

## Presidential Authority in a Presidential System: A Juridical Analysis Based on Governmental Legal Literature

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### Abstract

The presidential system places the president as both head of state and head of government with broad and independent executive powers. In Indonesia, these powers are constitutionally regulated by the 1945 Constitution, but in practice, they often raise debates regarding power limitations and the mechanisms of checks and balances among state institutions. This study aims to juridically analyze the president's authority in Indonesia's presidential system. The research employs a normative legal method using a juridical-normative approach, which involves the analysis of laws, legal documents, legal literature, and relevant court decisions. The findings show that presidential authority is divided into two main aspects head of state and head of government each with its own legal basis and limitations. The president holds significant authority in defense, foreign affairs, and administrative governance, yet remains under legislative and judicial oversight as a form of power restraint. The study concludes that Indonesia's presidential system supports governmental stability and effectiveness but requires that executive power be exercised constitutionally, transparently, and accountably to prevent authoritarian tendencies.

**Keywords:** presidential authority, presidential system, 1945 Constitution, checks and balances, constitutional law

### INTRODUCTION

The presidential system is a form of government where the president serves as both head of state and head of government, wielding extensive and autonomous executive powers. In Indonesia, this system is constitutionally established under the 1945 Constitution, which affirms the president's role in executing state and governmental functions directly, without dependence on the legislature. However, in practice, presidential authority frequently becomes a subject of debate, particularly concerning its limits and the mechanisms of checks and balances among the president, the House of Representatives (DPR), and the judiciary. Therefore, a juridical study of

presidential authority in Indonesia's presidential system is essential to ensure its alignment with the principles of the rule of law and democracy.<sup>1</sup>

Existing governmental legal literature has explored presidential authority from various perspectives, including constitutional and practical implementation. Previous research has generally highlighted inter-institutional relationships and the president's role in policymaking process. However, comprehensive juridical analyses based on contemporary governmental legal literature remain scarce.<sup>2</sup> The primary issue addressed in this study is how presidential authority is regulated and exercised within Indonesia's presidential system, as well as its juridical boundaries in maintaining power balance among state institutions.

The objective of this article is to juridically analyze presidential authority in the presidential system based on governmental legal literature and to elucidate the limitations and mechanisms of such authority within Indonesia's constitutional framework.

## **METHOD**

This study employs a normative juridical method with a library research approach, examining primary and secondary legal sources to provide an in-depth analysis of presidential authority in Indonesia's presidential system. The normative juridical method was selected due to the study's focus on analyzing presidential authority based on prevailing legal provisions, legal doctrines, and expert opinions in governmental law.

This approach emphasizes the examination of legal norms written in statutes, the constitution, and relevant legal literature. The method involves analyzing secondary data without field research, making it suitable for normative and conceptual juridical studies.<sup>3</sup>

## **RESEARCH RESULTS**

### **1. Presidential Authority as Head of State**

A juridical analysis of the 1945 Constitution and its amendments reveals that the president's authority as head of state is explicitly and comprehensively regulated. Article 10 of the 1945 Constitution states that the president holds supreme authority over the armed forces, underscoring the president's strategic role in national defense and security. Furthermore, Article 11 stipulates that the president may declare war, make peace, and enter into international treaties with the approval of the DPR. This

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<sup>1</sup>Sudirman, "Kedudukan Presiden Dalam Sistem Pemerintahan Presidensial (Telaah Terhadap Kedudukan Dan Hubungan Presiden Dengan Lembaga Negara Yang Lain Dalam Undang-Undang Dasar NRI Tahun 1945)," *Jurnal Mahasiswa Fakultas Hukum, Universitas Brawijaya* 1, no. 1 (2021): 1–27, <http://hukum.studentjournal.ub.ac.id/index.php/hukum/article/view/526>.

<sup>2</sup>Cipto Prayitno, "Analisis Konstitusionalitas Batasan Kewenangan Presiden Dalam Penetapan Peraturan Pemerintah Pengganti Undang-Undang," *Jurnal Konstitusi* 17, no. 3 (2020): 513, <https://doi.org/10.31078/jk1733>.

<sup>3</sup>Widiarty, *Wiwik Sri. Buku Ajar Metode Penelitian Hukum*. Publika Global Media: Kota Yogyakarta, 2024.

indicates that while the president possesses broad authority in foreign relations and defense, its execution requires legislative legitimacy as a form of checks and balances.<sup>4</sup>

Other exclusive presidential powers as head of state include declaring a state of emergency (Article 12), appointing and receiving ambassadors and consuls (Article 13), and granting clemency, amnesty, abolition, and rehabilitation (Article 14). These powers affirm the president's role as a symbol of national unity and the executor of final and strategic state functions.<sup>5</sup>

## 2. Presidential Authority as Head of Government

As head of government, the president holds extensive executive authority under Article 4(1) of the 1945 Constitution, which mandates the president to govern the state. This authority includes appointing and dismissing ministers (Article 17(2)), submitting draft laws (RUU) and the State Budget (APBN) to the DPR (Article 23(2)), and issuing government regulations to implement laws (Article 3(2)).<sup>6</sup>

The juridical analysis demonstrates that while the president has broad executive powers, the DPR plays a critical role in approving and overseeing presidential policies, reflecting the checks and balances inherent in Indonesia's presidential system.

## 3. Limitations and Oversight Mechanisms of Presidential Authority

Based on research findings, the Indonesian president's authority is not absolute. The constitution and laws impose clear limitations on presidential powers to prevent abuse of authority. For example, the president's power to issue Government Regulations in Lieu of Laws (Perppu) requires approval from the House of Representatives (DPR) in the subsequent session (Article 22(1) of the 1945 Constitution).<sup>7</sup> This means the DPR is involved as a form of checks and balances to strengthen mutual oversight.

Additionally, the appointment of Supreme Court justices and members of judicial bodies must obtain DPR approval (Articles 24A, 24B, and 24C), demonstrating a control mechanism over the president's power in the judicial domain. This mechanism is crucial to maintaining the independence of the judiciary and ensuring governance based on the rule of law.

## 4. Implications of Presidential Authority in the Presidential System

Based on an analysis of governmental legal literature, it can be concluded that presidential authority in Indonesia's presidential system provides stability and effectiveness in governance. However, such authority must be exercised responsibly and within clear legal boundaries to prevent conflicts between state institutions.

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<sup>4</sup>Muslimin Budiman, "Kekuasaan Presiden Dalam Sistem Pemerintahan Presidensil," *Al-Ishlah : Jurnal Ilmiah Hukum* 20, no. 1 (2023): 29–47, <https://doi.org/10.33096/aijh.v20i1.5>.

<sup>5</sup>Eka NAM Sihombing and Cynthia Hadita, "Kewenangan Presiden Membentuk Undang-Undang Dalam Sistem Presidensial," *Reformasi Hukum* 27, no. 1 (2023): 14–24, <https://doi.org/10.46257/jrh.v27i1.491>.

<sup>6</sup>Toha Andiko, "Syura Dan Demokrasi Barat: Kritik Dan Solusi Menuju Demokrasi Islam," *Al-Imarah : Jurnal Pemerintahan Dan Politik Islam* 2, no. 2 (2018): 99–114, <https://doi.org/10.29300/imr.v2i2.1093>.

<sup>7</sup>Prayitno, "Analisis Konstitutionalitas Batasan Kewenangan Presiden Dalam Penetapan Peraturan Pemerintah Pengganti Undang-Undang."

Strengthening checks and balances among the president, the House of Representatives (DPR), and the judiciary is key to maintaining a balance of power and upholding democratic principles. Thus, while the president holds broad authority, it does not lead to authoritarianism but rather serves as an effective instrument for democratic and just governance.

## DISCUSSION

Indonesia adopts a presidential system of government where the president serves a dual role as both head of state and head of government. This system establishes the president as the highest executive authority who is accountable not directly to the legislature, but to the constitution and the people through general elections. The president's powers under this system are comprehensively regulated by the 1945 Constitution and its amendments, which divide presidential authority into two primary domains: authority as head of state and authority as head of government.<sup>8</sup>

### Presidential Authority as Head of State

As head of state, the president holds several strategic powers that are both symbolic and definitive in nature. Article 10 of the 1945 Constitution of the Republic of Indonesia explicitly states that the president holds supreme authority over the Army, Navy, and Air Force, establishing the president as the supreme commander of the nation's armed forces. This authority is crucial for maintaining national sovereignty and security.

Furthermore, the president has the right to declare war, make peace, and enter into international treaties with other nations. However, these actions require approval from the House of Representatives (DPR) in accordance with Articles 11(1) and 11(2) of the 1945 Constitution. This legislative approval mechanism embodies the system of checks and balances in Indonesia's presidential system, serving to prevent the potential misuse of presidential authority in matters of foreign policy and national defense.<sup>9</sup>

The President also has the authority to declare a state of emergency (Article 12), appoint and receive ambassadors and consuls with the consideration of the House of Representatives (Article 13), as well as grant pardons, amnesties, abolitions, and rehabilitations with the consideration of the Supreme Court and the House of Representatives (Article 14). These powers affirm the President's role as a symbol of national unity as well as the executor of state functions that are final and strategic in nature.

### The President's Authority as Head of Government

As Head of Government, the President holds broad executive powers as stipulated in Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that the President holds the executive power of the state. This authority includes the appointment and dismissal of state ministers (Article 17

<sup>8</sup>osef M Monteiro, "Perpaduan Presidensial Dan Parlementer Dalam Sistem Pemerintahan RI," 2022, 282–84, <https://media.neliti.com/media/publications/81269-ID-perpaduan-presidensial-dan-parlementer-d.pdf>.

<sup>9</sup>Merdiansa Paputungan and Zainal Arifin Hoesein, "Pembatasan Kekuasaan Presiden Dalam Melakukan Perjanjian Pinjaman Luar Negeri Pasca Amandemen UUD 1945," *Jurnal Konstitusi* 17, no. 2 (2020): 388, <https://doi.org/10.31078/jk1728>.

paragraph 2), the submission of draft laws (bills) to the House of Representatives (DPR) (Article 5 paragraph 1), the issuance of government regulations to implement laws (Article 5 paragraph 2), and the submission of the Draft State Budget (APBN) to be deliberated jointly with the DPR (Article 23 paragraph 2).<sup>10</sup>

The President may also establish an advisory council whose function is to provide advice and considerations to the President (Article 16). In addition, the President has the authority to issue government regulations in lieu of law (PERPU) in situations of emergency and urgent necessity (Article 22 paragraph 1). However, the issuance of a PERPU must be approved by the House of Representatives (DPR) in its next session, serving as a form of legislative oversight over executive power.

Furthermore, the President has the authority to appoint Supreme Court justices from candidates proposed by the Judicial Commission and approved by the DPR (Article 24A paragraph 3), to appoint and dismiss members of the Judicial Commission with the approval of the DPR (Article 24B paragraph 3), and to appoint constitutional justices based on nominations from the Supreme Court, the DPR, and the President (Article 24C paragraph 3). These mechanisms reflect a system of checks and balances in the judiciary aimed at preserving judicial independence.

### **The Principle of Checks and Balances in Indonesia's Presidential System**

Indonesia's presidential system emphasizes the principle of the separation of powers and the mechanism of checks and balances among the executive, legislative, and judicial branches. Although the President holds broad executive powers, such authority is not absolute. The House of Representatives (DPR) plays a crucial role in approving presidential policies, including the enactment of laws, budget oversight, and ratification of international agreements.

This differs from a parliamentary system, where the head of government is directly accountable to the parliament. In a presidential system, the President is elected directly by the people and cannot be dissolved by the DPR, thus providing political stability and continuity of governance. However, the President's powers remain limited by the Constitution and various oversight mechanisms to prevent the abuse of power.<sup>11</sup>

### **Implications of Presidential Authority in Government Administration**

The President's broad authority within the presidential system allows for effective and swift decision-making, particularly in the areas of foreign policy, defense, and public administration. However, this authority must be exercised responsibly and transparently to prevent conflicts between state institutions and to uphold the principles of democracy and the rule of law.<sup>12</sup>

Strengthening the mechanism of checks and balances among the President, the House of Representatives (DPR), and the judiciary is a key factor in maintaining the balance of power and ensuring that presidential authority does not evolve into

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<sup>10</sup> Undang-undang Dasar Negara Republik Indonesia Tahun 1945

<sup>11</sup> Sudirman, "Kedudukan Presiden Dalam Sistem Pemerintahan Presidensial (Telaah Terhadap Kedudukan Dan Hubungan Presiden Dengan Lembaga Negara Yang Lain Dalam Undang-Undang Dasar NRI Tahun 1945)."

<sup>12</sup> Sihombing and Hadita, "Kewenangan Presiden Membentuk Undang-Undang Dalam Sistem Presidensial."

authoritarianism. In this way, Indonesia's presidential system can guarantee a democratic, just, and constitution-based administration of government.

## CONCLUSIONS

The President's authority in Indonesia is comprehensively regulated by the 1945 Constitution, which outlines the President's dual role as both Head of State and Head of Government. The President holds broad powers in areas such as foreign affairs, national defense, and the administration of government. However, this authority is not absolute. The Constitution establishes a system of oversight through the approval and consideration of legislative bodies (the House of Representatives) and judicial institutions (the Supreme Court and the Constitutional Court), serving as mechanisms of checks and balances to prevent the concentration of power in the presidency.

In practice, the implementation of these powers depends significantly on the effectiveness of inter-institutional relations and the quality of governance based on the rule of law. Thus, Indonesia's presidential system provides a strong foundation for governmental stability and efficiency, but it also requires that governance be carried out in a constitutional, transparent, and accountable manner. A democratic government cannot rely solely on institutional design—it also depends on a legal culture and political ethics that constrain the abuse of power.

As a contribution to the development of constitutional law studies, this research opens an important space for further examination of the actual implementation of presidential authority in governance, particularly in crisis situations—such as the issuance of government regulations in lieu of law (PERPPU) or the declaration of a state of emergency. On the other hand, empirical studies on the extent to which legislative and judicial institutions exercise oversight over executive actions are also necessary to strengthen a functional checks-and-balances system.

For future research, a comparative study between Indonesia's presidential system and those of other countries with similar characteristics is recommended to evaluate the effectiveness of mechanisms limiting presidential power across different political and legal contexts. Additionally, it is crucial to develop interdisciplinary research examining the impact of presidential authority on democratic quality and citizens' human rights in the digital and post-pandemic era. Such studies would complement normative legal approaches with empirical and contextual data, thereby producing a more comprehensive and relevant analysis of modern governance challenges.

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