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The Politics of Law Regarding The Strengthening of The Checks and Balances System in The Indonesian Constitutional Order Post-Reform

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Abstract: This study aims to examine the legal policy regarding the regulation of the checks and balances system in Indonesia's post-reform constitutional framework and to determine the direction of legal policy for strengthening this system to realize the principles of the rule of law and constitutional democracy. A normative-juridical legal research method was employed. The findings indicate that the post-reform legal policy concerning the checks and balances system was directed at limiting state power through the division of authority among institutions, grounded in the principle of constitutional supremacy. Although these mechanisms were strengthened through amendments to the 1945 Constitution, their implementation continues to face various challenges. Therefore, strengthening institutional independence, accountability, and inter-institutional oversight is essential to optimally realize the principles of the rule of law and constitutional democracy. The direction of legal policy for strengthening the checks and balances system aims to establish a balance of power among state institutions, reinforce constitutional supremacy, and prevent the abuse of authority. By strengthening oversight mechanisms, accountability, and the independence of state institutions, the constitutional system is expected to effectively realize the principles of the rule of law and constitutional democracy.

Keywords: Politics of Law, System Strengthening, Checks and Balances, Constitutional Affairs, Post-Reform Era.

INTRODUCTION

The constitutional changes enacted through four amendments to the 1945 Constitution of the Republic of Indonesia (UUD 1945) between 1999 and 2002 represent a pivotal milestone in Indonesia's constitutional history. These amendments not only altered the state's institutional structure but also shifted the paradigm of state power moving away from a system heavily dominated by the executive branch toward a more democratic model that prioritizes the separation of powers and mechanisms of checks and balances. These changes were a response

to governance practices during the New Order era, which were characterized by a concentration of power within the executive branch, resulting in weak oversight functions and a lack of accountability among state institutions (Asshiddiqie, 2011; Mahfud MD, 2017).

From the perspective of the politics of law, the amendment of the 1945 Constitution represents a manifestation of state legal policy aimed at establishing a democratic constitutional system, ensuring the limitation of power, and reinforcing the supremacy of the constitution. This legal policy was implemented through the redistribution of authority among branches of state power, the creation of new state institutions such as the Constitutional Court and the Judicial Commission and the strengthening of the House of Representatives' oversight function regarding the government. Consequently, a system of checks and balances has become a primary foundation for the operation of a democratic state governed by the rule of law in Indonesia (Asshiddiqie, 2012; Chandranegara, 2016).

Nevertheless, post-Reformasi constitutional practice reveals that the strengthening of the system of checks and balances has not yet fully functioned effectively. Various constitutional dynamics still show a tendency toward the domination of power by specific branches of government, the weakening of parliamentary oversight due to oversized political coalitions, conflicts of authority among state institutions, and a rise in transactional politics that impacts the independence of state institutions. These conditions indicate that the constitutional design established through the amendments to the 1945 Constitution still faces implementation challenges, meaning the objective of limiting state power has not yet been fully realized (Wicaksono, 2021).

Furthermore, the evolution of national legal policy demonstrates that the relationship between law and politics is inherently dynamic. As Mahfud MD has noted, the character of legal products is heavily influenced by the political configuration prevailing within a country. A democratic political configuration tends to yield responsive legal products, whereas an oligarchic configuration has the potential to produce conservative ones. Consequently, the effectiveness of the system of checks and balances is determined not only by constitutional design but also by the direction of legal policy established by lawmakers and state officials (Mahfud MD, 2017; Rishan & Mochtar, 2025).

On the other hand, various constitutional developments in recent years have reignited the discourse regarding the effectiveness of the checks and balances mechanism in Indonesia. Debates concerning the relationship between the President and the House of Representatives (DPR), the authority of the Constitutional Court, the independence of the judiciary, and the enactment of various strategic laws demonstrate that relations between state institutions still present challenges in maintaining a balance of power. This situation indicates that strengthening the system of checks and balances cannot be achieved solely through constitutional amendments; it also requires an overhaul of the politics of law—one capable of reinforcing the independence of state institutions, clarifying the limits of authority, and enhancing effective oversight mechanisms (Suryono, 2020).

Checks and balances should not be reduced to a mechanical separation of three branches. In a modern constitutional state, power is distributed among elected institutions, courts, audit bodies, independent commissions, and public accountability mechanisms. Each institution receives a constitutionally limited mandate, yet it must also possess sufficient autonomy to scrutinise other power holders. The normative objective is not permanent institutional conflict, but a structured relationship in which public decisions can be questioned, justified, corrected, and, where necessary, invalidated. This understanding connects separation of powers with constitutional supremacy, legality, political accountability, and the protection of fundamental rights (Chandranegara, 2016; Vile, 1998).

The Indonesian case is distinctive because constitutional redesign operates within a presidential and highly fragmented multiparty system. Presidents have strong electoral legitimacy but commonly maintain broad legislative coalitions to secure policy support. Such

coalitions may promote governmental stability, yet they can also narrow parliamentary opposition and blur the institutional distinction between the government and its legislative overseers. Recent scholarship describes Indonesian governing coalitions as systematically oversized, thereby diluting the legislature's capacity to constrain presidential power even while coalition management imposes other political limits on the executive (Pepinsky, 2025). This tension demonstrates why the constitutional text and political incentives must be analysed together.

The central problem is therefore a gap between the formal architecture created through the 1999-2002 amendments and the practical capacity of institutions to control one another. Existing research often examines individual institutions, particular constitutional judgments, or the historical shift from MPR supremacy to constitutional supremacy. Less attention is given to the politics of law as an integrated reform framework connecting legislative oversight, judicial independence, appointment systems, public participation, decision compliance, and constitutional culture. This article fills that gap by treating checks and balances as a chain: failure at one point can weaken the accountability of the entire constitutional order.

Based on the foregoing, research into the legal policy regarding the strengthening of the checks and balances system within Indonesia's post-reform constitutional framework is crucial. Such research aims to examine the legal policy governing this system and the direction of policies intended to reinforce it, with the ultimate goal of realizing the principles of the rule of law and constitutional democracy. This study is expected to contribute to the development of constitutional law scholarship and serve as a basis for recommendations in formulating legal policies capable of strengthening Indonesia's constitutional system in the future. Accordingly, this study addresses two questions. First, how has Indonesia's post-Reformasi politics of law constructed and implemented the system of checks and balances? Second, what legal-political direction is required to strengthen that system in order to realise the rule of law and constitutional democracy? Its objective is both explanatory and prescriptive: to reconstruct the evolution and limitations of the existing arrangement and to propose reforms that are constitutionally grounded, institutionally feasible, and resistant to short-term political capture.

METHOD

This study employs a normative legal research method, focusing on an analysis of the legal norms governing Indonesia's constitutional system—specifically regarding the legal policy for strengthening the system of checks and balances in the post-Reformasi era. The normative legal research approach was selected because the study aims to examine the principles, concepts, and rules, as well as the synchronization of legislation, concerning the separation of powers and the relationships between state institutions under the 1945 Constitution and other relevant laws and regulations (Marzuki, 2021).

The research employs the statute approach, the conceptual approach, and the historical approach. The statute approach is used to analyze constitutional provisions and various laws and regulations governing the distribution of authority among state institutions. The conceptual approach is utilized to examine theories regarding the politics of law, the rule of law, the separation of powers, and the concept of checks and balances as developed within the study of constitutional law. Meanwhile, the historical approach is used to understand the direction of the politics of law regarding the formation of Indonesia's constitutional system before and after the Reform era, particularly through the amendments to the 1945 Constitution during the 1999–2002 period (Marzuki, 2021).

The types and sources of legal materials utilized consist of primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution, currently valid Decrees of the People's Consultative Assembly, statutes concerning state institutions, and Constitutional Court rulings relevant to the implementation of the checks and balances principle. Secondary legal materials comprise books, scholarly journal articles, research findings, and the opinions

of constitutional law experts regarding the politics of law and Indonesia's constitutional system. Tertiary legal materials consist of legal dictionaries, legal encyclopedias, and other reference materials that support the understanding of concepts employed in the research (Soekanto & Mamudji, 2015).

Legal materials were collected through library research, involving the identification, cataloging, and examination of various literature, legislation, court rulings, and scholarly publications relevant to the research subject. All legal materials were subsequently classified by theme to facilitate the analysis of the legal policy regarding the strengthening of the checks and balances system within the Indonesian constitutional framework.

The analysis of legal materials was conducted qualitatively using a prescriptive analytical method. It began by identifying the legal norms governing the checks and balances mechanism, followed by an examination of the alignment between the legal policy established through constitutional amendments and its implementation in state governance practices. Subsequently, various legal provisions were interpreted using grammatical, systematic, historical, and teleological approaches to formulate a comprehensive legal argument regarding the direction of legal policy aimed at strengthening the checks and balances system in post-Reformasi Indonesia. The findings of this analysis served as the basis for formulating conclusions and recommendations consistent with the principles of a democratic state governed by the rule of law.

The statutory analysis focuses on provisions governing the MPR, President, DPR, Regional Representative Council, Supreme Court, Constitutional Court, Judicial Commission, and Audit Board, together with legislation regulating judicial power and constitutional adjudication. The historical analysis compares the pre-amendment concentration of authority with the post-amendment horizontal distribution of constitutional functions. The conceptual analysis uses the politics of law, constitutional supremacy, limited government, separation of powers, accountability, and constitutional democracy as interpretive categories (Asshiddiqe, 2011; Mahfud MD, 2017; Vile, 1998).

Selected institutional controversies and Constitutional Court decisions are used as legal illustrations rather than as an empirical sample capable of establishing causal relationships. They are examined to determine how constitutional rules interact with political incentives, particularly in legislation, judicial appointments, institutional disputes, and compliance with judicial review. The study evaluates each mechanism through five criteria: institutional autonomy, capacity to demand reasons, power to prevent or correct abuse, transparency and participation, and availability of legal remedies. These criteria enable a distinction between the mere distribution of functions and an effective system of reciprocal constitutional control.

Because this is normative research, the study does not measure public attitudes or the internal behaviour of institutions through interviews. Its conclusions are prescriptions derived from legal interpretation and critical synthesis of published evidence. Political developments are considered only insofar as they illuminate the operation of constitutional norms. This limitation is addressed through source triangulation and by avoiding the assumption that formal amendment automatically causes democratic consolidation. The analysis instead asks whether each proposed reform is compatible with the 1945 Constitution, reinforces rather than displaces institutional responsibility, and protects both democratic decision-making and constitutional rights.

RESULTS AND DISCUSSION

Constitutional Transformation and the Legal Politics of Limited Power

The constitutional reforms undertaken between 1999 and 2002 marked a turning point in the evolution of Indonesia's system of state governance. Prior to the amendments to the 1945 Constitution, the configuration of state power positioned the President as the central figure in the administration of government. Although the pre-amendment Constitution did not explicitly

mandate an absolute presidential system, the political practice of the New Order era was characterized by a tendency toward executive dominance. The President wielded immense influence over government operations, the formulation of state policy, and relations with other state institutions. This situation hindered the optimal functioning of inter-institutional oversight mechanisms, thereby creating opportunities for the abuse of power (Asshiddiqie, 2011).

The post-Reformasi amendments to the 1945 Constitution represent a form of state legal policy aimed at restructuring Indonesia's constitutional system. This policy is directed toward establishing a democratic system of government that upholds the constitution as the supreme law. A primary objective of the constitutional amendments is to limit state power preventing its concentration within a single institution and to establish mechanisms for oversight among state organs based on the principle of checks and balances. The concept of checks and balances is a consequence of applying the principle of a democratic state governed by the rule of law, which necessitates the limitation of power. In modern constitutional theory, state power cannot be allowed to concentrate in a single institution, as this creates the potential for arbitrary action. Through his theory of the separation of powers, Montesquieu explained that state power must be divided into distinct branches so that they can mutually oversee and limit one another. However, the concept of the separation of powers has since evolved into the mechanism of checks and balances a system of inter-institutional relationships that enables mutual oversight without undermining the primary functions of the respective institutions (Bagir Manan, 2003; Budiardjo, 2018; Vile, 1998).

Post-Reformasi Indonesia does not implement an absolute separation of powers; instead, it employs a system of power distribution based on the principle of balance among state institutions. This is evident in the altered status of the People's Consultative Assembly (MPR) following amendments to the 1945 Constitution. Prior to these changes, the MPR was positioned as the supreme state institution, possessing the authority to determine the broad outlines of state policy and elect the President. Following the amendments, the MPR became a state institution with a status equal to that of other state institutions. This shift reflects a move from the supremacy of state institutions to the supremacy of the constitution.

The amendments altered the source and organisation of public authority without abandoning the presidential form of government. Popular sovereignty is exercised according to the Constitution rather than being institutionally monopolised by the MPR. Direct presidential election strengthened democratic legitimacy, while fixed presidential tenure, impeachment procedures, legislative participation, budget approval, judicial review, and audit mechanisms supplied different forms of control. The resulting arrangement is neither a strict tripartite separation nor a parliamentary fusion of executive and legislative authority. It is a constitutional distribution of functions in which cooperation and restraint are simultaneously required (Chandranegara, 2016).

From the standpoint of legal politics, this transformation represented a deliberate rejection of constitutional arrangements that permitted authority to accumulate through political practice. The amendment process sought to convert lessons from the New Order into institutional safeguards: clearer tenure, stronger representative institutions, independent judicial power, rights guarantees, and mechanisms for constitutional adjudication. Yet institutional multiplication is not synonymous with effective balance. An institution may exist formally while lacking appointment independence, information access, adequate resources, or authority to enforce its conclusions. The quality of checks and balances must therefore be assessed through actual relationships, not merely through an organisational chart.

Constitutional supremacy also changes the normative meaning of political legitimacy. Electoral victory authorises government, but it does not place elected institutions above constitutional rights or procedural limits. The President and DPR jointly produce statutes, yet their agreement remains reviewable by the Constitutional Court. Courts exercise independent power, but judicial independence does not exempt them from ethical accountability.

Independent commissions may supervise specialised fields, but their mandates must remain legally defined and judicially reviewable. Balance emerges from this reciprocal structure: autonomy prevents subordination, accountability prevents institutional impunity, and constitutional review supplies a corrective when ordinary politics fails (Buana, 2020).

Executive-Legislative Relations and the Problem of Oversized Coalitions

The strengthening of the system of checks and balances is also evident in the shift regarding the division of authority between the President and the House of Representatives (DPR). Prior to the Reform era, the President held a highly dominant position in the legislative process. Following the amendments to the 1945 Constitution, the DPR's legislative authority was strengthened, as affirmed by Article 20, which establishes that the DPR holds the power to enact laws. Although the President retains the right to propose bills and participate in deliberations with the DPR, the legislative process requires a mechanism of mutual approval. These provisions demonstrate a constitutional effort to establish a balance between the executive and legislative branches of government (Constitution of the Republic of Indonesia, 1945, art. 20).

In addition to its legislative function, the House of Representatives (DPR) is granted oversight authority exercised through the rights of interpellation, inquiry, and the expression of opinion as stipulated in Article 20A of the 1945 Constitution. Granting this authority represents a form of legal policy designed to strengthen the parliament's oversight role regarding the government. From the perspective of constitutional democracy, the existence of a legislative body with oversight functions is a crucial instrument for ensuring that executive power operates in accordance with legal principles and the public interest. However, in the practice of Indonesian governance, the effectiveness of the DPR's oversight remains problematic; the combination of a presidential system and a multiparty system often results in large political coalitions, thereby limiting the efficacy of the oversight function vis-à-vis the government (Constitution of the Republic of Indonesia, 1945, art. 20A).

Furthermore, the relationship between the President and the House of Representatives (DPR) demonstrates the implementation of a system of checks and balances. The President no longer holds legislative power as was the case prior to the constitutional amendments; instead, the President merely possesses the right to propose bills jointly with the DPR. Conversely, the DPR has gained stronger legislative, budgetary, and oversight functions regarding the conduct of government. At the same time, the President retains specific constitutional powers such as issuing Government Regulations in Lieu of Law (Perppu), appointing certain state officials, and conducting foreign relations though some of these actions require DPR approval. This dynamic illustrates that the division of authority is designed to prevent absolute dominance by any single branch of government.

Nevertheless, Indonesia's constitutional practice indicates that the mechanism of checks and balances is not yet functioning optimally. A recurring issue is the strong dominance of political coalitions in parliament, which diminishes the effectiveness of the House of Representatives' (DPR) oversight of the government. In a multiparty presidential system, governing coalitions often secure a majority in the DPR, thereby tending to weaken the function of political oversight. Consequently, oversight mechanisms rely more heavily on the judiciary, civil society, the mass media, and independent institutions than on the political oversight exercised by parliament.

The joint legislative model illustrates both cooperation and mutual dependence. The DPR holds the power to form statutes, while bills are deliberated jointly with the President. This prevents either institution from legislating unilaterally under ordinary procedures, but it also creates shared responsibility that can obscure accountability when controversial statutes are adopted. If government-supporting parties dominate deliberation, the requirement of joint approval may become an instrument of rapid consolidation rather than careful scrutiny.

Legislative balance therefore depends on transparent agendas, adequate deliberative time, access to evidence, and genuine opportunities for minority and public participation, not merely on the presence of two institutional signatures.

Parliamentary oversight rights are potentially powerful because interpellation demands explanations, inquiry investigates policies, and the right to express an opinion may trigger further constitutional processes. Their practical use, however, is shaped by party discipline and coalition bargaining. Oversized coalitions reduce the likelihood that governing parties will activate adversarial oversight against their own executive partners. Pepinsky (2025) argues that this pattern dilutes legislative constraint, while the complexity of maintaining broad coalitions also creates informal bargaining costs for the President. The result is not an absence of restraint, but a shift from visible constitutional oversight toward opaque intra-coalition negotiation. Such negotiation cannot replace public answerability.

Strengthening this relationship does not require importing a parliamentary opposition model wholesale. Indonesia can preserve presidential stability while protecting oversight pluralism through procedural rights for minority factions, guaranteed committee access to government information, public reasons for rejecting inquiry proposals, and stronger post-legislative evaluation. The DPR's budgetary function should also be integrated with performance and compliance review so that appropriations are not treated merely as annual political bargaining. Oversight should focus on legality, outcomes, rights effects, and implementation, while avoiding intervention in individual law-enforcement or judicial cases.

The President's constitutional powers likewise require differentiated controls. Appointments, emergency regulations, treaty-making, national budgeting, and the use of administrative rulemaking each produce distinct risks. A general appeal to presidential mandate is insufficient because checks must correspond to the legal character of the power exercised. Ex ante approval is appropriate for some acts, judicial review for others, and ex post reporting or audit for administrative implementation. Good constitutional design matches the controlling institution and procedural intensity to the seriousness, urgency, reversibility, and rights impact of the executive measure.

Constitutional Adjudication, Judicial Independence, and Accountability

One of the most fundamental changes to the system of checks and balances following the Reform era was the establishment of the Constitutional Court (MK). The creation of the Court, brought about by the Third Amendment to the 1945 Constitution, served to reinforce the principle of constitutional supremacy. The Court is empowered to conduct judicial reviews of laws against the 1945 Constitution, adjudicate disputes regarding the authority of state institutions, rule on the dissolution of political parties, and resolve election result disputes. These powers position the Court as a pivotal institution in maintaining the balance of state power, as it can rectify legislative or executive actions that conflict with the Constitution (Constitution of the Republic of Indonesia, 1945, art. 24C).

In the context of checks and balances, the Constitutional Court's authority to review legislation is significant because it enables the judiciary to oversee political products generated by the legislature and the government. The existence of the Constitutional Court demonstrates that democracy is not based solely on the majority principle but must also be constrained by constitutional values and the protection of citizens' rights. Consequently, the Court serves as a key instrument in ensuring that the political process remains within constitutional boundaries (Laksono, 2017).

In addition to the Constitutional Court, the establishment of the Judicial Commission (KY) is part of the legal policy aimed at strengthening oversight mechanisms for the judiciary. The KY was established to safeguard both the independence and accountability of judicial institutions. Prior to the Reform era, the oversight of judicial conduct relied largely on internal mechanisms, which were deemed insufficiently effective. The KY was introduced as an

external body tasked with upholding the honor and dignity of judges. However, the practical relationship between the KY and the Supreme Court reveals a dynamic regarding their respective authorities, demonstrating that the system of checks and balances within the judicial branch continues to evolve.

The legal-political direction toward strengthening checks and balances is also reflected in the establishment of various new state institutions tasked with overseeing the exercise of power. The creation of the Constitutional Court and the Judicial Commission, along with the strengthening of the Audit Board, forms part of the constitutional design to enhance the accountability of state governance. The Constitutional Court, for instance, is empowered to conduct judicial reviews of statutes against the 1945 Constitution, enabling the invalidation of legislation that conflicts with the Constitution. This authority demonstrates that the legislature is no longer an institution exempt from constitutional oversight.

In the context of the evolution of Indonesian constitutional law, the direction of legal policy must also prioritize strengthening the independence of the judiciary. An independent judiciary is a cornerstone of the rule of law, serving as the ultimate check on government actions and legislative enactments. The independence of the Supreme Court and the Constitutional Court must be safeguarded through transparent judicial recruitment processes, independent ethical oversight mechanisms, and protection against political interference. Without an independent judiciary, the system of checks and balances would lose its effectiveness, as there would be no institution capable of objectively rectifying constitutional violations.

Judicial review is the clearest legal mechanism through which political decisions are tested against superior constitutional norms. The Constitutional Court may invalidate statutes, condition their interpretation, or identify legislative duties arising from the Constitution. This authority inevitably places the Court at the intersection of law and politics, because constitutional adjudication evaluates products created by elected institutions. Its legitimacy therefore depends on reasoned judgments, procedural openness, consistency, and independence rather than on electoral accountability. A court that merely follows political majorities cannot perform its checking function; a court that provides no principled reasons risks replacing accountable politics with judicial preference (Buana, 2020; Laksono, 2017).

The relationship between the Court and lawmakers should be understood as constitutional dialogue rather than institutional supremacy. A judgment binds state institutions, but implementation may require new legislation, budgetary choices, or administrative measures. Lawmakers remain free to select among constitutionally permissible solutions, yet they may not reproduce a norm whose unconstitutional substance has already been established. Regular legislative tracking of Constitutional Court decisions, explicit compliance statements in bills, and publicly accessible implementation reports would make this relationship more accountable. Repeated non-compliance or strategic delay weakens constitutional supremacy even when the Court's formal authority remains intact.

Judicial independence has institutional, personal, decisional, and financial dimensions. Appointment procedures must reduce conflicts of interest and require transparent criteria; tenure rules must protect judges from retaliation; case assignment and deliberation must be insulated from external direction; and courts require sufficient resources to perform their functions. At the same time, ethics mechanisms must address misconduct without becoming instruments for political removal. Recent scholarship warns that periodic political evaluation of constitutional judges by nominating institutions can undermine impartiality by making continued tenure dependent on actors whose laws and actions the judges review (Rishan, 2024).

The Judicial Commission was designed to introduce external ethical accountability while preserving decisional independence. Tension with the Supreme Court illustrates the need to separate review of judicial reasoning from review of conduct. Disagreement with a judgment must be addressed through appeal, review, or lawful criticism; it should not automatically

become an ethical allegation. Conversely, claims of independence cannot shield bribery, undisclosed conflicts, improper communication, or serious breaches of judicial integrity. Clear jurisdiction, joint protocols, procedural fairness for judges, and transparent publication of final ethical outcomes can transform institutional rivalry into complementary accountability.

Indonesia's divided system of judicial review also requires coordination. The Constitutional Court reviews statutes against the Constitution, while the Supreme Court reviews subordinate regulations against statutes. These jurisdictions are textually distinct, yet norms form a hierarchy and proceedings may interact. Conflicting timing or interpretive premises can generate uncertainty. Improved notification between courts, accessible databases, suspension mechanisms where a controlling statute is under constitutional review, and consistent reasoning about hierarchy would strengthen systemic coherence without requiring one court to dominate the other.

Independent Institutions, Public Participation, and Constitutional Culture

Another issue is the emerging trend of expanding the authority of certain institutions through legislation a process not always accompanied by the strengthening of accountability mechanisms. This phenomenon indicates that law-making has not yet fully aligned with the principle of limiting power, a fundamental requirement of a democratic state governed by the rule of law. From the perspective of the politics of law, this situation reveals a disconnect between constitutional objectives and the legislative policies produced by lawmakers. Consequently, future legal policy must focus on formulating regulations that enhance transparency, accountability, and public participation in the state policy-making process.

Strengthening checks and balances must also be understood as part of the effort to realize a constitutional democracy. Constitutional democracy requires not only governance based on the majority will but also the protection of citizens' constitutional rights, respect for the rule of law, and the limitation of power through the constitution. Miriam Budiardjo emphasized that modern democracy can only function if government power is constrained by law, preventing it from devolving into authoritarian rule. Therefore, the system of checks and balances serves a strategic function as an instrument for maintaining a balance between effective governance and the protection of citizens' freedoms (Budiardjo, 2018).

Beyond institutional aspects, the strengthening of the system of checks and balances must also be supported by a constitutional culture. The constitution should be understood not merely as a legal document, but as a set of values to be upheld by all state officials. A high level of constitutional awareness encourages every state institution to exercise its authority proportionately while respecting the authority of other institutions. Consequently, conflicts regarding jurisdiction can be resolved through legal mechanisms rather than through mere political dominance.

Checks and balances extend beyond the classical branches because contemporary governance delegates substantial authority to audit, electoral, anti-corruption, human-rights, monetary, and regulatory institutions. Their legitimacy rests on specialised mandates and relative insulation from ordinary political direction. Yet independence must not mean absence of control. Statutes should define transparent appointments, incompatibilities, tenure, dismissal grounds, reporting duties, audit, access to information, and judicial remedies. Legal reforms that transfer an independent supervisory function into an executive body should be accompanied by a clear explanation of how external verification and conflicts of interest will be managed.

Public participation is a constitutional accountability mechanism rather than a ceremonial addition to legislation. Meaningful participation requires timely publication of drafts, access to the evidence supporting policy choices, reasonable opportunity to comment, inclusion of affected groups, and reasoned responses to substantial objections. It strengthens checks and balances by allowing citizens, academics, professional organisations, civil society, and the

media to expose information asymmetries and identify rights impacts before decisions become entrenched. Participation does not give each participant a veto, but it obliges state institutions to listen and justify their choices within a transparent deliberative process.

Transparency must be designed around usable information. Publishing thousands of pages shortly before a decision does not create effective scrutiny. Legislative calendars, amendment histories, attendance, voting records, budget consequences, constitutional-impact assessments, and follow-up reports should be accessible in formats that permit comparison. Exceptions for national security, personal data, or investigative confidentiality must be narrow, legally based, and reviewable. This approach converts openness from passive document availability into an infrastructure of public reason.

Constitutional culture is the bridge between rules and conduct. Officials must internalise that temporary control of an institution does not confer ownership of its powers. Self-restraint is especially important where legal discretion is broad or sanctions are difficult to impose. Political parties also bear responsibility because recruitment, coalition agreements, and internal discipline shape the behaviour of the President and legislators. Civic education, reasoned institutional practice, professional ethics, and public criticism together sustain a culture in which constitutional limits are viewed as democratic commitments rather than tactical obstacles.

Informal accountability actors cannot substitute for formal institutions, but they can activate them. Investigative journalism may reveal facts that prompt parliamentary inquiry; civil society litigation may trigger judicial review; academic analysis may improve legislative design; and public monitoring may expose non-compliance with judgments. The state should protect expression, association, access to information, and the safety of participants so these pathways remain open. A constitutional order becomes fragile when formal checks are politically dormant and informal critics are unable to operate freely.

The Future Direction of Legal Policy

Indonesia's state governance system underwent a fundamental transformation following the amendments to the 1945 Constitution. Prior to the reform era, the constitutional configuration tended to position the People's Consultative Assembly (MPR) as the supreme state institution, endowed with dominant authority. This model fostered hierarchical relationships among state institutions, resulting in ineffective oversight mechanisms regarding the exercise of state power. The concentration of power within the executive branch during the New Order era demonstrated that weak power-control mechanisms could lead to abuses of authority, corruption, and the erosion of protections for citizens' constitutional rights. Consequently, the constitutional reform agenda sought to establish a more democratic governance system through the separation of powers, accompanied by mechanisms for checks and balances among state institutions (Asshiddiqie, 2011).

Legal policy, in the context of strengthening the system of checks and balances, essentially represents the direction of legal policy formulated by the state to ensure that every holder of power operates within constitutional boundaries. According to Mahfud MD, legal policy refers to the state's policy regarding the laws to be implemented in order to achieve the national goals enshrined in the constitution. Thus, strengthening the system of checks and balances is not merely a matter of institutional design; rather, it is a choice of legal policy aimed at realizing state governance grounded in the principles of the rule of law (*rechtsstaat*) and constitutional democracy (Mahfud MD, 2017).

From the perspective of the rule-of-law theory, the limitation of power is a fundamental requirement to prevent power from becoming absolute. This concept was first articulated by John Locke and later refined by Montesquieu through the theory of *trias politica*, which divides state power into legislative, executive, and judicial functions. This division is intended to prevent the concentration of power within a single institution, thereby enabling each branch of

power to exercise checks and balances on the others. Although Indonesia does not implement a strict separation of powers in the manner of Montesquieu's classical concept, amendments to the 1945 Constitution demonstrate a trend toward strengthening mechanisms of mutual oversight among state institutions through a more proportional distribution of authority (Vile, 1998).

Constitutional amendments also shifted the paradigm of inter-institutional relations from a system of MPR supremacy to one of constitutional supremacy. Under this system, all state institutions derive their legitimacy directly from the constitution and hold equal status in accordance with their respective constitutional functions. Jimly Asshiddiqie explains that no single state institution holds supreme authority, as all institutions are subject to the constitution as the supreme law. This shift represents a manifestation of the legal politics of the Reform era, which positions the constitution as the primary instrument for limiting state power (Asshiddiqie, 2012).

Based on the foregoing, it is evident that the political-legal direction for strengthening the system of checks and balances within Indonesia's constitutional framework aims to reinforce limits on state power, enhance the accountability of state officials, guarantee the protection of citizens' constitutional rights, and establish the supremacy of the constitution as the foundation of a democratic state governed by the rule of law. Such strengthening cannot be achieved solely through regulatory changes; it also requires political commitment, the independence of state institutions, public participation, and a robust constitutional culture. In this way, the principles of the rule of law and constitutional democracy can be realized substantively, rather than existing merely as written norms within the constitution.

The first direction of reform is to protect institutional autonomy through transparent and merit-based appointments. Selection criteria, conflicts of interest, candidate records, public input, reasons for appointment, and dismissal procedures should be legally specified. Where several branches nominate officeholders, each should apply equivalent minimum standards so plural appointment does not become fragmented patronage. Cooling-off periods may be considered for candidates moving directly from partisan office into institutions that adjudicate or supervise political actors. The objective is not to depoliticise every appointment, which may be impossible, but to discipline political choice through public criteria and reviewable procedure.

Second, legislative politics should be reoriented toward deliberative constitutionalism. Bills with major institutional or rights consequences should include a constitutional-impact assessment explaining the legal basis, affected powers, rights limitations, oversight arrangements, and relationship with relevant court decisions. Accelerated procedures should be exceptional, justified, and accompanied by minimum participation guarantees. Post-legislative scrutiny should evaluate whether a statute achieved its objectives, produced unintended concentration of power, or generated recurrent constitutional litigation. These mechanisms would make the politics of law a continuous cycle of design, implementation, evaluation, and correction.

Third, parliamentary oversight should be strengthened institutionally rather than merely rhetorically. Minority factions require realistic opportunities to initiate hearings, obtain documents, question officials, and record dissent. Committees need independent research capacity and follow-up systems for recommendations. Oversight findings should state the legal standard, evidence, government response, corrective action, and implementation deadline. This would distinguish constitutional supervision from partisan spectacle and allow citizens to evaluate whether the DPR's legislative, budgetary, and oversight functions operate coherently.

Fourth, constitutional adjudication requires a compliance architecture. The DPR and Government should maintain a joint public register of decisions requiring legislative action, identify the responsible institution, establish a response timetable, and explain the chosen remedy. Courts should formulate orders with sufficient clarity while respecting the policy space

of elected branches. When immediate invalidation would produce a legal vacuum, temporal modulation may be used cautiously and with explicit reasons. Compliance review must not reopen final judgments; it should document whether constitutional defects have actually been repaired.

Fifth, judicial governance must combine independence with integrity. Recruitment and promotion should be merit-based, proceedings should be reasonably transparent, ethics bodies should possess clear authority and fair procedures, and court budgets should be protected from retaliatory manipulation while remaining publicly audited. Judicial decisions must be accessible, searchable, and supported by coherent reasoning. These measures strengthen public trust because independence is most defensible when courts demonstrate professional competence, consistency, and accountability.

Sixth, independent state institutions should be evaluated according to function rather than political convenience. Before an institution is abolished, merged, or placed under executive control, lawmakers should assess whether its supervisory purpose requires structural independence, whether the receiving body faces conflicts of interest, and which remedies remain available. Periodic review is legitimate, but it should examine mandate overlap, effectiveness, rights impact, and accountability without presuming that consolidation is inherently efficient. The correct institutional form depends on the constitutional risk addressed.

Seventh, constitutional reform should follow the principle of minimum necessary amendment. Many weaknesses can be addressed through legislation, parliamentary rules, appointment procedures, inter-institutional protocols, and faithful implementation of existing constitutional provisions. Formal constitutional amendment should be reserved for problems that cannot be repaired at a lower normative level and should be preceded by inclusive deliberation, comparative study, and an assessment of unintended consequences. Frequent amendment driven by immediate political advantage may destabilise the constitutional settlement rather than strengthen it.

These reforms form a multidimensional model of effective checks and balances. The model has five mutually reinforcing elements: autonomy, so institutions can act without improper direction; answerability, so power holders must give public reasons; control, so unlawful action can be prevented or corrected; participation, so affected citizens can influence and scrutinise decisions; and constitutional culture, so actors exercise self-restraint even where formal sanctions are incomplete. Weakness in one dimension should be diagnosed as a system risk because autonomy without accountability produces impunity, while accountability without autonomy produces subordination.

The ultimate test is substantive rather than institutional. Checks and balances should protect citizens from arbitrary power, secure lawful and effective government, preserve spaces for democratic disagreement, and provide remedies when rights are violated. Institutional conflict is not always evidence of failure; it may reflect the legitimate performance of constitutional duties. Failure occurs when conflict is resolved through political intimidation, opaque bargaining, or disregard of binding law. A mature constitutional system transforms disagreement into reasoned procedures and accepts correction as part of democratic legitimacy.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

The author concludes that the legal policy governing Indonesia's post-reform checks and balances system is intended to limit state power by distributing authority among state institutions based on the principle of constitutional supremacy. Although amendments to the 1945 Constitution have strengthened this system, its implementation continues to encounter various challenges. Therefore, the independence and accountability of state institutions, as well as inter-institutional oversight mechanisms, must be strengthened to maintain a balanced distribution of power and prevent the abuse of authority. Through these efforts, the

constitutional system is expected to realize the principles of the rule of law and constitutional democracy more effectively.

Recommendations

The author recommends that legal policy concerning the checks and balances system within Indonesia's post-reform constitutional structure remain focused on strengthening oversight among state institutions. This policy should be implemented through the enactment and refinement of legislation that ensures a balanced distribution of authority, institutional independence, accountability, and effective oversight mechanisms. Moreover, consistent adherence to the Constitution, a strong commitment among state officials to uphold constitutional supremacy, and the development of a constitutional culture are essential. These measures will enable the checks and balances system to function effectively and sustainably in realizing a democratic state governed by the rule of law.

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