

The Dilemma of Checks and Balances, Human Rights Protection, and Judicial Independence in Indonesia

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ABSTRACT

The 1998 post-reform amendments to the 1945 Constitution marked a new era in the development of the rule of law in Indonesia, with an emphasis on the separation of powers, the protection of human rights, and the independence of the judiciary. However, more than two decades later, the implementation of this vision is still faced with various structural and practical challenges. This article critically evaluates the effectiveness of state institutional arrangements, particularly the trias politica, in maintaining checks and balances of power and accountability between the executive, legislative and judicial branches. In addition, it discusses the extent to which human rights guarantees explicitly stated in the constitution have been realized through laws and daily law enforcement, including the gap between ideal norms and field realities that often disadvantage vulnerable citizens. Finally, the article reveals the main obstacles in realizing the rule of law, such as political interference with the judiciary and the lack of autonomy of judges, which impede a fair and independent judiciary. Through an analysis of constitutional documents, empirical cases, and current literature, the study concludes that while the legal foundations are strong, systemic dilemmas such as institutional corruption and weak oversight are major impediments. Recommendations include further reforms to strengthen accountability mechanisms and public legal education, in order to realize a truly inclusive and sustainable rule of law.

Keywords: Checks and Balances, Constitutional Amendment, Human Rights Protection, Judicial Independence, Rule of Law

INTRODUCTION

Indonesia's political reforms following the fall of the New Order regime in 1998 opened a new chapter in the country's constitutional history. One of the main milestones was the four amendments to the 1945 Constitution between 1999 and 2002, which aimed to transform Indonesia from an

authoritarian state to a democratic rule of law. These changes strengthened the principle of *trias politica* by limiting the powers of the president, expanding the roles of the DPR and DPD, and affirming the independence of the Constitutional Court and the Supreme Court. In addition, the newly added Chapter XA explicitly regulates human rights as a key foundation, reflecting a commitment to the rule of law and the protection of citizens.

However, more than two decades after these constitutional reforms, Indonesia continues to struggle with persistent implementation gaps that undermine the transformative promise of these amendments. Despite the progressive legal framework, the persistence of these challenges stems from three interconnected structural problems: first, the endurance of informal power networks and political oligarchies that operate outside formal constitutional constraints; second, the path-dependent nature of institutional behavior inherited from authoritarian practices that resist formal legal changes; and third, the absence of effective enforcement mechanisms to translate constitutional principles into consistent governance practices. These persistent deficiencies have created a situation where constitutional ideals coexist with practices that frequently contradict them, raising fundamental questions about whether institutional redesign alone can achieve democratic consolidation without addressing underlying political culture and enforcement capacity.

Behind these normative advancements, a crucial question arises: to what extent has post-amendment implementation been able to realize the ideal vision of the rule of law? This article explores critical dilemmas in the implementation of Indonesia's rule of law, focusing on three essential pillars: balance of power, human rights guarantees, and judicial autonomy. First, an evaluation of the constitutional structure shows that although checks and balances have been better designed, their consistency is often disrupted by opportunistic political dynamics, such as inter-institutional conflicts that undermine accountability. Second, although the constitution comprehensively

guarantees human rights, the practice of legislation and law enforcement still shows significant gaps, where cases of violations against minority groups or victims of violence are often overlooked due to weak coordination between agencies. Third, the independence of the judiciary as the last bastion of the rule of law faces severe challenges, including executive influence and internal corruption that undermine public confidence in due process.

Through an analytical approach that combines constitutional review, case studies and interdisciplinary perspectives, this article makes three original contributions to the literature on constitutional implementation in post-authoritarian democracies. First, it provides a systematic framework for diagnosing the specific mechanisms through which constitutional provisions fail to translate into practice, moving beyond descriptive accounts to identify precise institutional bottlenecks. Second, it offers empirically grounded policy recommendations for strengthening accountability mechanisms, including concrete proposals for judicial reform, legislative oversight enhancement, and civil society engagement that are calibrated to Indonesia's specific institutional context. Third, it contributes to comparative constitutional theory by demonstrating how the interaction between formal institutional design and informal political practices determines the effectiveness of constitutional guarantees, offering insights applicable to other transitional democracies facing similar implementation challenges. The main findings are expected to inform further reform discussions, so that Indonesia not only has a solid legal framework, but also practices that truly uphold justice and popular sovereignty.

RESEARCH METHOD

This study employs a normative juridical method combined with a legal history approach to critically evaluate the implementation of rule of law principles in post-amendment Indonesia. The research relies on secondary

data obtained from various library sources including constitutional texts, laws, regulations, official government documents, Constitutional Court decisions, legislative records, and related scholarly literature such as books, journal articles, and previous studies on Indonesian constitutional reform.

The normative juridical approach focuses on the study of positive law, namely examining applicable legal norms and vertical and horizontal synchronization between regulations. The analysis is done descriptively and analytically to explain changes in the structure of state institutions, the distribution of power, and the implementation of the principles of democracy and the rule of law after the amendment. In particular, this research also utilizes a legal history approach to trace the development of the Indonesian state administration before and after the amendment of the 1945 Constitution, so that the study is not only normative but also contextual to the socio-political dynamics behind the changes. This method allows in-depth identification of the successes and challenges that arise in the practice of regulating state institutions, checks and balances mechanisms, and accountability of new state institutions. The overall data collected is analyzed using qualitative methods with the aim of providing a comprehensive and critical picture of the effectiveness and consistency of post-amendment state institutional arrangements. Because the analysis is oriented towards legal conception and interpretation as well as empirical observation of institutional reality, the research is descriptive-analytical, producing findings that can be the basis for policy recommendations and in-depth academic studies. In summary, the research uses:

- Normative juridical method (positive law study)
- Legal history approach
- Secondary data analysis from literature sources
- Qualitative descriptive and analytical analysis

These approach is suitable for answering questions about constitutional changes, evaluation of state institutions, and state mechanisms in the corridor of the rule of law and democracy in Indonesia after the amendment of the 1945 Constitution. To enhance methodological reliability and validity, this study employs a multi-source triangulation strategy. Data triangulation is achieved by cross-referencing multiple types of sources: published constitutional documents, Constitutional Court jurisprudence, legislative records and parliamentary documents.

RESULT AND DISCUSSION

Based on normative analysis of constitutional provisions, jurisprudence review of Constitutional Court decisions, and examination of documented inter-institutional conflicts between 1999-2024, this study identifies three critical implementation deficits in Indonesia's post-amendment constitutional framework. First, the analysis of Constitutional Court rulings on institutional authority disputes reveals that power distribution mechanisms remain ambiguous, with some cases stemming from overlapping jurisdictions between DPR and DPD. Second, document analysis of legislative records shows that despite formal bicameral design, the DPD's legislative influence is limited, indicating structural imbalance. Third, case review of documented instances of executive-judicial tension demonstrates that judicial independence is compromised by budget dependency and political appointment processes. These findings, derived from systematic constitutional document analysis and institutional practice examination, demonstrate that while the 1945 Constitution amendments succeeded in reducing executive concentration of power, they created new structural tensions that undermine the realization of effective checks and balances, comprehensive human rights protection, and genuine judicial autonomy.

The post-amendment direct election of the President and Vice President has increased the accountability of public officials and strengthened

democratic legitimacy. State institutions have become more balanced between the executive, legislative and judiciary with the establishment of new institutions such as the Constitutional Court (MK) which is the guardian of the constitution and the supervisor of the division of power between institutions. In addition, the establishment of the Regional Representative Council (DPD) as regional representatives in the legislative bicameral system adds a dimension of control and representation of regional citizens that previously received less attention.

However, although normatively and structurally there is progress and institutional strengthening, in practice there are still a number of challenges. Existing checks and balances mechanisms have not been fully effective in overcoming complex political dynamics and vested interests or groups of political elites that can hinder transparent and accountable governance. For example, policies and decisions of the legislature are sometimes still influenced by short-term political interests and party power, so that oversight of the government is not always optimal. The imbalance of power between the DPR and DPD is also an issue that disrupts the balance of the ideal bicameral system.

In the realm of the judiciary, the amendment introduces the Constitutional Court which specifically has the function of testing laws against the constitution and resolving disputes between state institutions. The presence of the Constitutional Court provides new power to uphold the principle of the rule of law. However, the independence and effectiveness of the Constitutional Court continues to be tested by various issues, including political pressure, limited resources, and challenges to the selection process of judges, which is sometimes still viewed as political by the public. In addition, the Judicial Commission as an institution that oversees the integrity of judges still faces obstacles in optimizing its role, so that justice enforcement still requires continuous improvement.

Overall, the amendments to the 1945 Constitution provide a more democratic legal framework with clearer oversight mechanisms between state institutions and the strengthening of people's rights in the political process. These changes are in line with the ideals of a rule of law that upholds the rule of law, democracy and public accountability. On the other hand, implementation in the field presents considerable challenges related to the consistency and effectiveness of the functions of state institutions. Political dynamics, bureaucratic culture and corruption issues are the main inhibiting factors.

In terms of political culture, pragmatic political practices and the dominance of political parties in the legislature have a strong influence on the scope and results of oversight of the executive. Therefore, despite better legal and institutional frameworks, transactional politics often hinder the realization of the principle of healthy checks and balances. In addition, accountability of public officials has not always been transparent and thorough, requiring bureaucratic reform and stricter internal regulation of institutions.

Furthermore, the gap between existing norms in the constitution and implementation in the field emphasizes the need to strengthen independent internal and external oversight mechanisms, including strict and consistent anti-corruption law enforcement. Improving the quality of human resources in law enforcement and oversight institutions is also key to ensuring the realization of fair and equitable justice. On the other hand, public awareness and participation in overseeing the course of government is a determining factor in the balance of power amid the growing dynamics of democracy.

In summary, this study concludes that the amendments to the 1945 Constitution have brought Indonesia towards a more democratic constitutional reform with a more proportional division of power and a strengthened checks and balances mechanism. However, the implementation challenges in the field are still enormous, which requires seriousness and

continuous commitment from all elements of the nation to realize the ideals of a democratic and socially just rule of law.

Effectiveness and Consistency of State Institutional Arrangements and the Division of Power after the Amendment of the 1945 Constitution

The amendment of the 1945 Constitution, which was carried out in four stages between 1999 and 2002, brought about fundamental changes in the Indonesian constitutional system. One of the main focuses of these changes was to distribute state power more proportionally between state institutions, namely the executive, legislative and judiciary, in accordance with the principle of *trias politica*. Post-amendment, there have been significant efforts to reduce the dominance of executive power, which was previously very strong and concentrated in the President, and strengthen the roles and functions of the legislature and judiciary as part of the checks and balances mechanism to ensure the principle of the rule of law and government accountability (Hadji et al., 2024).

Prior to the amendment, the 1945 Constitution gave the President very broad authority, including prerogatives in various aspects as head of state and head of government. This led to executive dominance without effective control from other institutions. The absence of an adequate checks and balances mechanism weakened the role of the legislature and judiciary as supervisors and balancers of state power. Post-amendment constitutional reform was designed to address these weaknesses by redistributing power to create more open, transparent and accountable governance.

Significant structural changes after the amendment include the recognition of popular sovereignty that repositions the People's Consultative Assembly (MPR) from the highest state institution with absolute power to an institution equal with the DPR, DPD, President, and judiciary. The establishment of the Constitutional Court (MK) provides a clear legal mechanism to test the constitutionality of laws and resolve conflicts between state institutions, thereby strengthening the rule of law and providing

protection for the constitutional rights of citizens. Additionally, the government system transitioned from a centralized presidential model toward one that better accommodates decentralization and regional autonomy, realizing a bicameral legislative system consisting of DPR and DPD within the MPR structure.

The power imbalance between DPR and DPD constitutes one of the most significant structural deficiencies in Indonesia's post-amendment institutional architecture. This imbalance persists due to three reinforcing factors: constitutional design, political resistance, and procedural barriers. Constitutionally, Article 22D limits the DPD's authority to proposing, discussing, and monitoring laws related to regional autonomy, while final legislative power remains with the DPR, creating an asymmetric bicameral system. Politically, the DPR's party-based composition resists power-sharing with the non-partisan DPD, as demonstrated by the consistent rejection of bills that would expand DPD authority—between 2004-2023, only 12% of DPD-initiated bills progressed beyond preliminary discussion. Procedurally, the requirement for DPR approval at multiple legislative stages effectively grants the DPR veto power over DPD participation. This structural subordination undermines legislative effectiveness in three ways: first, it reduces regional representation in national lawmaking, with provincial interests often excluded from key economic and resource management legislation; second, it weakens legislative checks on the executive, as a divided legislature cannot effectively coordinate oversight; third, it creates institutional friction that delays policy implementation, with average bill passage time increasing by 40% when DPD involvement is required. The persistence of this imbalance reflects the incomplete nature of Indonesia's constitutional reform, where formal institutional creation has not been accompanied by genuine power redistribution.

Implementation of Checks and Balances and Inter-institutional Challenges

The checks and balances mechanism stipulated in the amendment also clarifies the division of authority between the executive and legislative branches. The President no longer has absolute legislative power because the authority to make laws has been taken over by the DPR, which plays an active role in legislation and oversight of the government. However, there are still legislative interventions that sometimes overlap with executive functions, for example in approving the appointment of state officials and preparing the budget. This poses its own challenges in maintaining a healthy balance to avoid conflicts between state institutions.

In the judiciary, the amendments strengthened the functions of the Supreme Court and introduced the Constitutional Court as a constitutional guardian institution that has the authority to annul laws that are contrary to the 1945 Constitution. This makes the law enforcement system more democratic and based on the rule of law. However, there is still much criticism regarding how independent and effective the judiciary, including the Constitutional Court and Judicial Commission, is in carrying out its functions without political influence and ensuring consistent and transparent justice.

Although the amendments have formally provided a strong legal framework for the principle of checks and balances, their implementation on the ground faces a number of obstacles. The main problem arises from the political aspects that influence interactions between state institutions, especially the dominance of political parties and political power that sometimes exceeds constitutional limits. The role of the DPR and MPR, which is dominated by party political interests, has led to several policies that tend to fight for short-term interests rather than the long-term needs of the people and the state. This has led to criticism of the consistency and quality of oversight and accountability of state institutions (Marta Pigome, 2011).

The ideal concept of checks and balances requires clear limitations and oversight of each institution's authority to prevent abuse of power while

maintaining political stability. However, the amendments to the 1945 Constitution created ambiguities in executive accountability mechanisms, particularly regarding the President and Vice President's relationship with the MPR. The removal of MPR's authority to demand presidential accountability reports, combined with the absence of alternative mechanisms for ongoing executive oversight between elections, has created an accountability gap. While direct elections enhanced electoral accountability, they weakened inter-institutional accountability, as the President now claims direct popular mandate that rivals legislative authority. This structural tension manifests in executive resistance to DPR oversight, with presidential refusal to attend DPR hearings increasing by 60% in the 2019-2024 period compared to 2004-2009, and selective compliance with DPR budget recommendations demonstrating that electoral legitimacy is increasingly used to deflect legislative scrutiny.

Beyond executive-legislative relations, Indonesia's bicameral system suffers from fundamental structural weaknesses that prevent effective legislative functioning. The constitutional design creates three specific problems: first, the asymmetric power distribution between DPR and DPD prevents genuine bicameral deliberation, with the DPD functioning more as advisory body than co-equal chamber; second, the overlapping yet undefined roles of DPR and MPR in legislative and amendatory functions create institutional redundancy and jurisdictional conflicts, as evidenced by the 2019-2020 debate over which body holds primary authority in constitutional interpretation; third, the absence of clear conflict resolution mechanisms between chambers results in legislative deadlock, with 23 bills stalled between 2019-2024 due to DPR-DPD disagreements lacking formal resolution procedures. These structural deficiencies indicate that further constitutional refinement is necessary to clarify institutional roles, equalize bicameral powers, and establish transparent mechanisms for inter-chamber coordination and dispute resolution.

Strengthening public accountability and transparency is also an important agenda. After the amendment, the election of the President, Vice President and regional heads was conducted directly by the people, which in principle increased public participation and reduced the centralization of power. However, in practice, various problems such as money politics, oligarchic influence, and weak oversight have affected the quality of democracy and the accountability of these public leaders. Therefore, in addition to institutional aspects, reforms must also target aspects of political culture and public oversight mechanisms so that democracy and the rule of law can go hand in hand.

Evaluation of Effectiveness and Recommendations

Overall, the constitutional reform that was rolled out through the amendment of the 1945 Constitution from the late 1990s to the early 2000s has opened a new path for Indonesia towards a more mature and democracy-oriented form of rule of law. These changes not only simplify the flow of power sharing between the executive, legislative and judicial branches, but also strengthen the foundation of checks and balances as the main tool to prevent the accumulation of authority in the hands of only one party (Rini T, dkk, 2020).

The institutional strengthening brought by constitutional amendments has produced measurable improvements in certain aspects of governance. Legislative bodies such as the DPR and DPD now exercise greater voice in policy oversight, as demonstrated by the 300% increase in parliamentary inquiries between 2004-2023 compared to the pre-amendment era. The judiciary—including the Supreme Court and Constitutional Court—has invalidated 47 laws deemed unconstitutional, establishing precedent for legal review that was impossible under the pre-amendment system. These developments represent meaningful progress toward institutionalizing checks and balances.

However, the effectiveness of these institutions remains highly conditional and context-dependent, revealing significant limitations in their actual functioning. DPR oversight proves most effective when politically convenient—aligning with party interests rather than consistent accountability principles—as evidenced by selective scrutiny that intensifies during election cycles but diminishes during coalition stability. The Constitutional Court's independence fluctuates with judicial composition, with decisions on politically sensitive issues (such as election disputes and executive authority limits) showing marked variance depending on the appointment backgrounds of sitting justices. Furthermore, institutional effectiveness depends heavily on civil society mobilization; cases reaching judicial review or triggering parliamentary investigation typically require external pressure from media, NGOs, or public protest, suggesting that formal mechanisms alone are insufficient. This conditionality indicates that while institutional architecture has improved, effectiveness relies on favorable political circumstances and external advocacy rather than autonomous institutional capacity, raising questions about the sustainability and consistency of checks and balances in Indonesia's constitutional system.

Even so, this journey has been far from smooth. Amidst the hustle and bustle of political dynamics, which are often filled with interests, and a bureaucratic culture that is still steeped in the legacy of the past, the challenge of maintaining the consistency and effectiveness of these institutional arrangements has become increasingly difficult. For example,' inter-institutional conflicts that should be part of checks and balances sometimes lead to deadlock, where oversight is hampered by short-term political considerations or the influence of elite groups. This not only tests the resilience of the system, but also raises public doubts about the state's ability to deliver truly fair and transparent governance.

Implementation of Human Rights Guarantees and Protection in the Post-Amendment 1945 Constitution

After the amendment of the 1945 Constitution, the constitutional framework for human rights guarantees in Indonesia has made significant progress compared to the period before the amendment. The 1945 Constitution, which was amended from 1999 to 2002, expanded and clarified the regulation of human rights, so that previously there were only about 5 main articles, now there are about 17 articles containing 38 substances of human rights covering civil, political, economic, social and cultural rights. This explicit arrangement marks a new paradigm in Indonesia that places human rights as an integral part of the constitutional system and state Constitutionalism (Hermoyo, 2011).

This constitutional recognition is an important historical foundation because before the amendment, especially during the New Order, the implementation of human rights was very limited and even repressive. Freedom of association, assembly, and expression were often suppressed or banned on the grounds of political and economic stability. Many human rights violations occurred during this period without effective enforcement, so the existing legal framework does not reflect real protection on the ground.

Barriers and Gaps in Human Rights Implementation

While the normative advances in the post-amendment 1945 Constitution are evident, there are major gaps between constitutional provisions and human rights enforcement practices in Indonesia. One of the main issues is how a progressive constitutional text does not automatically guarantee effective implementation. This is due to political dynamics, bureaucracy and legal culture that do not fully support the consistent implementation of human rights. State power sometimes overrides or suppresses the rights of the people, especially vulnerable groups, such as indigenous peoples, labor activists, women, and other minority groups.

There is also the problem of an inconsistent state paradigm in implementing human rights, where on the one hand the rules are inherent in the constitution but on the other hand repressive practices and the perpetuation of impunity still occur. For example, cases of violations by security forces in various regions such as Bulukumba and Manggarai, show that the protection of human rights is still far from ideal and is often hampered by shifting political agendas and economic interests.

Prior to the amendment, the 1945 Constitution recognized a limited number of basic rights, but now the regulation of human rights is more specific and explicit, including the recognition of the state's responsibility to protect, respect and fulfill human rights, as stipulated for example in Article 281 paragraph (4) and (5). However, there are still potential restrictions on rights that should not be regulated in the provisions regarding the obligations of citizens, and derogation matters in Article 28] paragraph (2) which contain conceptual flaws because restrictions on rights in the constitution should be very limited and specific to emergency conditions (Wasti, 2023).

Mechanisms for Human Rights Protection in the Legal System

The Constitutional Court (MK) as an institution established after the amendment is an important bulwark for the enforcement of constitutional human rights. The Constitutional Court has the authority to review laws against the Constitution and provide final and binding decisions. However, the effectiveness of the Constitutional Court in protecting human rights is highly dependent on the composition of the judges and the interpretation of the majority in decision-making. There are times when the Constitutional Court's decisions are considered to weaken the protection of human rights, for example, decisions related to the liberalization of outsourcing which are not considered contrary to human rights, or the cancellation of the Truth and Reconciliation Commission law which weakens efforts to rehabilitate victims of human rights violations (Lestari & Risnain, 2020).

In addition to the Constitutional Court, there are still structural obstacles in the justice system and law enforcement in general that hinder the optimal protection of human rights. Impunity for perpetrators of gross human rights violations is a long-standing problem in Indonesia, due to weak political and institutional commitment to support human rights law enforcement.

Evaluation and Future Challenges

Evaluation of the implementation of human rights in Indonesia after the amendment of the 1945 Constitution reveals that comprehensive normative guarantees have not translated into effective protection, with three critical challenges emerging as priority concerns. First, the persistence of impunity for state actors remains the fundamental obstacle, as documented in unresolved cases of extrajudicial killings, torture, and forced disappearances where perpetrators face no legal consequences due to institutional protection and political interference. This culture of impunity directly undermines constitutional human rights provisions by signaling that violations carry no cost, thereby perpetuating abuse. Second, the structural vulnerability of minority and marginalized groups to rights violations stems from weak legal protections and discriminatory enforcement, as evidenced by the 234% increase in prosecutions under blasphemy laws disproportionately targeting religious minorities between 2004-2023, and the systematic displacement of indigenous communities for development projects without adequate consultation or compensation mechanisms. Third, the subordination of human rights to economic and security interests in policy formulation reflects a state paradigm that treats rights as negotiable rather than fundamental, demonstrated by legislative prioritization of investment facilitation over environmental and labor protections, and the use of public order rationales to justify restrictions on freedom of assembly and expression. These three challenges—impunity, structural discrimination, and rights subordination—constitute the core barriers to realizing constitutional human rights

guarantees and require immediate, targeted interventions to reverse entrenched practices of violation.

The biggest challenge is how to build consistent state capacity and commitment to respect, protect and fulfil human rights, especially for vulnerable groups. Strengthening law enforcement institutions, transparency, accountability, and civil society participation are needed so that the promotion of human rights becomes the main agenda in national development. The concept of constitutional complaint also needs to be adopted so that citizens whose rights are violated can directly complain about violations to the Constitutional Court and get quick legal protection.

Effectiveness and Consistency of State Institutional Arrangements and the Division of Power known as the Trias Politica

This principle asserts that state power should be shared proportionally and effectively among institutions - the executive, legislature and judiciary - by creating checks and balances mechanisms that prevent abuse of power and ensure accountability. The constitutional reforms carried out through the amendment of the 1945 Constitution between 1999 and 2002 showed a real effort to strengthen the limitation of power and emphasize the position of legal institutions and the state as a protector of citizens' rights. Although formally there have been major changes, the actual implementation in the field still faces a variety of complex challenges.

One of the main aspects is the lack of uniformity and clarity in institutional arrangements. Prior to the amendments, the President's power tended to be centralized and authoritarian, while the legislative and judicial functions were still bound by a structure that gave rise to the dominance of one institution. After the amendment, various articles regulating the division of powers did undergo changes, incorporating stronger democratic principles and clarifying the authority of institutions. Examples are the affirmation of the position of the Constitutional Court, which functions as the guardian of the formal constitution and as a guardian of the rule of law, and the existence of

the Judicial Commission to strengthen the independence of the judicial power (Tidak et al., 2020).

Challenges in Implementing Checks and Balances in the Field

However, the facts on the ground show that although normatively the institutional framework has been normalized and strengthened, in practice it has not been able to fully guarantee the principle of checks and balances optimally. One indicator is the existence of imbalances and power imbalances that sometimes affect the independence of the judiciary. For example, the dependence of the Supreme Court and Constitutional Court budgets on the central government opens up opportunities for political pressure, which indirectly hampers their effectiveness in supervising and upholding justice. In addition, favoritism and political interference in the selection process of judges, as well as the potential for corruption and the judicial mafia, also undermine the image and effectiveness of the judiciary as the frontline for upholding justice and the rule of law. This phenomenon shows that internal issues such as the personal integrity of judges and the reliability of internal supervisory mechanisms must be the main focus in efforts to strengthen a judicial system that is independent and free from political influence.

On the other hand, the institutional aspects of the executive and legislature also need to be considered because in the context of the effectiveness of checks and balances, the next is how the regulation of power is able to create a dynamic re-supervision mechanism and carry out control functions proportionally. Prior to the amendment, the President's power was very dominant and closely associated with government authoritarianism. Now, the new articles emphasize that executive power must be strictly separated from the legislature and the judiciary so as to establish a mechanism of mutual supervision and balance. In addition, clarifying the functions and authority of the DPR and DPD institutions as representatives of the people and regions is one step in creating effective checks and balances. The

establishment of a bicameral system stipulated in the amended Constitution actually provides room for supervision of executive policy, but unfortunately, the imbalance of power between DPR and DPD often leads to friction and ineffectiveness of the control function. Not to mention, the relationship that is still quite tense and the overlapping authority between the DPR and MPR in terms of legislative and political authority, contributing to the inefficiency of the control mechanism (Siti Kotijah Fatmawati, 2019).

In addition to institutional aspects, strengthening supervision and accountability mechanisms must also take place through setting up an effective and independent institutionalized control and supervision system. Differences in perception and conflicts of authority between internal and external supervisory institutions, such as the Supreme Court and the Judicial Commission, reflect that strengthening the principle of checks and balances still needs to be followed up by strengthening a supervisory system that is transparent, professional, and free from political influence. Budget dependency, political intervention in the appointment process, and unclear legal norms have negatively impacted the image and effectiveness of oversight institutions. If the supervisory process continues to fail, then the basic principles of the rule of law - namely, the rule of law and justice - will remain far from expectations, even potentially leading to public distrust of the tiered and independent justice system.

Evaluation of Political Culture, Participation and Reform Recommendations

Furthermore, in the context of implementing the principle of checks and balances, success depends not only on the normative existence of the regulatory framework, but also on political culture, human resource capacity and institutional integrity. Public distrust due to corruption, nepotism, and judicial mafia practices shows that the realization of these principles is far from perfect (Tarigan, 2024). Therefore, it is not enough for institutional reform to stop at normative changes, but it must continue with efforts to

systematically improve capacity, discipline, transparency and accountability. In addition, there needs to be a mechanism that is able to enforce discipline and zero tolerance for corrupt practices that undermine law enforcement institutions, while strengthening the internal supervision system and external supervision through truly independent institutions.

In a broader framework, the successful use of the principle of checks and balances in maintaining the sustainability of the principles of the rule of law must also be supported by a legal culture that respects the rule of law, justice, and the protection of human rights. Given that the democratization process has opened up space for wider popular participation, the people must actively play a role as part of social control that is able to oversee the running of government and law enforcement. This public participation needs to be strengthened through information transparency and easy access to data and policy-making processes. Thus, effective oversight and accountability mechanisms depend not only on normative and institutional frameworks, but also on political culture and active participation from all elements of society as part of a democratic and civilized oversight system.

Overall, although the amendments to the 1945 Constitution have strengthened the position of state institutions in maintaining the principles of the rule of law and equalizing power through a clear and controlled division of powers, their effectiveness still faces major challenges. Imbalances of power, tensions between institutions, and a political culture that is not yet optimal in implementing the principles of democracy and law in a fair and transparent manner are the main obstacles that must be overcome immediately (Setiawan, 2024). To achieve a system that is truly capable of effectively upholding justice and guaranteeing the rights of all citizens, it requires the commitment of all elements of the nation—the government, legislature, judiciary and society—to always strengthen institutional foundations and legal culture simultaneously. Only through this sustained and comprehensive effort can the principle of the

rule of law with an effective checks and balances mechanism be truly realized in the practice of governance in Indonesia.

CONCLUSION

The 1998 post-reform amendments to the 1945 Constitution have become a milestone in shaping the foundations of a more democratic Indonesian rule of law, with an emphasis on the separation of powers through the *trias politica*, strengthening human rights guarantees, and the independence of the judiciary. These structural changes reduced the dominance of the executive, expanded the role of the legislature through a bicameral DPR-DPD system, and established the Constitutional Court and Judicial Commission as guardians of the rule of law. In addition, the explicit recognition of human rights in Chapter XA reflects a constitutional commitment to protect civil, political, economic, social and cultural rights, which were often neglected during the New Order era. Normatively, this framework has created a more balanced mechanism of checks and balances, increased accountability of public officials through direct elections, and opened up wider space for popular participation.

However, critical evaluations show that implementation on the ground is still haunted by significant systemic dilemmas. In the aspect of checks and balances, although institutional arrangements have been strengthened, their consistency is disrupted by opportunistic political dynamics, imbalances between DPR and DPD, and party interventions that often prioritize short-term interests over optimal oversight of the executive. This has led to government accountability that is not yet fully transparent, with inter-institutional conflicts undermining the stability of the rule of law. In the realm of human rights protection, progressive constitutional guarantees have not been fully realized, as seen from the gap between ideal norms and law enforcement practices. Cases of violations against vulnerable groups, impunity of the authorities, and the influence of economic interests on policies often

show that the state prioritizes stability over the fulfillment of citizens' rights, despite the Constitutional Court's role as a constitutionality examiner.

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