



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

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**Abstract.** The separation of powers in a democratic state governed by the rule of law places the legislature in an important position to ensure accountability and limit executive power. Although the constitutional amendments of 1999-2002 aimed to strengthen the legislative role of the House of Representatives (*Dewan Perwakilan Rakyat* or DPR), the law-making process in Indonesia still reflects substantial executive influence over the formulation of legal norms. This study aims to analyze the structural causes of this phenomenon and evaluate its implications for the principle of the democratic rule of law. Using normative legal research methods, this study applies statutory, conceptual, and case approaches. It examines the phenomenon through a combined framework that integrates the formal concept of *rechtsstaat* (the rule of law) with democratic legitimacy through meaningful participation. The study finds that executive dominance is supported by Indonesia's multiparty presidential system, oversized governing coalitions, and broad delegation of authority. These factors reduce the legislative role to a procedural formality and weaken both the limitation of power and meaningful participation, as confirmed by the Constitutional Court's decision declaring the Job Creation Law conditionally unconstitutional. This study concludes that restructuring executive-legislative relations within a constitutional framework is essential to prevent formal legality from becoming a tool that undermines democracy.

**Keywords:** Constitutional Law; Democratic Rule of Law; Executive-Dominated Legislation; Meaningful Participation.



**Abstrak.** Pemisahan kekuasaan dalam negara demokrasi yang berlandaskan hukum menempatkan lembaga legislatif pada posisi penting untuk menjamin akuntabilitas dan membatasi kekuasaan eksekutif. Meskipun amendemen konstitusi tahun 1999-2002 bertujuan memperkuat peran legislatif Dewan Perwakilan Rakyat (DPR), proses pembentukan undang-undang di Indonesia masih mencerminkan pengaruh eksekutif yang signifikan 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, studi ini menerapkan pendekatan perundang-undangan, konseptual, dan kasus. Fenomena ini dikaji melalui kerangka kerja gabungan yang mengintegrasikan konsep formal rechtsstaat (negara hukum) dengan legitimasi demokratis melalui partisipasi yang bermakna. Studi ini menemukan bahwa dominasi eksekutif didukung oleh sistem presidensial multipartai, koalisi pemerintahan yang gemuk (oversized), serta pendelegasian wewenang yang luas. Faktor-faktor tersebut mereduksi peran legislatif menjadi sekadar formalitas prosedural dan melemahkan baik pembatasan kekuasaan maupun partisipasi yang bermakna, sebagaimana dikonfirmasi oleh putusan Mahkamah Konstitusi yang menyatakan Undang-Undang Cipta Kerja inkonstitusional bersyarat. Studi ini menyimpulkan bahwa penataan ulang hubungan eksekutif-legislatif dalam kerangka konstitusional sangat penting untuk mencegah legalitas formal berubah menjadi alat yang melemahkan demokrasi.

**Kata kunci:** Hukum Tata Negara; Negara Hukum Demokratis; Legislasi yang Didominasi Eksekutif; Partisipasi Bermakna.

## 1. Introduction

In a constitutional system, the separation of powers among state institutions is an important principle for preventing the concentration of power and ensuring democratic governance. This principle emphasizes the importance of clearly defined authorities and a balanced relationship between the executive and legislative branches.<sup>1</sup> Efforts to achieve this balance are reflected in the four amendments to the 1945 Constitution of the Republic of Indonesia (UUD 1945), adopted between 1999 and 2002. These amendments aimed to strengthen limits on power and restore the legislative function to the House of Representatives (*Dewan Perwakilan Rakyat* or DPR), following decades of authoritarian government dominated by executive power.<sup>2</sup>

These changes are in line with the principles of modern constitutionalism, which emphasize the importance of limiting power in state governance. Constitutionalism regulates both the relationship between the state and its citizens and the relationships among state institutions to prevent the concentration of power.<sup>3</sup> This principle is reflected in the constitutional provisions governing law-making authority under the 1945 Constitution, particularly through the division of roles between the DPR and the President. Article 20(1) states that the DPR holds the power to make laws, while Article 5(1) grants the President the authority to propose bills to the DPR. Furthermore, Article 20(2) provides that each bill must be discussed by the DPR and the President to obtain mutual approval.

Although this constitutional framework establishes the division of authority between the DPR and the President, problems arise when these normative provisions are compared with their implementation in constitutional practice.

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<sup>1</sup> Iwan Setia Budi, and Adi Prabowo Supriyono, "Separation And Distribution of power in the concept of a democratic state in Indonesia: Pemisahan Dan Pembagian Kekuasaan Dalam Konsep Negara Demokrasi di Indonesia," *Constitutional Law Society* 3, no. 1 (2024): 26. See also, Asri Agustiwi, "Keberadaan Lembaga Negara Pasca Amandemen Undang-Undang Dasar 1945 Di Indonesia," *Rechstaat: Jurnal Ilmu Hukum* 8, no. 1 (2014): 16351; Tri Mulyani, "Kajian Normatif Mengenai Hubungan Antar Lembaga Negara dalam Sistem Ketatanegaraan Republik Indonesia Berdasarkan Undang-Undang Dasar Tahun 1945: Sebelum dan Sesudah Amandemen," *Hukum Dan Masyarakat Madani* 6, no. 1 (2016): 76.

<sup>2</sup> E. Zaenal Muttaqin, "Konsep Pemisahan Kekuasaan (Separation of Power) Pasca Amandemen UUD 1945 Antara Lembaga Eksekutif dan Legislatif," *Al-Qisthas: Jurnal Hukum Dan Politik* 6, no. 1 (2015): 15. See also, Zulkarnain Ridlwan, "Cita Demokrasi Indonesia dalam Politik Hukum Pengawasan Dewan Perwakilan Rakyat terhadap Pemerintah," *Jurnal Konstitusi* 12, no. 2 (2015): 308.

<sup>3</sup> Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia* (Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2006), 4. 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): 61.

From the perspective of *das sollen* (what ought to be), the constitutional design positions the DPR as the holder of law-making power, while the President participates in the legislative process through the authority to propose bills and engage in joint deliberation and approval. However, from the perspective of *das sein* (what actually is), legislative practice shows a tendency toward executive dominance in the initiation, drafting, and determination of the substance of laws, while the DPR's role may be reduced to formal and procedural approval.<sup>4</sup> This gap between the constitutional design and legislative practice, particularly between the DPR's position as the holder of law-making power and the tendency toward executive dominance in its implementation, constitutes the main problem examined in this article.

The urgency of this issue becomes increasingly evident when considered in the context of developments in Indonesia's legislative practices. The tendency toward executive dominance is not limited to the formal distribution of powers but is also reflected in the use of various law-making mechanisms, such as the omnibus method under Law Number 11 of 2020 on Job Creation, fast-track legislative deliberation, and the issuance of Government Regulations in Lieu of Law (*Peraturan Pemerintah Pengganti Undang-Undang* or *Perpu*). One example is *Perpu* Number 2 of 2022 on Job Creation, which was subsequently enacted as Law Number 6 of 2023. These developments raise questions about the extent to which such legislative mechanisms continue to ensure a balance of power and effective DPR oversight of the executive.<sup>5</sup> These questions are also related to comparative legal debates on the potential use of formally lawful constitutional instruments to undermine democratic principles. This phenomenon has been discussed through the concepts of abusive constitutionalism and autocratic legalism, which explain how legal and constitutional mechanisms can be used to strengthen executive power while gradually weakening constraints on that power.<sup>6</sup>

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<sup>4</sup> Firman Manan, "Relasi Eksekutif-Legislatif Dalam Sistem Presidensial Multipartai di Indonesia," *Jurnal Wacana Politik* 2, no. 2 (2017): 3. See also, Saldi Isra, "Designing a constitutional presidential democracy in Indonesia," *J. Pol. & L.* 13 (2020): 23; 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): 413; Roziqin, and Ibnu Sofyhan, "Kedudukan kelembagaan kementerian negara dalam sistem ketatanegaraan Indonesia," *Jurnal de jure* 15, no. 1 (2023): 232.

<sup>5</sup> M. Wildan Humaidi, and Inna Soffika Rahmadanti, "Constitutional design of state policy as guidelines on Indonesia's presidential system development plan," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* (2023): 63. See also; Tegnan Sulardi Hilaire, "Analysis of the Indonesian presidential system based on the 1945 Constitution of the Republic of" *J. Legal Ethical & Regul. Issues* 21 (2018): 1; Lusia Indrastuti et al., "Democratic political law in Indonesia after amendments to the 1945 UUD," *Journal of Law and Sustainable Development* 12, no. 1 (2024): 105.

<sup>6</sup> David Landau, "Abusive Constitutionalism," *UC Davis Law Review* 47, no. 1 (2013): 190. See also, Kim Lane Scheppele, "Autocratic Legalism," *University of Chicago Law Review* 85, no. 2 (2018): 548; Dhenis A. Depari et al., "Disfungsi Checks and Balances Legislatif-Eksekutif dan Implikasinya

Previous studies have examined the expansion of executive power and its implications for democracy in Indonesia. Mietzner highlights the role of elite collusion in both enabling and constraining executive aggrandizement.<sup>7</sup> In the context of legislation, Setia Negara et al.<sup>8</sup> associate the enactment of the Job Creation Law with the expansion of executive power (executive aggrandizement). Meanwhile, Rohmah<sup>9</sup> examines the overlapping authority of the DPR and the President in state policymaking, while Pratama<sup>10</sup> emphasizes the importance of meaningful participation in strengthening the legitimacy of law-making. Nevertheless, the relationship between the constitutional design of legislative authority and the tendency toward executive dominance in practice requires further examination, particularly in relation to the principles of constitutionalism and the balance of power among state institutions.

These limitations reveal two major gaps in the existing literature. First, there is no systematic normative framework for assessing executive dominance in law-making based on the principles of the democratic rule of law. This principle should be understood as a composite standard that integrates limitations on power, institutional balance, accountability, and public participation, rather than relying solely on the separation of powers or transparency in the law-making process as separate principles. Second, a reconstructive framework is needed to reorganize executive-legislative relations so that the exercise of law-making authority is consistent with the constitutional design and the principles of the democratic rule of law. The need to restructure the relationship between these two branches of

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terhadap Kebijakan Publik,” *Jurnal Usm Law Review* 9, no. 4 (2026): 2516; Belly Isaeni, “Trias Politica dan Implikasinya dalam Struktur Kelembagaan Negara dalam UUD 1945 Pasca Amandemen,” *Jurnal Magister Ilmu Hukum* 6, no. 2 (2021): 78.

<sup>7</sup> 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): 2232579.

<sup>8</sup> 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): 158. See also, Nor Fadillah, “Penerapan Asas Keterbukaan dalam Pembentukan Undang-Undang tentang Cipta Kerja dan Undang-Undang tentang Ibu Kota Negara,” *Lex Renaissance* 7, no. 2 (2022): 245.

<sup>9</sup> Elva Imeldatur Rohmah, “Dinamika Overlapping Kewenangan DPR dan Presiden dalam Pembentukan Kebijakan Negara,” *Jurnal Magister Ilmu Hukum* 13, no. 1 (2023): 49. See also, Abustan, “Penataan Lembaga Negara Refleksi Penguatan Sistem Presidensial,” *Al-Adl: Jurnal Hukum* 9, no. 2 (2017): 197.

<sup>10</sup> Nyoman Adhi Pratama, “Meaningful Participation sebagai Upaya Kompromi Idee des Recht Pasca Putusan MK No. 91/PUU-XVIII/2020,” *CREPIDO* 4, no. 2 (2022): 138. See also, Prastyo, “Limitation of Meaningful Participation Requirements in the Indonesian Law-Making Process,” *Jurnal Hukum dan Peradilan* 11, no. 3 (2022): 407.

government is also relevant to Hanafi's<sup>11</sup> study of executive-legislative relations in Indonesia's multiparty presidential system and Zulfan's<sup>12</sup> analysis of the constitutional arrangements and practices of the separation of powers.

To address these gaps, this article integrates the *rechtsstaat* tradition with the democratic dimension of law-making into an operational framework that goes beyond the *trias politica*. In practical terms, the article proposes a checklist for the DPR and the executive, as well as an analytical framework for the Constitutional Court to assess the constitutionality of the law-making process. Accordingly, this study aims to explain the structural factors driving executive dominance, evaluate its implications for the principles of the democratic rule of law, and formulate a reconstruction of executive-legislative relations in law-making. These objectives are addressed through the following three research questions:

1. What structural factors have contributed to the strengthening of executive dominance in law-making in Indonesia following the amendments to the 1945 Constitution of the Republic of Indonesia (UD NRI 1945)?
2. How does this dominance affect the principles of the democratic rule of law?
3. What form of reconstruction of executive-legislative relations can restore the constitutional balance in law-making?

## 2. Research Methods

This study employs normative (doctrinal) legal research using qualitative legal analysis to examine the structural causes, constitutional implications, and potential reconstruction of executive-dominated law-making in Indonesia. Three complementary approaches are applied. The statutory approach examines the constitutional allocation of legislative authority, the legal framework governing law-making procedures, and the regulatory mechanisms that shape executive-legislative relations. The conceptual approach establishes the analytical foundation by examining constitutionalism, the separation of powers, the concept of *rechtsstaat* (the rule of law), and the democratic rule of law, while establishing normative criteria for evaluating legislative practices. Third, the case approach analyzes Constitutional Court decisions to identify judicial interpretations of constitutional limits on legislative authority, law-making under emergency circumstances, and procedural legitimacy. These approaches are integrated to assess the relationship

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<sup>11</sup> Ridho Imawan Hanafi, "Menelaah Relasi Eksekutif-Legislatif dalam Sistem Presidensial Multipartai di Indonesia," *Jurnal Penelitian Politik* 12, no. 1 (2015): 9.

<sup>12</sup> Zulfan, "Analisis Pengaturan dan Praktik Pemisahan Kekuasaan Sistem Pemerintahan Presidensial Berdasarkan Konstitusi," *Jurnal Media Hukum* (2018): 63.

between constitutional provisions and legislative practices and to formulate a framework for restoring constitutional balance.

Legal materials were collected through documentary research, which involved identifying, tracing, and examining official legislation, Constitutional Court decisions, scholarly publications, and relevant comparative legal literature. The primary legal materials include the 1945 Constitution of the Republic of Indonesia, particularly Article 1(2), Article 1(3), Article 5(1), Article 20, and Article 22; Law Number 12 of 2011 on the Formation of Laws and Regulations, as amended by Law Number 15 of 2019 and Law Number 13 of 2022, and subsequently partially amended by Law Number 1 of 2026; Law Number 11 of 2020 on Job Creation; Government Regulation in Lieu of Law Number 2 of 2022; Law Number 6 of 2023, which enacted the regulation into law; and Constitutional Court Decisions Number 138/PUU-VII/2009 and Number 91/PUU-XVIII/2020. Law Number 11 of 2020 and Government Regulation in Lieu of Law Number 2 of 2022 are examined as part of the legislative history and constitutional controversies surrounding the Job Creation Law, rather than being treated as independent statements of the current legal framework.

Secondary materials include peer-reviewed journal articles, academic books, and comparative studies selected based on their relevance to the research questions, conceptual contributions, and analytical credibility, with priority given to publications from the past five years. Official legal databases and institutional repositories are used to verify the authenticity, content, and legal status of these materials. The selected materials are analyzed qualitatively through systematic interpretation, doctrinal evaluation, and descriptive-prescriptive reasoning. The analysis is conducted in three stages corresponding to the research questions: identifying the structural factors that enable executive dominance in law-making; evaluating the compatibility of these factors with constitutional principles and the democratic rule of law; and formulating a normative reconstruction of executive-legislative relations.

### **3. Results and Discussion**

#### **3.1. Structural Factors Influencing the Formation of Executive-Dominated Legislation in Indonesia**

Executive dominance in Indonesia's legislative process is partly rooted in the constitutional design of law-making. Although Article 20(1) of the 1945 Constitution of the Republic of Indonesia grants legislative power to the DPR, Article 20(2) requires the mutual approval of the DPR and the President for a bill

to be enacted into law, while Article 5(1) authorizes the President to submit bills.<sup>13</sup> This arrangement creates a framework of shared legislative authority in which the President serves not merely as an approving party but also as a legislative partner with significant influence over legislative outcomes.<sup>14</sup> Consequently, executive involvement is not limited to the final approval stage but also extends to the drafting and deliberation stages, enabling the government to shape the substance of legislation. This overlap of authority establishes a structural basis for executive influence in the legislative process and may weaken the position of the DPR as the primary law-making institution.<sup>15</sup>

Furthermore, the most significant cause is the interaction between the presidential system and a fragmented multiparty system. In comparative studies, Juan J. Linz<sup>16</sup> highlights the vulnerabilities of presidential systems arising from dual legitimacy and the rigidity of fixed terms, while Scott Mainwaring<sup>17</sup> explains that the combination of presidentialism and multipartyism makes it difficult to establish stable legislative support because presidents often lack a parliamentary majority. Under these circumstances, presidents need to build coalitions to secure legislative support, while coalition dynamics and majoritarian orientations may affect the balance of power among state institutions. In Indonesia, these conditions have been addressed through the formation of large governing coalitions that accommodate most parliamentary factions within the government's supporting bloc.<sup>18</sup>

Marcus Mietzner's<sup>19</sup> analysis shows that elite collusion also helps perpetuate this pattern through the allocation of cabinet positions to actors who might

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<sup>13</sup> I. Gede Sujana, "Kedudukan dan fungsi Dewan Perwakilan Rakyat pasca perubahan UUD 1945," *IJOLARES: Indonesian Journal of Law Research* 2, no. 1 (2024): 9. See also, Satria Budi Kusuma et al., "Hubungan Fungsional antara Dewan Perwakilan Rakyat (DPR) dan Presiden dalam Bidang Pengawasan di Indonesia menurut UUD 1945," *Jurnal Diskresi* 3, no. 1 (2024): 223; Ridlwan, "Cita Demokrasi Indonesia dalam Politik Hukum," 309.

<sup>14</sup> Rohmah, "Dinamika Overlapping Kewenangan DPR," 53.

<sup>15</sup> Abdul Wahab Bardan Syarif, "Legitimasi Kelembagaan Dewan Perwakilan Rakyat (DPR) dan Efektivitas Hak Angket DPR Sebagai Instrumen Pengawasan (Chek and Balance) Pada Rezim Pemerintahan Prabowo-Gibran," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 5 (2026): 3486. See also, Indrastuti et al., "Democratic political law in Indonesia," 106.

<sup>16</sup> Juan J. Linz, "The Perils of Presidentialism," *Journal of Democracy* 1, no. 1 (1990): 53. See also, Koalisi, "Koalisi Partai Politik Dan Implikasinya," 9.

<sup>17</sup> Scott Mainwaring, "Presidentialism, Multipartism, and Democracy: The Difficult Combination," *Comparative Political Studies* 26, no. 2 (1993): 199.

<sup>18</sup> Idul Rishan, "Risiko Koalisi Gemuk dalam Sistem Presidensial di Indonesia," *Jurnal Hukum Ius Quia Iustum* 27, no. 1 (2020): 220. See also, A. Asrinaldi, "Koalisi Model Parlementer dan Dampaknya pada Penguatan Kelembagaan Sistem Presidensial di Indonesia," *Jurnal Penelitian Politik* 10, no. 2 (2013): 15; Decky Wospakrik, "Koalisi Partai Politik Dalam Sistem Presidensial di Indonesia," *Papua Law Journal* 1, no. 1 (2016): 145.

<sup>19</sup> Mietzner, "Elite Collusion in Indonesia," 227.

otherwise challenge presidential power. In return, these actors tend to tolerate the expansion of executive power, allowing the consolidation of presidential authority to occur alongside the weakening of parliamentary contestation. When the parliamentary majority is incorporated into the governing coalition, the mechanism of mutual approval risks shifting from a process of substantive deliberation to the formal endorsement of executive preferences.<sup>20</sup>

In Indonesia's post-Reformasi presidential system, the expansion of governing coalitions reflects the structural advantages of executive power. During the Joko Widodo-Jusuf Kalla administration (2014-2019), the initial governing coalition controlled 208 of the 560 seats in the DPR, equivalent to 37.1%. Following the joining of the Golkar, PAN, and PPP parties to the coalition, its support increased to 386 seats (68.9%), shifting the government's position in parliament from a minority to a significant majority.<sup>21</sup> A similar pattern occurred during the Joko Widodo-Ma'ruf Amin administration (2019-2024). Initially, the coalition controlled 349 of the 575 DPR seats (60.7%). Following Gerindra's entry into the coalition, government support increased to approximately 74%, eventually reaching 471 seats (81.9%) after the Democratic Party joined. This realignment of political forces demonstrates how post-election coalition expansion consolidates parliamentary support aligned with the executive. Such a concentration of seats strengthens the government's influence over legislative outcomes and may weaken the DPR's independent oversight function, thereby perpetuating executive dominance in law-making in Indonesia.

Such coalition behavior is a consequence of political and institutional design rather than merely personal factors. The proportional electoral system and loose party framework produce a fragmented legislature in which no single party comes close to securing a majority of seats.<sup>22</sup> The need to ensure smooth governance subsequently encourages the President to secure legislative support by distributing cabinet positions and other offices among various political parties. The resulting alignment between executive power and the legislative majority eliminates confrontational tensions, which are essential for the effective functioning of checks and balances.<sup>23</sup> From the perspective of constitutional engineering, the structure of

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<sup>20</sup> Dhenis A. Depari et al., "Disfungsi Checks and Balances Legislatif-Eksekutif," 2518. See also, Isnaeni, "Trias Politica dan Implikasinya," 79.

<sup>21</sup> Katadata Databoks, "DPR dikuasai Partai Koalisi Jokowi," *Databox*, 2019, Retrieved in May 23, 2026 <https://databoks.katadata.co.id>.

<sup>22</sup> Azhari Sellomitha Fodhi et al., "Pentingnya pemisahan kekuasaan dalam mempertahankan pemerintahan yang seimbang," *Jurnal Hukum, Politik Dan Ilmu Sosial* 3, no. 3 (2024): 28. See also, Chandra Yusuf, "Dampak Pemisahan Kewenangan antara Mahkamah Konstitusi dan Mahkamah Agung dalam Menginterpretasikan Undang-Undang dan Peraturan Dibawahnya," *Jurnal Hukum Unissula* 37, no. 2 (2021): 89.

<sup>23</sup> Sugiman, "Fungsi Legislasi Dpr Pasca Amandemen UUD Nkri 1945," *Jurnal Ilmiah Hukum Dirgantara* 10, no. 2 (2020): 212. See also, Sri Karyati, "Desain Penguatan Pelaksanaan Fungsi

political incentives tends to encourage the consolidation of power rather than confrontation between state institutions. Consequently, parliament may become less critical and more reluctant to reject legislative initiatives proposed by the executive.<sup>24</sup>

Another factor is the extensive delegation of regulatory authority to the executive. Indonesian legislation frequently delegates the further regulation of substantive legal norms through government regulations and presidential regulations.<sup>25</sup> This condition expands the executive's regulatory discretion, while parliamentary oversight of the formulation of implementing regulations remains relatively limited.<sup>26</sup> This practice gradually shifts the regulation of substantive norms from the statutory level to implementing regulations, while also transferring regulatory authority from the legislature to the executive. This shift demonstrates the institutional consequences of a majoritarian system that tends to encourage the concentration of political and legislative power in the hands of the executive.<sup>27</sup>

Furthermore, certain legislative techniques have reinforced executive influence in the law-making process. The application of the omnibus method in the Job Creation Law, for example, allows amendments to multiple laws through a single legal instrument. When the drafting process is dominated by the executive, the complexity and scope of these amendments may limit the DPR's capacity to examine each provision comprehensively.<sup>28</sup> An accelerated deliberation process may further constrain substantive debate and meaningful legislative oversight. Meanwhile, Government Regulations in Lieu of Law (Perppu), constitutionally provided for under Article 22 of the 1945 Constitution of the Republic of Indonesia in cases of compelling urgency, have been used to re-establish

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Legislasi Dewan Perwakilan Rakyat Republik Indonesia Menuju Pembaharuan Hukum Nasional," *Jurnal Ganece Suara* Vol 16, no. 2 (2022): 121; Syarif, "Legitimasi Kelembagaan Dewan Perwakilan Rakyat (DPR)," 3489.

<sup>24</sup> On institutions as systems of incentives. See also, Giovanni Sartori, *Comparative Constitutional Engineering: An Inquiry into Structures, Incentives and Outcomes*, 2nd ed. (New York: New York University Press, 1997), 4.

<sup>25</sup> Ni Made Anggia Paramesthi Fajar, "Presidential government system strengthening through a party system simplification (A comparison between the Indonesian party system and the United States party system)," *UNTAG Law Review* 7, no. 2 (2023): 118. See also, Muhammad Mutawalli et al., "Urgency of the Presidential Institution: Strengthening Presidentialism or Perfecting the State System in Indonesia," *Al-Daulah: Jurnal Hukum Pidana dan Ketatanegaraan* 13, no. 2 (2024): 148.

<sup>26</sup> Zulfan, "Analisis Pengaturan dan Praktik Pemisahan Kekuasaan," 66.

<sup>27</sup> Arend Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries* (New Haven: Yale University Press, 1999), 93.

<sup>28</sup> Setia Negara et al., "Indonesian Job Creation Law," 158. See also, the shift in the legislative function toward the executive was earlier theorized by Saldi Isra, *Pergeseran Fungsi Legislasi: Menguatnya Model Legislasi Parlementer dalam Sistem Presidensial Indonesia* (Jakarta: Rajawali Pers, 2010), 26. See also, Muhammad Taufik, "Dinamika Dalam Penerapan Sistem Pemerintahan Presidensial Dan Parlementer di Indonesia," *Qaumiyyah: Jurnal Hukum Tata Negara* 1, no. 2 (2020): 129.

substantive policies, as reflected in Government Regulation in Lieu of Law Number 2 of 2022, which was subsequently enacted into Law Number 6 of 2023. This mechanism allows the executive to issue legally binding regulations before obtaining parliamentary approval. Taken together, these practices help explain the persistence of executive dominance despite the formal recognition of legislative authority under the Constitution.<sup>29</sup>

The concept of a democratic rule of law integrates the Continental European tradition of *Rechtsstaat*, which emphasizes the protection of human rights, the separation of powers, and the supremacy of law, with the Anglo-American doctrine of the Rule of Law, which affirms the supremacy of law and equality before the law.<sup>30</sup> In the Indonesian context, these principles are reflected in Article 1(3) of the 1945 Constitution of the Republic of Indonesia, which establishes Indonesia as a state governed by the rule of law, and Article 1(2), which places popular sovereignty at the foundation of the democratic legitimacy of state governance. These principles require legislation to possess both legal validity and democratic legitimacy. Without accountability, the supremacy of law risks being reduced to mere legalism, while democracy without legal constraints may lead to majority domination.<sup>31</sup>

In this context, the Constitutional Court has given concrete substance to the participatory dimension through the principle of meaningful participation, which encompasses the right to be heard, the right to have one's views considered, and the right to receive an explanation.<sup>32</sup> By integrating these various traditions, this article formulates four parameters for assessing whether the law-making process conforms to the principles of a democratic rule of law, namely: (i) the legality and authority of law-making institutions; (ii) limitations on power and the balance among state institutions; (iii) the quality of deliberation and the fulfillment of the

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<sup>29</sup> Ahmad Yani, "Analisis Kontruksi Struktural dan Kewenangan DPR dalam Fungsi Legislasi Berdasarkan Undang-Undang Dasar 1945," *Jurnal Konstitusi* 15, no. 2 (2018): 349. See also, Erik Santio, and Bahder Johan Nasution, "Analisis Kewenangan Presiden Republik Indonesia Di Bidang Legislatif Menurut Undang-Undang Dasar Negara Republik Indonesia 1945," *Limbago: Journal of Constitutional Law* 1, no. 1 (2021): 158.

<sup>30</sup> Galang Asmara et al., "Konsep Penguatan Fungsi Legislasi Dewan Perwakilan Rakyat Republik Indonesia Pasca Amandemen UUD NRI Tahun 1945," *Journal Kompilasi Hukum* 4, no. 2 (2019): 197. See also, Mutawalli et al., "Urgency of the Presidential Institution," 149; Fodhi et al., "Pentingnya pemisahan kekuasaan dalam mempertahankan pemerintahan," 29.

<sup>31</sup> Marno Wance, "Pola Relasi Eksekutif Dan Legislatif Pada Penyusunan Legislasi Daerah (Studi Di Pembahasan APBD Kabupaten Buru Selatan 2015)," *Jurnal Pemerintahan, Politik Anggaran Dan Adiminstrasi Publik* 1, no. 1 (2021): 33. See also, Yusuf, "Dampak Pemisahan Kewenangan antara Mahkamah Konstitusi dan Mahkamah Agung," 90.

<sup>32</sup> Constitutional Court of the Republic of Indonesia, Decision No. 91/PUU-XVIII/2020 (2021). See also Pratama, "Meaningful Participation," 145.

right to meaningful public participation; and (iv) openness to judicial review (justiciability) and accountability for both the law-making process and its outcomes.

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

The application of the democratic rule of law parameters directs the analysis of executive dominance in law-making toward legality, the balance of power, the quality of public participation, and accountability mechanisms. This assessment is important because compliance with constitutional procedures does not necessarily guarantee that the legislative process is conducted democratically or reflects the principle of limitations on power.<sup>33</sup> Therefore, the implications of executive dominance are analyzed through the four parameters formulated to assess whether the law-making process conforms to the principles of a democratic rule of law.<sup>34</sup>

In the first dimension, namely legality and institutional competence, the President's involvement in law-making has a constitutional basis, while the use of the omnibus method, fast-track procedures, and Government Regulations in Lieu of Law (Perppu) is not necessarily unconstitutional.<sup>35</sup> However, problems arise when the exercise of these powers relies on interpretations that expand their constitutional boundaries. This is particularly evident in the issuance of Perppu, whose use is subject to the requirement of "compelling urgency" as stipulated in Article 22 of the 1945 Constitution of the Republic of Indonesia. Through Decision No. 138/PUU-VII/2009, the Constitutional Court established objective criteria for assessing whether this requirement has been satisfied, thereby limiting the President's subjective discretion in determining circumstances that justify the issuance of a Perppu.<sup>36</sup>

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<sup>33</sup> Mahesa Rannie et al., "Does the Reform of the Parliamentary and Presidential Threshold Strengthen the Presidential System in Indonesia?" *Srinijaya Law Review* 8, no. 1 (2024): 133. See also, Kuswanto, "Consistency of the Presidential System in Indonesia," *Srinijaya Law Review* (2018): 178; Cecep Cahya Supena "Tinjauan tentang konsep negara hukum indonesia pada masa sebelum dan sesudah amandemen Undang-Undang Dasar Negara Republik Indonesia Tahun 1945," *Moderat: Jurnal Ilmiah Ilmu Pemerintahan* 9, no. 2 (2023): 377.

<sup>34</sup> Rachmat Trijono, "Demokrasi Indonesia Pasca Amandemen UUD NRI Tahun 1945 Dalam Perspektif Legislasi," *Jurnal Rechts Vinding Media Pembinaan Hukum Nasional* 2, no. 3 (2013): 348. See also, Asmara et al., "Konsep Penguatan Fungsi Legislasi Dewan Perwakilan Rakyat," 198; Yusuf, "Dampak Pemisahan Kewenangan antara Mahkamah Konstitusi dan Mahkamah Agung," 93.

<sup>35</sup> Tri Dian Aprilsesa, "Bab 4 Lembaga-Lembaga Negara dalam konteks hukum tata negara," *pengantar hukum tata negara: Sistem dan Struktur* (2025): 91. See also, Fajar, "Presidential government system strengthening," 119; Mutawalli et al., "Urgency of the Presidential Institution," 143.

<sup>36</sup> Helmi Ibrahim, "Penguatan Fungsi Kelembagaan DPR Pasca Perubahan UUD 1945 Dalam Sistem Pemerintahan Presidensial," *Varia Hukum* 31, no. 40 (2022): 82. See also, Yani, "Analisis Kontruksi Struktural dan Kewenangan DPR," 349; Santio, and Nasution, "Analisis Kewenangan Presiden Republik Indonesia," 159.

In the second dimension, the limitation and balance of power in Indonesia's constitutional practice reveal a weakening of the legislature's oversight function over the executive. The dominance of the governing coalition in parliament may reduce the independence of the DPR in carrying out its deliberative and oversight functions, causing its role to shift toward procedural and formal activities.<sup>37</sup> This condition weakens the principle of checks and balances through political practices without necessarily requiring formal amendments to constitutional provisions. Mietzner<sup>38</sup> identifies this tendency as part of the phenomenon of executive aggrandizement, namely the expansion of executive power accompanied by the weakening of institutional oversight mechanisms. The study by Setia Negara et al.<sup>39</sup> also links the enactment of the Job Creation Law to the tendency toward the expansion of executive power in the legislative process.

The third dimension, namely the quality of deliberation and meaningful public participation, reveals fundamental problems in executive-dominated law-making. The application of the omnibus method and the acceleration of legislative deliberations may limit opportunities for affected communities to express their views, have their aspirations considered, and receive explanations from law-makers.<sup>40</sup> This issue is reflected in Constitutional Court Decision Number 91/PUU-XVIII/2020, which declared the Job Creation Law conditionally unconstitutional due to procedural defects in its enactment, including deficiencies in fulfilling the requirements for meaningful participation, and ordered that the law be revised within a specified period.<sup>41</sup> However, the issuance of a Government Regulation in Lieu of Law (Perppu) to re-establish the substance of the regulation raises questions about the government's consistency in fulfilling the requirements for public participation. This move demonstrates that the use of executive-controlled instruments can perpetuate policy-making practices with limited

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<sup>37</sup> 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): 413. See also, Abdul Rahman Basri et al., "Lanskap Pemerintahan: Memahami Perbedaan dan Implikasi Sistem Presidensial, Parlementer, dan Semi Presidensial," *Journal of Governance and Local Politics (JGLP)* 6, no. 1 (2024): 66; Taufik, "Dinamika Dalam Penerapan Sistem Pemerintahan," 129.

<sup>38</sup> Mietzner, "Elite Collusion in Indonesia," 229.

<sup>39</sup> Setia Negara et al., "Indonesian Job Creation Law," 159.

<sup>40</sup> Dossy Iskandar Prasetyo, "The Political Shift in Legal Power of the Judiciary Post Constitutional Amendment," *Jurnal Hukum Unissula* 4, no. 1 (2024): 247. See also, Ibrahim, "Penguatan Fungsi Kelembagaan DPR," 85; Yani, "Analisis Kontruksi Struktural dan Kewenangan DPR," 342.

<sup>41</sup> Pratama, "Meaningful Participation," 139. See also, Aprilsesa, "Bab 4 Lembaga-Lembaga Negara dalam konteks hukum," 93; Rannie et al., "Does the Reform of the Parliamentary," 139.

deliberation, indicating that participation-related issues cannot be adequately resolved through formal procedural changes alone.<sup>42</sup>

The fourth dimension, namely justiciability and accountability, provides a mechanism for overseeing the law-making process, although its implementation remains largely reactive. Constitutional review mechanisms generally operate only after a law has been enacted and entered into force, as reflected in the Constitutional Court's formal review of the Job Creation Law.<sup>43</sup> Similarly, the DPR's approval of a Government Regulation in Lieu of Law (Perppu) constitutes a form of legislative oversight exercised after executive action has been taken, rather than an *ex ante* mechanism for limiting such action before it occurs.<sup>44</sup> The limited availability of effective preventive mechanisms creates a temporal gap in constitutional accountability, allowing potential democratic and constitutional deviations to persist until they are reviewed by the competent institutions. Consequently, constitutional correction may occur only after the disputed legal provisions have produced legal and institutional consequences.<sup>45</sup>

An evaluation of executive law-making instruments based on the four parameters of a democratic rule of law, namely legality and authority, limitations on and balance of power, the quality of deliberation and meaningful participation, and justiciability and accountability, reveals a gap between formal validity and the substantive fulfillment of democratic principles.<sup>46</sup> The use of the omnibus method and accelerated legislative procedures is not necessarily unconstitutional. Similarly, the issuance of Government Regulations in Lieu of Law (Perppu) has a constitutional basis, provided that the criteria of compelling urgency are satisfied.<sup>47</sup> However, the exercise of these powers continues to raise concerns regarding

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<sup>42</sup> On persistent participation deficits in analogous omnibus processes, see also, Fadillah, "Penerapan Asas Keterbukaan," 254; Muhammad Paputungan and Syaiful Bakhri, "Menyoal Pemenuhan Partisipasi Masyarakat yang Bermakna dalam Pembentukan Undang-Undang tentang Ibu Kota Negara," *Al-Qisth Law Review* 6, no. 2 (2023): 277.

<sup>43</sup> Usman, "The role of Indonesian Constitutional Court," 15. See also, Supena "Tinjauan tentang konsep negara hukum indonesia," 379.

<sup>44</sup> Idul Rishan, "Konsep Pengujian Formil Undang-Undang di Mahkamah Konstitusi," *Jurnal Konstitusi* 18, no. 1 (2021): 12.

<sup>45</sup> Agus Suntoro, and Kania Rahma Nureda, "Omnibus Law: Dominasi kekuasaan eksekutif dalam pembentukan legislasi." *Veritas et Justitia* 8, no. 1 (2022): 112. See also, Trijono, "Demokrasi Indonesia Pasca Amandemen UUD NRI," 349; Humaidi, and Rahmadanti, "Constitutional design of state policy as guidelines on Indonesia's presidential," 67.

<sup>46</sup> Veri Junaidi, and Viola Reininda, "Relasi Presiden dan DPR dalam pembentukan undang-undang pada sistem pemerintahan presidensial multipartai," *Jentera: Jurnal Hukum* 3, no. 1 (2020): 323.

<sup>47</sup> Hilda Halnum Salsabil et al., "Intruksi Presiden Dalam Negara Hukum: Kewenangan Eksekutif Atau Pelebaran Kekuasaan?" *Law Jurnal* 6, no. 1 (2025): 86. See also, Budi, and Supriyono, "Separation and Distribution of power in the concept of a democratic," 28; Agustiwati, "Keberadaan Lembaga Negara Pasca Amandemen," 16356.

limitations on power, particularly when the dominance of the governing coalition in parliament weakens the effectiveness of legislative oversight. This issue becomes more apparent in the issuance of Perppu, as the President may enact such regulations without prior DPR approval, while legislative oversight takes place through an approval mechanism after their issuance.<sup>48</sup> This condition underscores the importance of strengthening oversight mechanisms to ensure that the exercise of executive authority remains consistent with the principle of checks and balances within a democratic rule of law.

The most significant weaknesses lie in the quality of deliberation and meaningful participation, while justiciability and accountability remain dominated by ex post mechanisms, such as judicial review and parliamentary approval. Laws enacted using the omnibus method and accelerated procedures may limit opportunities for comprehensive deliberation and meaningful public participation.<sup>49</sup> Meanwhile, Perppu does not provide sufficient opportunities for meaningful ex ante legislative participation, as DPR approval is granted only after the regulation has been issued. Therefore, although these instruments may satisfy the parameters of legality and authority, their practical implementation reveals weaknesses in limiting executive power, maintaining meaningful democratic deliberation, and ensuring timely constitutional accountability.<sup>50</sup>

This evaluation indicates that executive-dominated legislation tends to satisfy formal legality requirements but continues to face weaknesses in maintaining the balance of power and ensuring meaningful public participation.<sup>51</sup> This gap between formal validity and substantive democratic fulfillment illustrates how legally valid instruments, in procedural terms, can be used in ways that potentially undermine the quality of democracy. This tendency is relevant to the concepts of abusive constitutionalism and autocratic legalism, which explain how legal instruments can be used to erode democratic principles, as well as studies on democratic

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<sup>48</sup> Asrinaldi, “Koalisi Model Parlementer dan Dampaknya,” 18. See also, Jon Elster, “Forces and Mechanisms in the Constitution-Making Process,” *Duke Law Journal* 45, no. 2 (1995): 367.

<sup>49</sup> Fajriatul Fuadi, “Pengawasan kekuasaan eksekutif oleh lembaga legislatif dalam sistem ketatanegaraan Indonesia dan prinsip hisbah dalam Islam,” *MADANLA Jurnal Hukum Pidana dan Ketatanegaraan Islam* 15, no. 1 (2025): 68. See also, Mulyani, “Kajian Normatif Mengenai Hubungan Antar Lembaga Negara,” 78.

<sup>50</sup> Sofiah Afifah, and Cecep Suhardiman, “Hubungan Antara Kekuasaan Eksekutif Dan Yudikatif Dalam Konteks Politik Hukum di Indonesia,” *Wacana Paramarta: Jurnal Ilmu Hukum* 23, no. 2 (2024): 85; Ridlwan, “Cita Demokrasi Indonesia dalam Politik Hukum,” 309.

<sup>51</sup> Ma’ruf Cahyono et al., “Restructuring Institutional and Legal Policies in Fostering the Ideology of Pancasila,” *Lex Publica* 7, no. 1 (2020): 29. See also, Barlian, and Karsa, “Fungsi dan Kewenangan Dewan Perwakilan Rakyat,” 413; Roziqin, and Sofyhan, “Kedudukan kelembagaan kementerian negara,” 234.

backsliding, which highlight democratic decline through institutional processes.<sup>52</sup> Therefore, when assessed against the principles of a democratic rule of law, executive dominance in legislation reflects a constitutional problem that extends beyond a mere trade-off between governmental efficiency and democratic quality.

### **3.3. Reconstructing Executive-Legislative Relations to Restore Constitutional Balance**

Restoring constitutional balance in law-making requires reforms that go beyond normative appeals for the executive to exercise self-restraint, given that executive dominance is rooted in institutional structures.<sup>53</sup> Therefore, reform should focus on reconstructing executive-legislative relations by realigning institutional incentives, strengthening checks and balances mechanisms, and guaranteeing meaningful legislative participation. From this perspective, constitutional engineering provides a useful framework for understanding institutions as systems of incentives and constraints. Accordingly, the proposed reconstruction encompasses two complementary dimensions: normative reconstruction and institutional reconstruction.<sup>54</sup>

At the normative level, reconstruction can be pursued through four proposed measures. First, the standards governing the delegation of authority should be tightened to ensure that the essential elements of a legal norm are established in the law itself, thereby limiting the transfer of substantive policy-making to executive regulations.<sup>55</sup> Second, meaningful public participation should be explicitly regulated in the Law on the Formation of Laws and Regulations as a requirement for valid law-making. Although Law Number 13 of 2022 has incorporated aspects of public participation, its provisions need to be strengthened to ensure that the principles developed by the Constitutional Court have clear binding force and do not merely serve as grounds for judicial review after a law has

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<sup>52</sup> Asrinaldi and Yusoff, "Power Consolidation," 7. See also, Diego Fossati, "Surviving Democratic Backsliding in Indonesia," *Global Asia* 19, no. 1 (2024): 72; Sujana, "Kedudukan dan fungsi Dewan Perwakilan Rakyat," 9; Kusuma et al., "Hubungan Fungsional antara Dewan Perwakilan Rakyat (DPR)," 223; Ridlwan, "Cita Demokrasi Indonesia dalam Politik Hukum," 309.

<sup>53</sup> Atmari, "Kritik terhadap Dominasi Eksekutif dalam Politik Anggaran: Tinjauan Teori Pemisahan Kekuasaan," *Saraq Opat: Jurnal Administrasi Publik* 8, no. 1 (2026): 4. See also, Sugiman, "Fungsi Legislasi Dpr Pasca Amandemen UUD Nkri 1945," 212; Karyati, "Desain Penguatan Pelaksanaan Fungsi Legislasi Dewan Perwakilan Rakyat," 3483.

<sup>54</sup> Widya Utami, "Perbandingan Kewenangan Badan Legislatif di Indonesia dan Amerika Serikat (Perspektif Pembuatan Undang-Undang)," *Staatsrecht: Jurnal Hukum Kenegaraan dan Politik Islam* 4, no. 1 (2024): 107. See also, Siti Partiah, "Studi Komparasi Hubungan Lembaga Eksekutif dengan Lembaga Legislatif antara Negara Indonesia dengan Negara Amerika Serikat," *As-Shahifah: Journal of Constitutional Law and Governance* 3, no. 2 (2023): 149.

<sup>55</sup> Aprilsesa, "Bab 4 Lembaga-Lembaga Negara dalam konteks hukum," 94. See also, Fajar, "Presidential government system strengthening," 112; Mutawalli et al., "Urgency of the Presidential Institution," 149.

been enacted.<sup>56</sup> Third, the use of the omnibus method and fast-track deliberation procedures should be subject to clear criteria to ensure adequate deliberation and careful examination of each article.<sup>57</sup> Fourth, the constitutional threshold of “compelling urgency” for issuing Government Regulations in Lieu of Law (Perppu) must be applied strictly in accordance with the objective criteria established by the Constitutional Court, preventing Perppu from becoming a routine instrument of executive law-making.<sup>58</sup>

At the institutional level, reconstruction is directed toward three main measures. First, the deliberative capacity of the DPR should be strengthened by providing technical support for bill drafting and developing independent research capabilities. These efforts are necessary to ensure that mutual approval between the DPR and the President is based on critical assessment and substantive consideration by the DPR, rather than merely following the executive’s agenda and directives.<sup>59</sup> Second, the presence of an effective opposition within the legislature must be ensured. The checks and balance’s function require space for differing views and criticism of government policies.<sup>60</sup> However, this function may be weakened when the governing coalition holds an overwhelming majority of parliamentary seats, thereby reducing the opposition’s capacity to oversee and counterbalance executive power. Third, public participation mechanisms should be strengthened by providing open access to draft legislation, conducting structured public hearings, and providing reasoned responses to public input. Institutionalizing these mechanisms is necessary to ensure that the public’s rights to be heard, to have their views considered, and to receive explanations from law-makers are fulfilled.<sup>61</sup>

The four-dimensional parameters formulated in this study serve two main functions in supporting this reconstruction. First, they serve as a legislative checklist to guide the President and the DPR in ensuring that the law-making process complies with the principles of a democratic rule of law. Second, they

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<sup>56</sup> On the partial and contested codification of participation in Law No. 13 of 2022. See also, Prastyo, “Limitation of Meaningful Participation Requirements,” 429.

<sup>57</sup> Rangga Wijaya, “Fungsi Mahkamah Konstitusi Dalam Pengujian Undang-Undang Terhadap Undang-Undang Dasar 1945,” *IJOLARES: Indonesian Journal of Law Research* 1, no. 1 (2023): 25.

<sup>58</sup> Salsabil et al., “Intruksi Presiden Dalam Negara Hukum,” 86. See also, Budi, and Supriyono, “Separation and Distribution of power,” 29; Agustiwi, “Keberadaan Lembaga Negara Pasca Amandemen,” 16359.

<sup>59</sup> Barlian, and Karsa, “Fungsi dan Kewenangan Dewan Perwakilan Rakyat,” 416.

<sup>60</sup> Despan Heryansyah, and Harry Setya Nugraha, “Relevansi putusan uji materi oleh Mahkamah Konstitusi terhadap sistem checks and balances dalam pembentukan undang-undang,” *Undang: Jurnal Hukum* 2, no. 2 (2019): 357.

<sup>61</sup> Ika Kurniawati, and Lusy Liany, “Kewenangan Mahkamah Konstitusi Sebagai Negative Legislator Dalam Pengujian Undang-Undang Terhadap Undang-Undang Dasar 1945,” *ADIL: Jurnal Hukum* 10, no. 1 (2019): 43.

provide an analytical framework for the Constitutional Court to assess the constitutionality of law-making procedures.<sup>62</sup> The application of these parameters can be strengthened through the adoption of various instruments developed in comparative constitutional practice. One such instrument is the sunset clause, which limits the validity period of delegated or emergency legal provisions unless they are explicitly extended following adequate deliberation. This mechanism transforms the executive's advantage arising from the automatic continuation of legal provisions into an obligation to provide periodic justification.<sup>63</sup> Meanwhile, requirements to conduct regulatory impact assessments and publish reasoned explanations for rejecting public input can strengthen deliberative obligations for decision-makers who disregard public participation.<sup>64</sup> These instruments do not eliminate the legitimate role of the executive in law-making; rather, they realign institutional incentives to ensure that efficiency is achieved through democratic deliberation.

However, the effectiveness of these institutional safeguards also depends on the ability to address political party interests and coalition dynamics that influence legislative decision-making in practice. The reconstruction of executive-legislative relations must also take into account the influence of political party interests on the legislative decision-making process.<sup>65</sup> Legislative outcomes are shaped not only by applicable constitutional provisions but also by political party strategies, coalition commitments, and the dynamics of political bargaining.<sup>66</sup> When party interests become dominant, members of parliament tend to prioritize coalition stability over exercising independent oversight of government proposals. This condition may weaken the representative function of the DPR and reduce the substantive quality of legislative deliberation. Therefore, restoring constitutional balance requires efforts to address the political dynamics that influence legislative

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<sup>62</sup> Religia Sahidna Putri, and Ratih Damayanti, "Kedudukan dan Fungsi Presiden dalam Sistem Pemerintahan Presidensial di Indonesia," *Bookchapter Hukum dan Lingkungan* 1 (2025): 1499. See also, Fathan Ali Mubiina, "Pola Hubungan Fraksi Dengan Lembaga Dewan Perwakilan Rakyat Republik Indonesia Pasca Reformasi," *Dikum: Jurnal Ilmu Hukum* 8, no. 1 (2020): 37.

<sup>63</sup> Wijaya, "Fungsi Mahkamah Konstitusi Dalam Pengujian Undang-Undang," 28. See also, Afifah, and Suhardiman, "Hubungan Antara Kekuasaan Eksekutif Dan Yudikatif," 88; Ridlwan, "Cita Demokrasi Indonesia dalam Politik Hukum," 302.

<sup>64</sup> Heryansyah, and Nugraha, "Relevansi putusan uji materi oleh Mahkamah Konstitusi," 356.

<sup>65</sup> Wahidur Roychan, and Ernawati Huroiroh, "Implikasi putusan Mahkamah Konstitusi terhadap proses pembentukan peraturan perundang-undangan di Indonesia," *QANUN: Jurnal Hukum Islam dan Tata Negara* 1, no. 2 (2025): 136. See also, Fuadi, "Pengawasan kekuasaan eksekutif oleh lembaga legislative," 66.

<sup>66</sup> Taufikurrahman, "Fungsi partai politik pada kekuasaan eksekutif dan legislatif berdasar pada sistem pemerintahan di Indonesia," *Jurnal Civics: Media Kajian Kewarganegaraan* (2019): 148. See also, Muh Yusuf, "Fungsi Legislasi Dewan Perwakilan Rakyat Dalam Sistem Ketatanegaraan Indonesia: Legislation Function of People's Representatives in Indonesian State Systems," *Clavia* 17, no. 1 (2019): 51.

behavior and to ensure that party affiliations do not override the DPR's constitutional responsibilities.<sup>67</sup>

The relationship between the executive and the legislature must also be understood within the context of Indonesia's multiparty presidential system. Although the presidential system formally separates the executive and legislative branches, political cooperation between the two remains necessary to ensure effective governance.<sup>68</sup> However, such cooperation becomes problematic when it undermines meaningful institutional independence. Political party configurations and election results can influence the distribution of power between the two branches, thereby determining both the government's ability to implement policies and the legislature's capacity to perform its oversight function. Therefore, institutional reform must take political incentives into account alongside constitutional arrangements to maintain an effective balance of power.<sup>69</sup>

Strengthening the constitutional position of the DPR also requires a reassessment of how legislative authority is exercised throughout the law-making process. The DPR's legislative function should not be assessed solely on the basis of its formal involvement in deliberations or its approval of bills.<sup>70</sup> Instead, the effectiveness of this function depends on the DPR's ability to independently establish legislative priorities, evaluate proposed legal provisions, and represent the interests of the public. This distinction is important because the formal recognition of legislative authority does not automatically guarantee its effective exercise.<sup>71</sup> Therefore, institutional reform should strengthen the DPR's substantive capacity in the law-making process and ensure that its constitutional responsibilities are exercised independently and accountably.<sup>72</sup>

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<sup>67</sup> Sholehuddin, and Arista Candra Irawati, "Dominasi Kepentingan Partai Politik Dalam Proses Legislasi di DPR: Sebuah Studi Hukum Konstitusi," *Iuris Studia: Jurnal Kajian Hukum* 7, no. 1 (2026): 293.

<sup>68</sup> Ichsan Maulana, and Zainal Arifin Hoesein, "Analisis Komparatif Kewenangan Checks and Balances Legislatif Indonesia dan Amerika Serikat dalam Perspektif Konstitusi di Kedua Negara," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 1 (2026): 5348. See also, Sujana, "Kedudukan dan fungsi Dewan Perwakilan Rakyat," 9; Kusuma et al., "Hubungan Fungsional antara Dewan Perwakilan Rakyat (DPR)," 223; Ridlwan, "Cita Demokrasi Indonesia dalam Politik Hukum," 309.

<sup>69</sup> Nina Andriana, "Pemilu dan relasi eksekutif dan legislative," *Jurnal Penelitian Politik* 11, no. 2 (2014): 29. See also, Sholehuddin, and Irawati, "Dominasi Kepentingan Partai Politik," 294.

<sup>70</sup> Budi, and Supriyono, "Separation and Distribution of power," 30. See also, Agustiwi, "Keberadaan Lembaga Negara Pasca Amandemen," 16359.

<sup>71</sup> Kurniawati, and Liany, "Kewenangan Mahkamah Konstitusi Sebagai Negative Legislator," 47.

<sup>72</sup> Dandi Saputra, and Nuraini Sahu, "Analisis Fungsi Legislasi Dewan Perwakilan Rakyat Republik Indonesia Ditinjau Dari Pemberlakuan Trias Politica," *Jurnal Mahasiswa Fakultas Syariah dan Hukum UIN Suska Riau* 2, no. 2 (2023): 353. See also, Yusuf, "Fungsi Legislasi Dewan Perwakilan Rakyat," 52.

Another aspect that requires attention is the constitutional boundary between legitimate executive involvement and the excessive concentration of legislative power. The President's involvement in law-making is constitutionally recognized, but such involvement must remain consistent with the institutional balance established under the 1945 Constitution of the Republic of Indonesia.<sup>73</sup> Therefore, executive authority must be exercised within constitutional limits and must not override the DPR's role in determining the substance of legislation. Examining the relationship between presidential power and legislative authority is important for identifying the boundaries of legitimate executive involvement. Comparative perspectives on legislative authority may also provide useful considerations for developing safeguards that preserve institutional independence while enabling effective cooperation between the executive and the legislature.<sup>74</sup>

#### 4. Conclusion

This study concludes that executive-dominated legislation in Indonesia is driven by four interrelated structural factors: the shared constitutional authority of the President and the DPR in law-making; the interaction between the presidential and multiparty systems, which encourages the formation of broad coalitions and elite collusion; the extensive delegation of legislative authority; and the use of legislative techniques that expand executive influence, including the omnibus method, fast-track deliberation procedures, and Government Regulations in Lieu of Law (Perppu). These factors strengthen executive influence even though the DPR is constitutionally positioned as the primary law-making institution. When evaluated against the principles of a democratic rule of law, executive-dominated legislation reveals a gap between formal legality and democratic legitimacy. Although executive involvement and the use of these legislative instruments have constitutional or legal foundations, their practical implementation may weaken limitations on and the balance of power, restrict meaningful public participation, and cause accountability to depend largely on DPR oversight or judicial review conducted after the relevant actions have taken place (ex post).

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<sup>73</sup> Aprilsesa, "Bab 4 Lembaga-Lembaga Negara dalam konteks hukum," 96. See also, Fajar, "Presidential government system strengthening," 118; Mutawalli et al., "Urgency of the Presidential Institution," 149.

<sup>74</sup> Khairul Umam et al., "Inkompatibilitas Kewenangan Legislasi Lembaga Eksekutif dalam Sistem Pemerintahan Presidensial Indonesia," *Journal Kompilasi Hukum* 9, no. 2 (2024): 135. See also, Hendra Wahanu Prabandani, "Batas Konstitusional Kekuasaan Eksekutif Presiden (Constitutional Limits of the Presidential Executive Power)," *Jurnal Legislasi Indonesia* 12, no. 1 (2015): 23; Utami, "Perbandingan Kewenangan Badan Legislatif," 109.

These findings confirm that the legitimacy of legislation is determined not only by compliance with legal procedures but also by the effectiveness of interinstitutional oversight, the quality of substantive deliberation, and public involvement in the law-making process. This study contributes a four-dimensional analytical framework encompassing legality and authority, the balance of power, deliberation and meaningful participation, and justiciability and accountability. The study recommends tightening standards for the delegation of authority, strengthening legally enforceable requirements for public participation, establishing safeguards for the use of the omnibus method and fast-track procedures, strictly applying constitutional criteria to the issuance of Government Regulations in Lieu of Law (Perppu), and strengthening DPR oversight, the role of the opposition, and public participation. These measures aim to restore constitutional balance while maintaining legislative efficiency.

The limitation of this study lies in its normative and doctrinal approach, which does not empirically evaluate the implementation or effectiveness of the proposed reforms. Future research could extend the application of this framework by examining a broader range of Indonesian laws, investigating legislative processes and stakeholder participation through empirical approaches, and conducting comparative studies of presidential democracies. Such approaches are expected to test the broader applicability of the framework while identifying effective constitutional safeguards to prevent the abuse and excessive expansion of executive power.

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