

THE DYNAMICS OF CONSTITUTIONAL DEMOCRACY IN INDONESIA : A DESCRIPTIVE REVIEW

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ABSTRACT

Indonesia's constitutional democracy has undergone a long and complex journey, particularly since the 1998 reform. This article aims to descriptively analyze the dynamics of Indonesia's constitutional democracy by examining three main pillars: the constitutional system, the implementation of general elections, and the practice of checks and balances. The research method used is normative juridical with a statutory and conceptual approach. The results show that although the 1945 Constitution has been amended to strengthen the presidential system and the principle of checks and balances, its implementation still faces serious challenges. Practices of political oligarchy, the dominance of the executive in the legislative process (executive heavy), and the phenomenon of wasted votes in elections are indicators of a democracy that is still flawed democracy. Furthermore, the Constitutional Court plays a crucial role in upholding constitutional justice, yet controversial decisions indicate a tension between normative ideals and political practice. This study concludes that Indonesia has made significant progress institutionally but still struggles with structural and cultural issues to achieve ideal constitutional democracy.

ABSTRAK

Demokrasi konstitusional Indonesia telah mengalami perjalanan panjang dan kompleks, terutama sejak reformasi 1998. Artikel ini bertujuan untuk menganalisis secara deskriptif dinamika demokrasi konstitusional di Indonesia dengan mengkaji tiga pilar utama: sistem ketatanegaraan, penyelenggaraan pemilu, dan praktik checks and balances. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan dan konseptual. Hasil penelitian menunjukkan bahwa meskipun UUD 1945 telah diamandemen untuk memperkuat sistem presidensial dan prinsip saling awas, implementasinya masih menghadapi tantangan serius. Praktik oligarki politik, dominasi eksekutif dalam proses legislasi (executive heavy), serta fenomena suara terbuang (wasted votes) dalam pemilu menjadi indikasi demokrasi yang masih "cacat". Lebih lanjut, peran Mahkamah Konstitusi yang vital dalam menegakkan keadilan

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justeru kerap dibayangi oleh putusan-putusan kontroversial yang menunjukkan adanya ketegangan antara idealitas norma dan praktik politik. Penelitian ini menyimpulkan bahwa Indonesia telah membuat kemajuan signifikan secara institusional, namun masih bergulat dengan masalah struktural dan kultural untuk mewujudkan demokrasi konstitusional yang ideal.

Kata kunci:

Demokrasi Konstitusional, Sistem Presidensial, Oligarki, Mahkamah Konstitusi, Checks and Balances

INTRODUCTION

Indonesia, as a country adhering to a constitutional democratic system, has undergone a long and dynamic political journey since its independence. This journey has recorded various ups and downs, ranging from the era of parliamentary democracy, guided democracy, New Order authoritarianism, to the reform era that has been unfolding since 1998. Reform became a fundamental turning point that brought major changes to Indonesia's constitutional structure, particularly through amendments to the 1945 Constitution. These amendments aimed to strengthen the principle of checks and balances, limit executive power, and uphold the rule of law as the foundation of a modern democratic state.

Normatively, the post-reform constitutional system has placed the President and the People's Representative Council (DPR) in a more balanced position. The President is elected directly by the people, and the term of office is limited to a maximum of two periods an important step to prevent the concentration of power (Silalahi, 2025). However, the ideal institutional design on paper frequently collides with political reality on the ground. The dominance of political parties within large coalitions often weakens the DPR's oversight function over the executive, giving rise to the phenomenon of an *executive heavy* system in which the initiative and control of the legislative process rests predominantly in the hands of the government (Suri, 2025)

On the other hand, the electoral system adopted namely an open proportional system with a parliamentary threshold of 4% has also sparked fierce debate. This policy, designed to simplify the number of parties in parliament, has instead resulted in a large number of voter ballots failing to be converted into seats (wasted votes) (E. I. Rohmah, 2025). This undermines the principles of electoral fairness and political representation, whereby millions of people's votes become meaningless. The Constitutional Court (MK), as the guardian of the constitution and democracy, has issued various important rulings on this matter, yet their implementation frequently faces obstacles and criticism.

Furthermore, democratic practice in Indonesia cannot be separated from the influence of oligarchy. Elite groups with substantial material resources use political parties and state institutions as vehicles to maintain and expand their power (Koho, 2021) (E. Rohmah, 2024). This has led to political transactionalism, political dowries (*mahar politik*), and the recruitment of leaders based more on financial capital than on capability which in turn creates a democracy that is procedural yet devoid of substance. Against this backdrop, this article will descriptively elaborate on the dynamics of constitutional democracy in Indonesia, focusing on three central issues: the post-reform constitutional system, problems in the electoral system, and the role and challenges of the Constitutional Court in upholding constitutional justice.

RESEARCH METHOD

This research is a normative legal study (*yuridis normatif*) that focuses on examining positive legal norms contained in statutory regulations and court decisions, particularly those of the Constitutional Court. The approach used is the statute approach, examining the 1945

Constitution as amended, Law Number 7 of 2017 concerning General Elections, and other laws relevant to the constitutional and electoral system. In addition, a conceptual approach is applied to analyze fundamental concepts such as constitutional democracy, checks and balances, oligarchy, and electoral justice based on theoretical perspectives from experts (Sukmawan & Damayanti, 2025).

The legal materials used in this research consist of two types. Primary legal materials include the 1945 Constitution of the Republic of Indonesia (original text and amendments), Law Number 7 of 2017 concerning General Elections, Law Number 24 of 2003 concerning the Constitutional Court along with its amendments, as well as relevant Constitutional Court decisions, particularly Decision Number 116/PUU-XXI/2023 and Number 90/PUU-XXI/2023.

Secondary legal materials were obtained through library research by applying strict selection criteria to ensure transparency and methodological validity. The secondary literature used is limited to scientific journal articles published between 2021 and 2026. The literature search was conducted through the Google Scholar database using the following keywords: "Indonesian constitutional democracy," "presidential system," "oligarchy and political parties," "parliamentary threshold," "checks and balances," "Constitutional Court," and "electoral reform." From the search results, articles relevant to the research topic were selected and subsequently became the primary reference sources for the analysis. All journal references used in this research are listed in the bibliography and are drawn from various accredited national journals as well as internationally indexed journals, with a focus on publications discussing post-reform constitutional and electoral dynamics in Indonesia.

Data analysis was conducted qualitatively and descriptively through three stages: first, identification and inventory of relevant legal materials; second, systematization and classification of materials based on central issues (the constitutional system, elections, and the role of the Constitutional Court); and third, interpretation and conclusion-drawing using grammatical and systematic interpretation methods to describe and critique the gap between legal norms (*das Sollen*) and constitutional practice (*das Sein*). This approach enables the research not only to describe the dynamics of constitutional democracy in Indonesia, but also to identify the structural and cultural challenges that hinder the realization of an ideal democracy.

RESULTS AND DISCUSSION

1. Transformation and Challenges of the Constitutional System in the Post-Reform Era

The 1998 Reform fundamentally altered the structure of power in Indonesia. The 1945 Constitution, which had previously been highly centralistic and granted extensive power to the executive, was subsequently amended to create a balance of power. These amendments abolished the position of the People's Consultative Assembly (MPR) as the highest state institution, introduced direct presidential elections, and established new institutions such as the Constitutional Court (MK) and the Regional Representative Council (DPD) (Langiran & Al Hidayah, 2025; Putra, 2026). This research indicates that following the amendments to the 1945 Constitution, Indonesia's constitutional paradigm has shifted from a directive constitutionalism that emphasizes value-based governance toward an instrumental constitutionalism that focuses solely on procedural mechanisms. This shift has created a deliberative crisis in which public participation in policy-making is formalistic rather than substantive (R. Hasan et al., n.d.). This shift represents an effort to move from institutional supremacy toward a horizontal balance of power characterized by mutual oversight.

Although the principle of checks and balances has been normatively affirmed, its implementation in practice still faces significant challenges. One of the primary problems is

the phenomenon of an "executive heavy" system, in which executive power continues to dominate the legislative process. This occurs due to the existence of very large political coalitions in parliament, causing the House of Representatives (DPR) to lose its independence and tend to become an institution that legitimizes government policy rather than a critical deliberative body (Hafidz & Novalia, 2026). This executive dominance is further reinforced by the dependence of coalition political parties on the distribution of ministerial positions and other state resources.

Furthermore, oligarchic practices have become a chronic ailment eroding the foundations of democracy. Political parties are controlled by a small elite possessing strong capital and social resources, while cadre formation and political education fail to function properly (Koho, 2021; Lestari, 2022). Within an oligarchic system, party decisions are determined behind closed doors by the party chairman and his inner circle, while members and constituents are merely objects of political mobilization during elections. This creates a flawed democracy, in which electoral procedures are carried out yet popular sovereignty is not genuinely realized. As a result, a crisis of democratic legitimacy emerges, as the public feels their interests are not represented by a corrupt political elite that prioritizes only its own group's interests.

2. Polemics of the Electoral System and Political Representation

The open-list proportional electoral system applied in Indonesia, although considered more democratic because it gives voters a direct choice, has also given rise to various problems. One of the most crucial is the application of a 4% national parliamentary threshold. This policy, first implemented in the 2009 Election, aims to simplify the number of parties in parliament and enhance government stability (E. I. Rohmah, 2025). Hente and Fatimah identify that in the Reform era, new forms of stagnation have emerged: oligarchic dominance, rampant money politics, and allegations of electoral fraud that continue to erode electoral integrity through the 2024 Election (Hente & Fatimah, 2026). However, data from the national recapitulation conducted by the General Elections Commission (KPU) shows that in the 2024 Election, 17,304,303 votes approximately 11.4% of the total national valid votes were not converted into DPR seats because the political parties that obtained them failed to meet the 4% threshold (Prayatno & Susilowati, 2023a).

This figure originates from political parties that failed to secure seats in Senayan, such as the United Development Party (PPP) with 5,878,777 votes, the Indonesian Solidarity Party (PSI) with 4,260,169 votes, as well as other parties such as Perindo, Gelora, Hanura, the Labor Party, the Ummat Party, PBB, the Garuda Party, and PKN (Prayatno & Susilowati, 2023b). This phenomenon of wasted votes represents a bitter consequence of applying a high threshold, which ultimately eliminates political representation for millions of voters and is regarded as a distortion of the purity of the popular vote and the principle of popular sovereignty (Salam, 2025).

Constitutional Court Decision Number 116/PUU-XXI/2023 became an important milestone in this polemic. The Court ruled that the 4% threshold remained constitutional for the 2024 Election, but with conditionally constitutional status. This means the rule must be evaluated and revised before the 2029 Election to make it more proportional and fair (E. I. Rohmah, 2025). This decision opens space for reconstructing the threshold system, for example by using a data-based formula such as the model developed by Rein Taagepera. In his work titled "Nationwide Threshold of Representation," Taagepera proposed a formula for calculating the representation threshold based on the number of seats per electoral district (district magnitude) and the total number of seats in parliament (E. Rohmah, 2024; Taagepera, 2002). This model is designed so that the applied threshold remains proportional, avoiding excessive fragmentation in parliament while ensuring fairer political

representation. This approach is expected to reduce the number of wasted votes without sacrificing political stability.

Another equally serious problem is the prevalence of money politics infecting the electoral process, from the recruitment of legislative candidates through to polling day. This is inseparable from the oligarchic system that makes money the primary medium of exchange for attaining power (Koho, 2021). Irwin et al. identify that the strengthening political oligarchy in Indonesia poses a serious threat to democratic consolidation, in which the prevailing electoral system favors large parties and well-funded candidates. High political costs ultimately drive the emergence of corrupt practices, reinforce oligarchy, and foster political dynasties (Irwin et al., 2025). This research recommends a role for the Supreme Audit Agency (BPK) in auditing campaign funds as an effort to address the structural problem of money politics in elections. Stricter oversight of campaign funds could minimize transactional political practices that damage the quality of democracy (Dirgantara & Al-Fatih, 2026). Within an oligarchic system, political parties are controlled by a small elite possessing strong capital and social resources, while cadre formation and political education fail to function properly (E. Rohmah, 2024). The candidate recruitment process is often based on a candidate's popularity or financial capacity rather than their competence and integrity, causing many quality prospective leaders to be eliminated during party selection processes. As a result, candidates with substantial financial capital have greater opportunities to succeed, while candidates with integrity but limited resources are sidelined. This further reinforces oligarchic dominance in Indonesian politics and creates a democracy that is procedural yet substantively hollow, in which the relationship between elected representatives and their constituents becomes transactional rather than representative (Koho, 2021; Lestari, 2022; E. Rohmah, 2024).

3. The Constitutional Court: Between Guardian of Democracy and Political Intervention

The Constitutional Court (MK) holds a central role as the guardian of the constitution and the final interpreter of the 1945 Constitution. Its authority to review laws against the constitution (judicial review) and to resolve electoral result disputes makes it an important pillar of constitutional democracy (Ilham, 2024). In many of its decisions, the Court has demonstrated a progressive stance in protecting citizens' constitutional rights, for example through decisions that expand the meaning of substantive justice.

However, the Court's role has not escaped controversy. Decision Number 90/PUU-XXI/2023, which altered the minimum age requirement for presidential and vice-presidential candidates to "at least 40 years of age or having held/currently holding a position obtained through general elections," triggered sharp criticism. This decision is considered a form of judicial activism that exceeds the boundaries of authority and carries political overtones, as it is regarded as benefiting a particular candidate ahead of the election (Prayatno & Susilowati, 2023a; Radjak & Ahmad, 2025). The phenomenon of the Court's shift from a negative legislator to a positive legislator in Decision No. 90/PUU-XXI/2023 is analyzed by Lanoh as a form of abusive judicial review that threatens the principle of checks and balances within Indonesia's constitutional system (Andrew Eliezer Lanoh, n.d.). The presence of dissenting opinions from several justices indicates that the decision did not reflect unanimous agreement and contained serious weaknesses in its legal reasoning.

Analysis of this decision becomes even more critical when linked to ethical violations committed by a constitutional justice. The Constitutional Court Honor Council (MKMK), through Decision Number 2/MKMK/L/11/2023, declared that Anwar Usman, as Chief Justice of the Court, was proven to have committed a serious violation of the code of ethics and conduct for constitutional justices (Salam, 2025). Herdiansyah and Alfath analyze the MKMK as occupying the position of a quasi-judicial body that handles code-of-ethics

violations by constitutional justices, while also functioning as a supporting state institution that exercises oversight within the constitutional system. This research emphasizes the importance of a thorough understanding of the MKMK's position to ensure its optimal function in accordance with the principles of the rule of law (Herdiansyah & Alfath, 2025). Research by Amanda et al. confirms that the code-of-ethics violation by the Constitutional Court justice in Decision No. 90/PUU-XXI/2023 created a crisis of public trust in the Constitutional Court. This is reinforced by findings that the weakness of sanctions for ethical violations has resulted in a complete absence of deterrent effect within Indonesia's constitutional judicial system (Dwi Amanda et al., 2025). These violations included:

- a. Conflict of Interest: Anwar Usman did not recuse himself from the examination and deliberation process for Decision Number 90/PUU-XXI/2023, even though the case was directly connected to his nephew, Gibran Rakabuming Raka, who benefited from the decision (Salam, 2025). This violated the Principles of Impartiality and Integrity under the Sapta Karsa Utama (the Seven Basic Principles for Constitutional Justices).
- b. Opening Space for External Intervention: Anwar Usman was proven to have deliberately opened space for external intervention in the decision-making process, violating the Principle of Independence for constitutional justices (Salam, 2025).
- c. Violation of the Principles of Propriety and Decorum: Anwar Usman was also proven to have committed violations related to the leak of confidential information from the Justices' Deliberation Meeting (RPH) and the toleration of conflict-of-interest practices (B. Hasan, n.d.; Salam, 2025).

For these violations, the MKMK imposed a sanction of dishonorable dismissal on Anwar Usman from his position as Chief Justice of the Constitutional Court (Salam, 2025). Meanwhile, nine other constitutional justices, including Saldi Isra, received a collective verbal reprimand for jointly tolerating the code-of-ethics violations and failing to maintain the confidentiality of the RPH. Notably, the MKMK declared that Saldi Isra was not proven to have violated the code of ethics in connection with his dissenting opinion, as a differing opinion constitutes an expression of personal independence and is part of the freedom of judicial power (B. Hasan, n.d.).

Nevertheless, although the MKMK proved the existence of a serious ethical violation, Constitutional Court Decision Number 90/PUU-XXI/2023 remains formally valid and legally binding under the principle of finality of Constitutional Court decisions (final and binding), as regulated in Article 24C of the 1945 Constitution (Aryana, n.d.). In subsequent decisions (Numbers 141/PUU-XXI/2023 and 145/PUU-XXI/2023), the Court affirmed that a code-of-ethics violation by a justice does not automatically invalidate the legitimacy of a decision, since the MKMK has no authority to assess the substance of Constitutional Court decisions (Aryana, n.d.; Indrayana, n.d.).

This has given rise to a crisis of substantive legitimacy for the Constitutional Court in the eyes of the public. Although the decision remains formally valid, the proven ethical violation has damaged public trust in the independence and integrity of the Court as guardian of the constitution (E. Rohmah, 2024). Elsahra explains that oversight within judicial power must not become a potential loophole for intervention, and that the MKMK, which is explicitly granted authority under PMK Number 1 of 2023, focuses on overseeing the conduct of constitutional justices as individuals rather than overseeing the Court as an institution (Elsahra, 2025). This case demonstrates a disparity between formal legality and moral legitimacy within Indonesia's current constitutional legal system. Public trust, which constitutes the wellspring of judicial power, is at risk of erosion, which in turn could threaten the stability of constitutional democracy itself (Radjak & Ahmad, 2025; E. Rohmah, 2024).

The challenges faced by the Constitutional Court demonstrate that in the modern era, constitutional democracy depends not only on the rule of law, but also on the integrity of the actors who implement it. This research reveals that, in the Indonesian context, legal politics and the practice of judicial power show that the judiciary is always interdependent, both internally and externally. The conception of a free and independent judicial power is reflected only formalistically and normatively, but not genuinely reflected in actual judicial practice (Sitabuana et al., n.d.). Uncontrolled expansion of interpretation, particularly when accompanied by ethical violations, can disrupt the principle of separation of powers and erode the legislative function as the representation of the people (Radjak & Ahmad, 2025). Therefore, strengthening of ethical oversight mechanisms, reform of the justice recusal system, and strengthening of the Constitutional Court Honor Council are needed to ensure that the Court remains a bastion of justice rather than a tool for legitimizing power (Indrayana, n.d.; Salam, 2025).

CONCLUSIONS AND RECOMMENDATIONS

1. Conclusion

The dynamics of constitutional democracy in Indonesia in the post-reform era reveal a paradoxical pattern of development. On one hand, significant institutional progress has been achieved through amendments to the 1945 Constitution that have strengthened the principles of checks and balances, separation of powers, and the protection of human rights. State institutions such as the Constitutional Court and the Corruption Eradication Commission (KPK) were established as part of the effort to uphold the rule of law and democracy. On the other hand, constitutional practice continues to be marked by a number of chronic structural and cultural problems. The phenomenon of an *executive heavy* system, oligarchic dominance within political parties, an electoral system that produces large numbers of wasted votes, and controversial rulings by the Constitutional Court all indicate that Indonesian democracy remains a "flawed democracy." Democratic procedures are carried out, yet the substance of popular sovereignty, social justice, and equal political representation has not been fully realized.

2. Recommendations

To strengthen constitutional democracy in Indonesia, comprehensive reform measures are needed. First, a reconstruction of the electoral system is required by reassessing the parliamentary threshold. The use of a data-based dynamic threshold formula, as recommended by the Constitutional Court, must be promptly adopted for the 2029 General Election in order to reduce the number of wasted votes and improve proportionality. Second, the institutional strengthening of the DPR and political parties must become a priority, including through transparent party funding regulations to break the chain of dependence on oligarchy. Third, the Constitutional Court needs to apply a stricter principle of judicial self-restraint, as well as strengthen its code of ethics and external oversight mechanisms to preserve its independence and credibility. Fourth, improving political literacy and fostering critical participation of civil society is key to counterbalancing elite dominance and ensuring that democracy truly runs from, by, and for the people.

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