factors Influencing Executive-Dominated Legislation in Indonesian

Executive dominance in Indonesia’s legislative process is rooted in several interrelated structural factors, one of the most fundamental being the

⁹ Anwar Usman, "The role of Indonesian Constitutional Court in strengthening welfare state and the rule of law," *Lex Publica* 7, no. 1 (2020): 14.

constitutional design of law-making. Although Article 20(1) of the UUD NRI 1945 vests the power to form statutes in the DPR, Article 20(2) requires every bill to be deliberated jointly by the DPR and the President for mutual approval. Moreover, Article 5(1) grants the President the authority to submit bills. Rather than establishing an exclusively parliamentary legislative function, these provisions create a shared law-making framework in which the executive retains a constitutionally recognized role in initiating and shaping statutory norms. The President is therefore not a mere assenting authority but a co-legislator whose concurrence is indispensable—an overlapping competence that furnishes the executive with a permanent foothold within the legislative process.¹⁰

This constitutional arrangement further strengthens the executive's structural position in the legislative process. Unlike a conventional presidential system, where the legislature exercises primary law-making authority and the president generally possesses only a qualified veto, Indonesia's constitutional framework requires bills to receive the joint approval of the DPR and the President. The executive therefore exercises more than a reactive power at the final stage of legislation. Its constitutionally recognized role extends to the earlier stages of drafting and deliberation, enabling the government to influence the substance and direction of statutory norms before legislation reaches the stage of final approval.

The second and most consequential cause is the interaction between presidentialism and a fragmented multiparty system. Comparative scholarship has long observed that the combination of presidentialism and multipartism is a "difficult combination," because a president rarely commands a legislative majority and must therefore assemble coalitions to govern,¹¹ and that presidential systems tend toward rigidity and majoritarian temptation.¹² In Indonesia, the response has been the formation of oversized "fat coalitions" (*koalisi gemuk*) that absorb most parliamentary factions into the government camp.¹³ Recent analysis shows that elite collusion sustains this settlement: potential veto players are given cabinet seats and, in exchange, permit the president to expand his powers, producing executive

¹⁰ Rohmah, "Dinamika Overlapping Kewenangan DPR dan Presiden," 72.

¹¹ Scott Mainwaring, "Presidentialism, Multipartism, and Democracy: The Difficult Combination," *Comparative Political Studies* 26, no. 2 (1993): 199. See too, Implikasi Koalisi, "Koalisi Partai Politik Dan Implikasinya Terhadap Sistem Presidensial Multipartai Di Indonesia," *Jurnal Ilmiah Peuradeun* 8, no. 1 (2020): 8.

¹² Juan J. Linz, "The Perils of Presidentialism," *Journal of Democracy* 1, no. 1 (1990): 53. See also, Koalisi, "Koalisi Partai Politik Dan Implikasinya," 9.

¹³ Idul Rishan, "Risiko Koalisi Gemuk dalam Sistem Presidensial di Indonesia [The Risk of Oversized Coalitions in Indonesia's Presidential System]," *Jurnal Hukum Ius Quia Iustum* 27, no. 1 (2020): 221. See also, A. Asrinaldi, "Koalisi Model Parlementer dan Dampaknya pada Penguatan Kelembagaan Sistem Presidensial di Indonesia," *Jurnal Penelitian Politik* 10, no. 2 (2013): 19.

aggrandizement while muting parliamentary contestation.¹⁴ When the parliamentary majority is co-opted into the executive coalition, joint approval risks degenerating into ratification of executive preferences.

The consolidation of governing-party coalitions in the DPR provides further evidence of the executive's structural advantage in the post-Reform presidential system. During the Joko Widodo–Jusuf Kalla administration (2014–2019), the governing coalition initially controlled 208 of the 560 DPR seats, representing 37.1% of the chamber. Following the subsequent realignment of political parties, including the entry of Golkar, PAN, and PPP into the governing coalition, its parliamentary support increased substantially to 386 seats, or 68.9% of the total DPR membership. This shift transformed the coalition from a minority parliamentary base into a substantial majority capable of providing strong legislative support for government initiatives.¹⁵

A similar pattern emerged during the Joko Widodo–Ma'ruf Amin administration (2019–2024). The governing coalition initially controlled 349 of the 575 DPR seats, equivalent to 60.7%. Its parliamentary strength subsequently expanded following political realignments, first increasing to approximately 74% after Gerindra joined the governing coalition and ultimately reaching 471 seats, or 81.9% of the DPR, following the Democratic Party's entry. These developments demonstrate how post-election coalition realignment can substantially increase executive-aligned parliamentary support. The resulting concentration of legislative support strengthens the government's capacity to influence the legislative process and provides an important structural context for understanding the persistence of executive dominance in Indonesian law-making.

This coalition behaviour is an engineered outcome rather than an accident of personality. The proportional electoral system and a permissive party framework produce a fragmented legislature in which no party approaches a majority; the imperative of governability then drives the President to purchase legislative support by distributing cabinet and other positions across parties. The resulting alignment of executive and legislative majorities dissolves the adversarial tension on which checks and balances depend. In constitutional-engineering terms, the

¹⁴ Mietzner, "Elite Collusion in Indonesia," 227.

¹⁵ Katadata Databoks, "DPR dikuasai Partai Koalisi Jokowi [The DPR Is Controlled by Jokowi's Coalition Parties]," 2019. Retrieved in July 23, 2026 from. <https://databoks.katadata.co.id>. See also, Faculty of Social and Political Sciences, Universitas Indonesia, "Peta Kekuatan Kursi Partai Politik Hasil Pemilu Serentak 2019 [Map of Party Seat Strength from the 2019 Simultaneous Elections]," 2019. Retrieved in July 23, 2026 from. <https://fisip.ui.ac.id>.

incentive structure rewards fusion over confrontation, and the predictable outcome is a legislature disinclined to contest executive law-making initiatives.¹⁶

The third cause is the loose delegation of legislative authority. Indonesian statutes routinely delegate the elaboration of substantive norms to government and presidential regulations, producing an expansive body of executive norm-making that operates largely beyond effective parliamentary scrutiny.¹⁷ The cumulative effect is a migration of genuine norm-setting power from the statute to the regulation, and thus from the legislature to the executive—the outcome that a majoritarian, power-concentrating design tends to produce.¹⁸

The fourth cause is the emergence of new law-making techniques that amplify executive control. The omnibus method, adopted in the Job Creation Law, consolidates amendments to dozens of statutes into a single draft whose preparation is dominated by the executive, compressing the DPR's capacity for clause-by-clause scrutiny.¹⁹ Fast-track deliberation shortens debate to a degree that curtails meaningful scrutiny. And the Perpu—constitutionally reserved for compelling urgency under Article 22—has been used to reinstate substantive policy, as with Perpu Number 2 of 2022 (later Law Number 6 of 2023), effectively allowing the executive to legislate unilaterally, subject only to subsequent parliamentary confirmation. Together, these four causes explain why executive dominance persists notwithstanding a constitutional text that formally privileges the legislature.

Before evaluating the implications, this section constructs the analytical benchmark. The democratic rule of law unites two traditions. The first is the continental *rechtsstaat*, whose classical elements protection of human rights, distribution and separation of power, government based on law, and administrative adjudication are complemented by the Anglo-American rule of law emphasizing the supremacy of law and equality before it. Article 1(3) of the UUD NRI 1945 affirms that Indonesia is a state based on law.²⁰

¹⁶ Giovanni Sartori, *Comparative Constitutional Engineering: An Inquiry into Structures, Incentives and Outcomes*, 2nd ed. (New York: New York University Press, 1997), 6.

¹⁷ Zulfan, "Analisis Pengaturan dan Praktik Pemisahan Kekuasaan Sistem Pemerintahan Presidensial Berdasarkan Konstitusi," *Jurnal Media Hukum* (2018): 603.

¹⁸ Arend Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries* (New Haven: Yale University Press, 1999), 94.

¹⁹ Saldi Isra, *Pergeseran Fungsi Legislasi: Menguatnya Model Legislasi Parlementer dalam Sistem Presidensial Indonesia [The Shift of the Legislative Function]* (Jakarta: Rajawali Pers, 2010), 27. See also, Muhammad Taufik, "Dinamika Dalam Penerapan Sistem Pemerintahan Presidensial Dan Parlementer di Indonesia," *Qaumiyyah: Jurnal Hukum Tata Negara* 1, no. 2 (2020): 129; Setia Negara et al., "Indonesian Job Creation Law," 169;

²⁰ Saldi Isra, *Lembaga Negara: Konsep, Sejarah, Wewenang, dan Dinamika Konstitusional*, 2nd ed. (Depok: Rajawali Pers, 2022), 12. See also, Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, 3.

The second tradition is democratic legitimacy, anchored in Article 1(2) of the UUD NRI 1945, under which sovereignty rests with the people. A state governed by law that is not simultaneously democratic collapses into mere legalism; democracy without the rule of law degenerates into majoritarian domination. The democratic rule of law therefore insists that the *process* by which norms are made must itself be democratically legitimate, not merely formally valid, because the process of law-making who drafts, under what conditions, and with whose participation substantially determines the legitimacy of its outcomes.²¹ In the Indonesian context these traditions are constitutionally fused: legality procured without democratic deliberation is constitutionally incomplete, because it severs the norm from the popular sovereignty that legitimizes it.

The Constitutional Court has given the participatory dimension concrete content through the principle of meaningful participation, comprising the right to be heard, the right to be considered, and the right to be explained.²² Synthesizing these traditions, this article proposes a four-pronged parameter for testing any exercise of law-making: (i) legality and competence; (ii) limitation and balance of power; (iii) deliberative quality and meaningful participation; and (iv) justiciability and accountability. A law-making practice consistent with the democratic rule of law must satisfy all four prongs, not the first alone.

3.2. Implications of Executive-Dominated Legislation for the Democratic Rule of Law

Applying the parameter answers the second research question through a differentiated assessment. On the first prong—legality and competence—executive-dominated legislation is generally formally valid: the President’s participation is constitutionally grounded, and omnibus, fast-track, and Perpu instruments are not per se unconstitutional. Yet formal validity is often achieved by stretching enabling criteria, most clearly with the Perpu, whose constitutional threshold of compelling urgency the Court has sought to objectify precisely because the President’s subjective assessment is prone to expansion.²³

Regarding the second dimension the limitation and balancing of state power the current practice reveals significant weaknesses. The incorporation of a substantial parliamentary majority into oversized governing coalitions has reduced the DPR’s deliberative function to a largely formal and procedural role, thereby

²¹ Jon Elster, “Forces and Mechanisms in the Constitution-Making Process,” *Duke Law Journal* 45, no. 2 (1995): 369.

²² Constitutional Court of the Republic of Indonesia, Decision No. 91/PUU-XVIII/2020 (2021); see also Pratama, “Meaningful Participation,” 140–145.

²³ Constitutional Court of the Republic of Indonesia, Decision No. 138/PUU-VII/2009 (2009), establishing the objective parameters of “compelling urgency” under Article 22 of the UUD NRI 1945.

weakening opposition forces and diminishing effective legislative oversight.²⁴ Consequently, the principle of separation of powers is weakened not through formal constitutional amendment, but through political practices that alter the practical distribution of institutional power. This development reflects what recent scholarship has described as executive aggrandizement, whereby executive influence expands at the expense of effective legislative checks and balances.²⁵

The third dimension, concerning deliberative quality and meaningful public participation, is particularly undermined by the dominance of the executive in the legislative process. The omnibus method and fast-track deliberation structurally compress the space for affected parties to be heard, considered, and answered. It was on this ground that the Constitutional Court declared the Job Creation Law conditionally unconstitutional, finding that its formation had not satisfied the requirements of meaningful participation and ordering its correction within a defined period.²⁶ That the defect was subsequently addressed through a Perpu rather than through the ordinary participatory process the Court had required reproduced the very executive-centred logic that had generated the controversy, confirming how deeply the incentive structure is embedded.²⁷

The fourth-dimension justiciability and accountability provide an important institutional check, but its operation remains predominantly reactive. Constitutional review generally takes place after legislation has been enacted and entered into force, as demonstrated by formal judicial review (*pengujian formil*) of the Job Creation Law before the Constitutional Court.²⁸ Similarly, the DPR's approval of a Government Regulation in Lieu of Law (Perpu) operates as a subsequent form of legislative oversight rather than an ex-ante constraint on executive action.²⁹ The limited availability of effective preventive mechanisms therefore creates a temporal gap in constitutional accountability, allowing potential

²⁴ Iyan Barlian, and Pipih Ludia Karsa, "Fungsi dan Kewenangan Dewan Perwakilan Rakyat Secara Konstitusionalitas Dalam Penyelenggaraan Negara Pasca Reformasi," *Jurnal Res Justitia: Jurnal Ilmu Hukum* 3, no. 2 (2023): 414.

²⁵ Mietzner, "Elite Collusion in Indonesia," 228. See also, Setia Negara et al., "Indonesian Job Creation Law," 175.

²⁶ Constitutional Court, Decision No. 91/PUU-XVIII/2020; see also, Prastyo, "Limitation of Meaningful Participation Requirements," 418; Pratama, "Meaningful Participation sebagai Upaya Kompromi," 139.

²⁷ Muhammad Paputungan and Syaiful Bakhri, "Menyoal Pemenuhan Partisipasi Masyarakat yang Bermakna dalam Pembentukan Undang-Undang tentang Ibu Kota Negara [Questioning the Fulfilment of Meaningful Public Participation in the Formation of the Capital City Law]," *Al-Qisth Law Review* 6, no. 2 (2023): 276. See also, Fadillah, "Penerapan Asas Keterbukaan," 253.

²⁸ Usman, "The role of Indonesian Constitutional Court," 19.

²⁹ Idul Rishan, "Konsep Pengujian Formil Undang-Undang di Mahkamah Konstitusi [The Concept of Formal Review of Statutes at the Constitutional Court]," *Jurnal Konstitusi* 18, no. 1 (2021): 11.

democratic and constitutional deficiencies to persist until they are challenged through subsequent institutional review. Consequently, constitutional correction may occur only after the contested legal norms have already produced legal and institutional effects, or may not occur at all.

The evaluation of executive law-making instruments against the four parameters of the democratic rule of law legality and competence, limitation and balance of power, deliberative quality and meaningful participation, and justiciability and accountability reveals a consistent pattern of formal legality accompanied by substantive weaknesses. Omnibus statutes and fast-track legislation formally satisfy legal and constitutional requirements, while Perpu also operates within a constitutionally recognized framework, although its issuance involves a more subjective assessment of urgency. However, limitations on executive power remain weak, particularly where strong parliamentary coalitions facilitate executive influence over the legislative process. The weakness is more pronounced with Perpu, which may be issued unilaterally by the President before receiving subsequent parliamentary approval.³⁰

The most significant deficiencies concern deliberative quality and meaningful participation, while justiciability and accountability remain predominantly ex post through judicial review or parliamentary confirmation. Omnibus statutes and fast-track legislation may restrict opportunities for extensive deliberation and public participation, whereas Perpu provides no meaningful ex ante legislative participation because parliamentary approval occurs only after issuance. Thus, although these instruments may satisfy the legality and competence parameter, their practical operation reveals weaknesses in limiting executive power, maintaining meaningful democratic deliberation, and ensuring timely constitutional accountability.

The composite assessment is therefore clear. Executive-dominated legislation tends to satisfy formal legality while failing the prongs of power limitation and, most acutely, meaningful participation.³¹ This selective conformity lawful in form, deficient in democratic substance is exactly the configuration in which formal legality can shade into the erosion of democracy, aligning the Indonesian experience with the comparative literature on abusive constitutionalism and autocratic legalism and with recent findings of democratic backsliding.³² Measured against the democratic rule of law as a composite standard, the phenomenon reveals a genuine constitutional tension rather than a mere efficiency trade-off.

³⁰ Asrinaldi, "Koalisi Model Parlementer," 21.

³¹ Ma'ruf Cahyono, Bahtiyar Efendi, and Anis Mashdurohatun, "Restructuring Institutional and Legal Policies in Fostering the Ideology of Pancasila," *Lex Publica* 7, no. 1 (2020): 29.

³² Diego Fossati, "Surviving Democratic Backsliding in Indonesia," *Global Asia* 19, no. 1 (2024): 43. See also, Asrinaldi and Yusoff, "Power Consolidation and Its Impact," 8.

3.3. Reconstructing Executive–Legislative Relations to Restore Constitutional Balance

Restoring the constitutional balance of law-making requires more than normative appeals for executive restraint, particularly because the dominance identified in the preceding analysis is rooted in structural arrangements. Accordingly, reform should be directed toward reconstructing the relationship between the executive and the legislature by realigning institutional incentives, strengthening checks and balances, and ensuring meaningful legislative participation. From this perspective, constitutional engineering provides a useful framework for understanding institutions as systems of incentives and constraints. The proposed reconstruction therefore operates through two complementary dimensions: normative reconstruction and institutional reconstruction.

At the normative level, four measures are advanced. First, the standards of delegation should be tightened so that the essential elements of a norm are settled in the statute itself, limiting the migration of substantive policy into executive regulation. Second, meaningful participation should be firmly codified as a condition of validity in the Law on the Formation of Laws and Regulations partially begun by Law Number 13 of 2022 transforming the Court's doctrine into a positive, enforceable requirement rather than merely an ex-post standard of review.³³ Third, the omnibus method and fast-track procedures should be confined by clear criteria guaranteeing adequate deliberation and clause-level scrutiny. Fourth, the constitutional threshold of compelling urgency for a Perpu should be applied strictly in accordance with the objective parameters already articulated by the Court, preventing the Perpu from becoming an ordinary instrument of executive legislation.

At the institutional level, three measures are advanced. First, the deliberative capacity of the DPR should be strengthened through independent legislative drafting and research support, so that joint approval reflects genuine parliamentary judgment rather than executive dictation.³⁴ Second, the space for a functioning opposition should be protected, since checks and balances presuppose the possibility of dissent within the legislature the very element that oversized coalitions erode. Third, participatory infrastructure transparent access to drafts, structured public hearings, and reasoned responses to submissions should be institutionalized, giving practical effect to the rights to be heard, considered, and answered.

The four-pronged parameter can serve a dual function in this reconstruction: as a legislative checklist guiding the executive and the DPR during the formation of a statute, and as an analytical framework assisting the Constitutional Court in

³³ Prastyo, "Limitation of Meaningful Participation Requirements," 429.

³⁴ Barlian, and Karsa, "Fungsi dan Kewenangan Dewan Perwakilan Rakyat," 416.

reviewing the constitutionality of the law-making process. Comparative instruments reinforce it: sunset clauses that cause delegated or emergency norms to lapse unless affirmatively renewed after genuine deliberation convert the executive's advantage of inertia into a periodic obligation of justification, while mandatory regulatory impact assessment and published reasons for rejecting public submissions raise the deliberative cost of bypassing participation. None of these instruments abolishes the executive's legitimate role in law-making; they recalibrate incentives so that efficiency is pursued through democratic deliberation rather than at its expense.

4. Conclusion

This article set out to answer three questions. In response to the first, it has shown that the strengthening of executive-dominated legislation is the product of four structural causes: shared constitutional competence in law-making, the difficult combination of presidentialism and multipartism expressed through oversized coalitions and elite collusion, loose delegation of legislative authority, and new techniques the omnibus method, fast-track deliberation, and the Perpu that shift the effective moment of legislative choice toward the executive.

In response to the second question, measuring the phenomenon against the democratic rule of law as a composite benchmark reveals that it tends to satisfy formal legality while failing the prongs of power limitation and, most acutely, meaningful participation the configuration in which formal legality can shade into the erosion of democracy. In response to the third question, the article has proposed a normative and institutional reconstruction of executive–legislative relations, together with a four-pronged evaluative parameter capable of guiding both the legislature and the Constitutional Court.

As a practical and policy contribution, the reconstruction recommends tighter delegation standards, the codification of meaningful participation as a condition of validity, confinement of omnibus and fast-track techniques, strict application of the Perpu criteria, and the institutionalization of participatory infrastructure and a genuine opposition. Reordering these relations within the frame of constitutionalism is a precondition for reconciling regulatory efficiency with democratic legitimacy. Future research may operationalize the proposed parameter empirically across a broader set of statutes and test it comparatively against other presidential democracies confronting similar pressures.

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