

The Relationship of State Power Branches in the Perspective of Trias Politika Theory After 25 Years of Reform

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Abstract

This study investigates the configuration of power relations among the executive, legislative, and judicial branches in Indonesia within the framework of the trias politika theory, more than two decades after the 1998 reform era. The reform movement marked a pivotal turning point aimed at dismantling the centralized executive dominance that characterized the New Order regime and initiated a constitutional transformation to achieve a more balanced distribution of power. Despite substantial amendments to the 1945 Constitution and institutional reforms, questions remain regarding the extent to which the ideals of separation of powers have been realized in practice. Employing a juridical-normative approach combined with qualitative-descriptive analysis, this study reviews relevant laws and regulations, analyzes institutional practices, and examines key rulings from judicial bodies such as the Constitutional Court and Supreme Court to understand the ongoing dynamics among the branches of power. The results indicate that although legal provisions now provide a more proportional distribution of authority, executive dominance persists in practice. The legislative branch often demonstrates limited oversight capacity, and the judiciary continues to face challenges in maintaining its independence. The imbalance is especially visible in policy formulation and implementation processes, where executive influence remains pronounced. These findings suggest that the formal separation of powers in Indonesia has yet to be fully institutionalized in substance. The study underscores the need for deeper institutional reforms and stronger mechanisms of checks and balances to ensure democratic accountability and to align governance practices more closely with the constitutional vision of power equilibrium envisioned by trias politika

I. Introduction

The 1998 reform marked a pivotal moment in Indonesia's constitutional history, signifying a shift from authoritarian rule to a more open and participatory democratic system. One of the central agendas of this reform was the restructuring of state power to ensure a more balanced and accountable governance. In this context, Montesquieu's theory of trias politica served as a normative framework widely adopted to reorganize the relationships among branches of government. The separation of powers—executive, legislative, and judiciary—is expected to prevent institutional domination and safeguard individual liberties (Darusman et al., 2024).

In Indonesia, the principle of trias politica began to be explicitly incorporated into the amended 1945 Constitution through a series of constitutional revisions from 1999 to 2002. These changes resulted in a restructuring of state power, including the strengthening of the legislature, the establishment of the Constitutional Court, and limitations on presidential authority. However, more than two decades after these reforms, critical questions remain about the consistency and effectiveness of implementing these principles in practice (Ruhenda et al., 2020).

Previous studies have largely focused on the formal-normative aspects of power separation, without sufficiently exploring the empirical dynamics that have unfolded in the post-reform era. In reality, inter-institutional relationships are not static but dynamic, shaped by political configurations, civil society influence, and prevailing legal culture. Hence, a reexamination is needed using an interdisciplinary approach to fill the gaps left by earlier analyses (Margi & Khazanah, 2022).

Empirical evidence shows ongoing dominance of the executive, particularly in public policymaking. Presidential and ministerial powers often go unchecked due to weak legislative oversight, especially when political coalitions create alignment rather than accountability (Sahib, 2024). Meanwhile, judicial institutions face serious challenges in maintaining independence, including ethical violations by judges and allegations of judicial politicization, all of which undermine public trust (Fauzi, 2023).

The legislature itself has been frequently criticized for prioritizing political and short-term interests over its core functions of lawmaking and oversight. While the Constitutional Court was initially hailed as a guardian of constitutionalism, it now faces ethical controversies and suspected political interference (Punu et al., 2023). These trends reflect a weakened system of checks

and balances, undermining the foundational ideals of trias politica (Afifulloh et al., 2022).

Conflicts and overlapping authority between branches are increasingly evident, particularly in strategic legislation such as the Omnibus Law and Criminal Code revisions (Tauda et al., 2023). The dominance of the executive—facilitated by parliamentary coalitions—and insufficient judicial correction have prompted concerns about whether the separation of powers is still honored in practice or is regressing under symptoms of executive aggrandizement (Crouch, 2021).

Using an interdisciplinary approach that combines political theory, constitutional law, and legal sociology, this study aims to revisit the state power configuration 25 years after reform. It evaluates the relevance and consistency of the trias politica principle in current constitutional practice and identifies the patterns of power relationships—whether symbiotic, subordinate, or conflictual—in strategic decision-making.

This research is increasingly relevant amid declining public trust in state institutions, the rapid revision of key legislation, and the rising discourse around power consolidation. Reflecting on 25 years of reform is not merely a retrospective exercise, but a crucial opportunity to correct course and reinforce the foundations of constitutional democracy. This study aspires to offer both theoretical and practical contributions toward strengthening democratic governance in Indonesia

2. Research Method

This research employs a normative-empirical legal approach, combining the study of legal norms with empirical observations of constitutional practice. The normative component systematically analyzes statutory regulations, Constitutional Court decisions, and other legal instruments that regulate the distribution of powers among the executive, legislative, and judicial branches. The empirical component investigates real-world institutional interactions through case studies, such as the deliberation of the Omnibus Law on Job Creation, the revision of the Corruption Eradication Commission (KPK) Law, and a range of Constitutional Court decisions that influence the structure of state power. In line with (Purwati, 2020) argument that legal research should go beyond normative analysis and consider social realities, this study incorporates qualitative fieldwork. Primary data were collected through in-depth, semi-structured interviews with a total of 12 informants, including constitutional law academics (5), legal practitioners (4), and former officials of state institutions (3). Participants were selected purposively based on their expertise, institutional experience, and relevance to the study of constitutional power relations.

Interviews were conducted between January and April 2025, each lasting between 60 and 90 minutes. The interviews were carried out in a semi-structured format, allowing flexibility to explore emerging themes while maintaining a consistent line of inquiry. Most interviews were conducted via video calls, with a few held in person when feasible. Data analysis was carried out using a thematic analysis approach, involving open coding, categorization, and the identification of patterns across interview transcripts and documentary materials. The coding process was supported by qualitative data analysis software (e.g., NVivo) to enhance the rigor of theme development (Allsop et al., 2022). The analysis integrated the theory of trias politica and the principle of checks and balances, as originally theorized by Montesquieu (1748) and developed further by Asshiddiqie (2006) and Horowitz (2013), to interpret the empirical findings. To ensure data validity, the study employed a source triangulation technique, comparing findings from legal texts, interview data, and scholarly literature, which helped to produce a comprehensive and balanced understanding of the evolution of power relations in the Indonesian constitutional system after 25 years of reform.

3. Results and Discussion

Trias Politica and the Balance of Power Among State Institutions in Post-Reform Indonesia

After 25 years of reform, the implementation of the trias politica principle in Indonesia demonstrates normative progress through constitutional amendments and the establishment of new institutions that reflect a formal separation of powers. The amendment of the 1945 Constitution abolished the supremacy of the People's Consultative Assembly (MPR) and reinforced the independent roles of both the legislative and judicial branches namely, the House of Representatives (DPR), the Supreme Court (MA), and the Constitutional Court (MK) while also consolidating the presidential system. This institutional restructuring marks a foundational step toward building a more democratic and balanced governance system (Suryajiyoso, 2021).

However, a key finding is the persistent dominance of the executive branch in the legislative process and strategic policymaking. The President and his ministries play a central role in the drafting of bills and often influence the content of public policy through coalition politics in the DPR (Mulyani, 2023). Although the DPR formally holds authority over legislation, budgeting, and oversight, in practice, its supervisory function is often weak. This is evident in cases such as the passage of the Job Creation Law and the revision of the KPK Law, which were rushed without meaningful public participation (Purnama & Manitra, 2023). One underlying cause is the DPR's dependency on the executive, largely due to party affiliations within the ruling coalition.

The judicial branch, comprising the Supreme Court and the Constitutional Court, has a crucial role in upholding constitutional order and resolving inter-institutional disputes. However, several controversial Constitutional Court rulings—such as those involving age limits for presidential and vice-presidential candidates—have sparked allegations of judicial politicization and eroded public trust in judicial independence. Despite the availability of formal mechanisms like judicial review, interpellation, and inquiries, their implementation remains limited and often ineffective, reflecting a broader weakness in the checks and balances system (Huda et al., 2021).

Executive dominance is further amplified by elite-driven policymaking and the concentration of power within large legislative coalitions. While these coalitions contribute to political stability, they also reduce the quality of deliberation and legislative scrutiny. As a result, the trias politica principle is not equally practiced across branches—executive predominance leads to legislative and judicial subordination (Natadireja et al., 2024). Another challenge is the absence of strong internal and external accountability mechanisms. Many state institutions still lack transparency and accountability in exercising their constitutional duties. Political pressure and party pragmatism also compromise institutional independence, particularly in the legislative and judicial branches (Fatlolon, 2023).

Nevertheless, there have been notable improvements, especially in enhancing the role of the Constitutional Court as the guardian of the constitution and increasing civic engagement in lawmaking. The Constitutional Court has not only asserted its authority in reviewing laws but has also become a crucial arena for contesting state policies that are perceived to deviate from constitutional norms. At the same time, civil society participation has emerged as a new form of balancing power, allowing marginalized voices to gain visibility within formal legal processes. These developments reflect a growing awareness and utilization of legal avenues by citizens and NGOs to influence governance (Agung, 2022).

However, despite these advances, civil society efforts have not yet succeeded in substantially altering the entrenched institutional dynamics dominated by elite interests and political bargaining. The capacity of grassroots legal mobilization to transform power relations remains constrained by limited access to resources, legal expertise, and sustained institutional support. Thus, while the post-reform legal landscape demonstrates more openness, its democratizing potential is still uneven and incrementa (Wahyuni et al., 2023a).

The pattern of power relations in Indonesia after 25 years of reform suggests a model closer to “power sharing” than to a strict separation of powers. The application of trias politica is not characterized by absolute division, but rather by overlapping functions and continual political negotiation. This aligns with the nature of a

multiparty presidential system, which inherently requires compromise among different centers of power.

Unequal Power Relations Among State Institutions in the Reform Era

After 25 years of the reform era, the relationship between branches of state power in Indonesia has gone through various dynamics that reflect tendencies of domination and subordination. Normatively, the division of power has been fairly clearly regulated in the amended 1945 Constitution, which adopts the principle of checks and balances. However, in constitutional practice, imbalances often occur, with one branch of power being more dominant than the others (Jimly Asshiddiqie, 2006). This phenomenon shows that the principle of checks and balances, as idealized in the theory of separation of powers (Trias Politica), has not been fully realized. Although the post-amendment constitution formally enforces a stricter separation of powers between the legislative, executive, and judiciary, in practice, inter-institutional relations still often display power inequality and structural subordination that undermine institutional independence.

The executive branch still often dominates the legislative process, which should mainly be the role of the legislature. Many important policy ideas come from the government, not from the people's representatives. At the same time, political power in the House of Representatives (DPR) is sometimes used to influence government policies for party interests. The judiciary tends to have a weaker position, especially when facing pressure from other branches in cases involving political elites. The President and ministries often lead in making key policies, as seen in laws like the Job Creation Law and changes to the KPK Law. Even though the DPR has the power to make laws, it often just approves what the executive has already decided (Wahyuni et al., 2023b).

Relations between the branches of state power tend to be influenced by political configurations and dominant forces in the multiparty presidential system, which often result in large coalitions and weaken the supervisory functions between institutions. Therefore, a critical study of the dynamics of domination and subordination of power is important to strengthen the institutionalization of constitutional democracy in Indonesia. This phenomenon shows a form of subordination of the legislative institution to the executive. The majority coalition in the House of Representatives from parties supporting the government often results in a weak supervisory function for the President. Instead of controlling executive power, the House of Representatives tends to act cooperatively in order to maintain political stability, but at the expense of the principle of inter-institutional control.

The dominance of the executive branch in Indonesia's constitutional system is not only seen in the legislative and policy-making processes, but also clearly appears in the appointment of officials to strategic institutions, especially the judiciary and

independent bodies. Although the constitution and laws involve other institutions like the House of Representatives (DPR) and the Judicial Commission (KY) in the selection and recommendation of candidates for top state positions, the final decision often rests with the President. This is evident in the appointments of Supreme Court Justices, the Attorney General, and even the head of the Corruption Eradication Commission (KPK), where the President has the final say. This situation reflects an imbalance of power that gives the executive branch greater influence over institutions that are supposed to remain independent (Rasji et al., 2024).

This kind of configuration creates a hierarchical relationship between the executive and other institutions that should carry out the function of oversight or judicial power independently. When the appointment of strategic officials is under the political control of the President, the potential for conflicts of interest is very high. Institutional independence can be reduced because appointed officials may feel politically attached or personally loyal to the appointee. This risks blurring the line between the functions of a neutral government and the interests of power. In the long run, this situation can undermine the principle of separation of powers which is the foundation of a democratic legal state.

In the judiciary, particularly in the Constitutional Court (MK), there are serious concerns about possible subordination to political power, especially from the executive branch and party elites. As the guardian of the Constitution, the Court should have full autonomy and independence in reviewing laws against the Constitution. However, several controversial rulings such as those on the age requirement for presidential and vice-presidential candidates, and the term of office for the head of state have raised strong suspicions of judicial compromise under political pressure and interests. This shows that while the Court is normatively based on the principle of judicial independence, in practice, political interference may still occur and threaten the integrity of its decisions.

This condition illustrates a form of indirect domination that takes place through formal and informal political mechanisms, including the selection process of constitutional judges which is strongly influenced by political institutions such as the President, the House of Representatives, and the Supreme Court. In many cases, external pressure on the Constitutional Court can take the form of certain political expectations of decisions, elite influence over prospective judges, or even political imagery through media channels and public opinion. This phenomenon further strengthens the assumption that the existence of the Constitutional Court is vulnerable to co-optation by power, so it is not completely free to guarantee constitutional protection objectively (Kurniawan & Rizza, 2024).

The dominance of executive power is also seen in the relationship between state institutions in law enforcement, especially when dealing with politically

sensitive issues or matters involving elite interests. In certain cases law enforcement agencies appear to be used to protect the political interests of those in power. Institutions like the police and the prosecutor's office, which are supposed to operate based on neutrality and professionalism, often function within the influence of the executive branch. This reflects a tendency to use law enforcement as a tool of power rather than as a guardian of the rule of law and citizens' constitutional rights. This dominance also appears in the pattern of inter-institutional relations on legal matters. In several cases, such as corruption handling or the criminalization of activists, there are clear efforts by the executive to use supposedly neutral legal institutions to serve certain political agendas. This suggests that law enforcement bodies are being subordinated to political power (Ott, 2023).

In the midst of the spirit of reform that emphasizes decentralization and strengthening regional representatives, the existence of the Regional Representative Council (DPD) in Indonesia's constitutional structure actually shows a striking form of structural subordination. Constitutionally, the DPD is part of the legislative institution as stipulated in Articles 22C and 22D of the 1945 Constitution. However, in constitutional practice, the DPD does not have legislative authority equivalent to the House of Representatives (DPR). The authority of the DPD is limited to submitting and giving consideration to certain draft laws related to the regions, without the right to vote in the ratification process. This condition creates a deep functional gap between the two institutions that should be equal partners in the legislation process.

On the other hand, subordination is also evident in the role of the DPD (Regional Representative Council), which is constitutionally part of the legislative body. However, in practice, the DPD's authority is very limited and not equal to that of the DPR. The DPD does not have voting rights in the ratification of laws and only serves in an advisory capacity. This reflects a form of structural subordination in the institutional design (Ratih Adiputri, 2018). The limited role of the DPD indicates that the institutional framework does not fully uphold the principles of representation and balance of power.

This restriction not only creates legislative inequality but also weakens regional representation in the formulation of national policy. The DPD is often treated merely as a supporting institution in the legislative process, without significant influence on the final outcomes of lawmaking. Many constitutional law scholars criticize this as a form of institutional marginalization, arguing that the DPD should serve as a platform for voicing regional interests at the national level (Susi Dwi Ariyanti & Tim Lindsey, 2006). This imbalance suggests that the post-reform institutional structure has yet to fully realize the principle of checks and balances, particularly in ensuring meaningful regional representation in the national legislative system.

Despite efforts to strengthen the judiciary through the Constitutional Court and the Supreme Court, political influence still plays a role in undermining their independence and willingness to challenge executive and legislative policies. This subordination is often not overt or formal but takes the form of political pressure, managed public opinion, or dependence on the state budget (Donald L. Horowitz, 2013). The post-1998 reforms aimed to enhance judicial independence by establishing the Constitutional Court (MK) and revitalizing the Supreme Court (MA), positioning both as guardians of the Constitution and justice, and as institutional checks on executive and legislative dominance.

However, in practice, judicial independence remains vulnerable to subtle yet significant political influences. The Constitutional Court, for instance, though constitutionally independent, can still be affected by the political process involved in the appointment of its judges, which is carried out by the President, the House of Representatives, and the Supreme Court. This appointment mechanism creates a potential opening for political interference in judicial decisions, weakening the judiciary's ability to remain free and impartial. This pattern of dominance and subordination shows that the checks and balances system in Indonesia has not been functioning effectively. Although the Constitution formally divides power among branches of government, in practice, power dynamics are often shaped by political influence, party structures, and informal controls that cannot be measured legally. As a result, the relationship between state institutions tends to be more political than constitutional (Rezah & Sapada, 2023).

The ongoing dominance and subordination among branches of power confirms that the checks and balances system has not worked as intended. The concept of separation of powers, inspired by Montesquieu and adopted through the amendments to the 1945 Constitution, was meant to ensure balanced power and prevent its concentration in one branch. However, in reality, these institutional relations often ignore that principle. The executive's dominance over the legislative and judicial branches, along with the weak role of oversight bodies, indicates that the separation of powers is more symbolic than truly effective.

The dominance of the executive and subordination of the legislature and the judiciary during the reform era showed that institutional democratization was not yet fully proportional to substantial democratization. Structural reforms must be accompanied by reform of political culture, strengthening of independent supervisory institutions, and reducing institutional dependence on executive power so that the principle of separation of powers can function as it should in a constitutional democracy.

Power Dynamics in Indonesia: Implications for Democracy and Law Enforcement

The reform era in Indonesia marked a pivotal transition toward constitutional democracy, particularly through the restructuring of power among the executive, legislative, and judicial branches. Normatively, the post-amendment 1945 Constitution introduced a checks and balances framework rooted in the principle of separation of powers. However, in practice, the implementation has been uneven. The domination of one branch has disrupted this balance, weakening democratic accountability and constitutional governance.

Post-reform constitutional law has yet to effectively sustain an ideal checks and balances system. The executive's dominance over the legislative and judicial branches has diluted mechanisms that are supposed to protect constitutional rights and ensure oversight. This concentration of power undermines the rule of law, where law becomes an instrument of political interest rather than a means of regulating power. As a result, constitutional democracy is compromised, and the law no longer serves its foundational role as the guardian of justice and accountability.

This imbalance significantly affects law enforcement. Agencies such as the police, prosecution, and judiciary often operate under political pressure or executive intervention. In various corruption and human rights cases, actors with strong political affiliations or positions often enjoy impunity. Such patterns reveal how law enforcement in Indonesia remains vulnerable to elite manipulation, reflecting more of a reactive and instrumental function rather than an independent one (Pompe, 2005). Public perceptions of bias and delay in high-profile cases only exacerbate distrust in the judicial system and reduce its legitimacy.

The executive's influence over the legislative and judicial branches also weakens constitutional supremacy and horizontal control among state institutions. When the President and his legislative coalition can dominate the legislative agenda and oversight processes, the House of Representatives loses its role as a counterbalance. This paves the way for a new form of authoritarianism that functions under democratic formalities but lacks genuine institutional restraint. The blurring of boundaries between branches undermines the independence of governance and leads to a centralization of power that is antithetical to democratic ideals.

The erosion of institutional independence continues when legislative oversight is co-opted due to shared political interests with the executive. Rather than serving as a check on power, the legislature often legitimizes executive policies. This convergence facilitates procedural democracy devoid of substantive democratic values, enabling elite-driven governance. Consequently, the legislative process reflects elite compromises rather than public representation, fostering the rise of oligarchic power structures that distort representative democracy.

Law enforcement is similarly compromised when the judiciary becomes subject to political influence. The phenomenon of judicial capture—in which courts are subtly or overtly influenced by political elites—threatens legal certainty and undermines justice. The weakening of independent bodies such as the Corruption Eradication Commission (KPK) through legal revisions further illustrates how political power constrains accountability. The 2019 revision of the KPK Law significantly diminished the agency's authority, signaling a retreat from strong anti-corruption enforcement.

These power dynamics contribute to declining public trust in state institutions. When the DPR, the President, and the judiciary fail to demonstrate transparency and accountability, their constitutional legitimacy is questioned. Surveys conducted by LIPI and independent institutions have recorded a steady drop in public trust, particularly after controversial decisions perceived as politically motivated. This crisis of trust deepens political apathy and diminishes public engagement, turning democracy into a procedural formality devoid of meaningful participation.

Ultimately, Indonesia faces a dual crisis: one of representation and another of institutional legitimacy. Constitutional democracy, ideally rooted in popular sovereignty and the rule of law, is increasingly reduced to elite-controlled proceduralism. This fosters political alienation and weakens democratic resilience (Aminuddin & Ramadlan, 2022). Nevertheless, civil society, independent media, and judicial mechanisms such as judicial review continue to offer resistance and avenues for democratic correction. Though not always effective, these actors reflect the persistent potential for democratic revitalization if accompanied by sustained public pressure and civic engagement.

4. Conclusion

After 25 years of reform, the implementation of the trias politica principle in Indonesia has not fully reflected a balanced and effective separation of powers. Although the Constitution formally establishes a system of checks and balances among the executive, legislative, and judicial branches, in practice, executive dominance remains strong. This has led to the legislative body often losing its oversight function, especially when the majority of its members come from the ruling coalition, while the judiciary remains vulnerable to political interference, both in the selection of judges and in strategic decisions. This imbalance undermines the integrity of the constitutional democratic system, weakens the quality of law enforcement, reduces the role of oversight institutions such as the Corruption Eradication Commission (KPK), and erodes public trust in state institutions. As a result, the quality of substantive democracy declines, public participation weakens, and the rule of law—based on justice and constitutional supremacy—is increasingly threatened.

To restore balance in the separation of powers, structural reforms are necessary. First, judicial appointments must be safeguarded from political intervention through an independent selection body. Second, parliamentary procedures should be strengthened to allow greater opposition influence and ensure effective oversight. Third, the autonomy of institutions like the KPK must be legally reinforced to prevent political interference. Lastly, budgetary independence for the judiciary and oversight bodies must be guaranteed to uphold institutional integrity. Future studies should explore the role of civil society and media in reinforcing checks and balances outside formal state structures. Comparative studies on separation of powers in other post-authoritarian democracies may also offer insight into alternative institutional designs. A closer analysis of the internal dynamics within political parties and their influence on legislative-executive relations would further enrich this area of study.

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