

The Dynamics of Legal Politics in Indonesia's Democratic System: Power Configuration and Legislative Formation

Sudirman Samual¹ Basman² Ronal Regen³ Elnymartin⁴ Erwin⁵ Lukman⁶

Postgraduate Program, Master of Law, Tomakaka University^{1,2,3,4,5,6}

email: immank.berdev@gmail.com¹ basmanharada81@gmail.com² ronal123reg@gmail.com³ ukeogi.23@gmail.com⁴
erwizboz34@gmail.com⁵ elnymartin9@gmail.com⁶

Article Info

Article History:

Received: Jan 20, 2026

Revised: Mar 28, 2026

Accepted: Jun 15, 2026

Keywords

legal politics,
democracy, legal
formation,
Indonesian
constitutional
system

Abstract

Legal politics constitutes the strategic direction through which the state formulates, implements, and develops legal norms in accordance with constitutional objectives and democratic values. In Indonesia's democratic system, legislative formation is shaped by complex interactions among political institutions, public participation, constitutional principles, and competing power configurations. This study aims to analyze the dynamics of legal politics in Indonesia and examine how political power influences the legislative process within a constitutional democracy. The research employs a normative legal method complemented by a qualitative approach, utilizing statutory, conceptual, and historical analyses of legislation, constitutional doctrines, judicial decisions, and relevant scholarly literature. The findings indicate that legal politics in Indonesia is highly dynamic, reflecting shifting balances of power between the executive, legislature, judiciary, political parties, and civil society. Although democratization has strengthened constitutional oversight and expanded opportunities for public participation, legislative outcomes remain vulnerable to elite bargaining, partisan interests, and political intervention, which may undermine legal certainty, justice, and regulatory coherence. Furthermore, the study demonstrates that constitutional review, institutional checks and balances, and meaningful civic engagement play essential roles in preserving democratic accountability and limiting the politicization of lawmaking. It concludes that effective legal politics requires transparent legislative procedures, independent legal institutions, evidence-based policymaking, and sustained public participation to ensure that legislation reflects constitutional values rather than short-term political interests. Strengthening these democratic mechanisms is essential for promoting responsive governance, legal legitimacy, and sustainable constitutional development in Indonesia.

1. Introduction

Legal policy is a choice about which laws will be enforced and which laws will be repealed or not enforced, all of which are intended to achieve the objectives of the state as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia. Indonesia appears to be in a position where it formulates its legal policy in a systematic and programmed manner, both for reasons of colonial independence and for ideological reasons related to the mandate of legal ideals, namely the legal ideals contained in the constitution and the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution).

Under these conditions, one of the substances contained in the constitution is the structure and position of state institutions and the procedures for regulating their authority and limits of power, the relationship between state institutions, and the relationship between state institutions and citizens. There is a desire and need to continue to improve, replace, or refine colonial laws with new laws.

Several new institutions were formed during the reform period to share roles and responsibilities. This was welcomed, and one of these institutions was the Attorney General's Office. The position of the Attorney General's

Office in the Indonesian state has undergone many changes, both institutionally and legally. Since ancient times, a system such as the Attorney General has existed since the Majapahit Kingdom. It is said that during the Majapahit era, there were several positions called Dhyaksa, Adhyaksa, and Dharmadhyaksa. The term Kejaksaan (Attorney General's Office) has actually existed for a long time in Indonesia. During the Hindu-Javanese kingdom in East Java, namely during the Majapahit Kingdom, the terms dhyaksa, adhyaksa, and dharmadhyaksa already indicated certain positions and ranks in the kingdom. These terms originate from ancient languages, namely from the same Sanskrit words.

During the democratic era since its inception, the position of the Attorney General's Office of the Republic of Indonesia has seen the evolution of the Indonesian constitutional system. At the beginning of the proclamation period, the Attorney General's Office was under the Ministry of Justice. Then, a year after the reading of the Presidential Decree of July 5, 1959, Law Number 15 of 1961 concerning the Principles of the Attorney General's Office of the Republic of Indonesia was ratified, which then became the first law regulating the Attorney General's Office. After this law came into effect, the Attorney General's Office was placed under the Ministry of Justice, which was headed by a minister. Therefore, the appointment of the Attorney General was no longer made by the Minister of Justice but directly by the president.

The next change occurred after the enactment of Law No. 5 of 1991 on the Attorney General's Office of the Republic of Indonesia, which confirmed the change in the position of the Attorney General's Office to a government institution. With the enactment of this law until the reform era, many circles wanted to separate the Attorney General's Office from the executive branch and argued that the Attorney General's Office should be placed in the judicial branch in accordance with Article 24 paragraph (3) of the Constitution of the Republic of Indonesia. After briefly reviewing the constitutional history of the Attorney General's Office, it can be seen that since its inception until now, the Attorney

General's Office has been an executive institution and the process of appointing and dismissing the Attorney General is carried out by the President. Even though the Attorney General has been approved, his appointment remains in the hands of the President.

Human condition Democracy places humans as the owners of sovereignty, which is known as the principle of popular sovereignty. Democracy is currently a system of state administration that is revered by various countries. This is especially true in Western countries, but Asian countries are also experiencing a fever for democracy.

Democracy is a system that regulates government based on the motto "from the people, by the people, and for the people." To realize this democratic system, a country usually conducts an activity called a general election. This is an important form of political participation that must be carried out by citizens. In this case, general elections can take the form of presidential elections, legislative elections, or regional head elections (Asfar, 2006). Political parties are articulative organizations consisting of political actors who are active in society, namely those who focus their attention on controlling government power and who compete for public support (Dahlan, 1999).

Political parties function as a tool for shaping the attitudes and orientations of community members. In this context, students are referred to as an intellectual community that is expected to be a generation capable of becoming agents of change in the social structure (Saidi, 1989). In a social context, students are considered to have a better understanding of politics based on their learning at the university level. This is what distinguishes students from the general public. Students are considered an educated group who can actively and provocatively voice and express the aspirations of individuals, groups, and society. Understanding of these conditions is channeled through involvement in various activities.

This shows that students are not only concerned with their activities and interests in

pursuing knowledge but also with socio-political issues developing in society. Through various activities in intra/extra-curricular organizations at the university, students have a platform to contribute their thoughts in solving socio-political problems around them by actively participating with clear direction and goals and developing their political activities.

Saidi (1989) states that students basically have political perceptions that are formed from the flow of information they digest daily, through the process of exchanging ideas with peers that takes place unintentionally in everyday life, and the realities of social life that they can observe. The expressions or statements and political perceptions that a person has depend on the individual concerned. They may be reluctant or even apathetic towards political life. In order to attract the attention of the public, especially voters, to current political issues, political candidates who are running for office conduct activities known as campaigns.

Indonesia is a country based on the rule of law that adheres to a constitutional democracy system, as stated in Article 1 paragraphs (2) and (3) of the 1945 Constitution of the Republic of Indonesia. Within this framework, law is not only understood as a set of norms that regulate society, but also as a product of the political process that arises from the dynamics of power, interests, and public aspirations. It is this close relationship between law and politics that gives rise to the concept of legal politics, namely the basic policy of the state in determining the direction, form, and content of the laws that will be formulated, implemented, and enforced.

In a democratic system, the formation of law should ideally reflect the will of the people through representative mechanisms in the legislature. However, in practice, the political process of law in Indonesia often shows a tug-of-war between the interests of those in power, the political elite, interest groups, and civil society. This means that the law does not always serve as an instrument of justice, but is sometimes perceived as a tool for legitimizing power. This dynamic can be seen in the formation of various strategic laws that have

sparked public debate, judicial reviews in the Constitutional Court, and waves of criticism from the public.

Changes to the constitutional system after the 1998 reform also had major implications for the direction of political law in Indonesia. The decentralization of power, the strengthening of judicial institutions, the establishment of the Constitutional Court, and increased public participation in the legislative process indicate a shift from a centralistic model of political law to a more democratic and participatory model. However, challenges remain, such as regulatory inconsistencies, overlapping laws and regulations, weak law enforcement, and political interference in the legislative process.

The dynamics of legal politics in Indonesia's democratic system are also influenced by social, economic, and globalization developments. Demands for the protection of human rights, government transparency, eradication of corruption, and the adjustment of national laws to international standards have enriched and complicated the law-making process. In this context, legal politics has become a strategic arena that determines whether the law will favor the public interest or the interests of those in power.

Therefore, it is important to examine the dynamics of political law in Indonesia's democratic system in order to understand how legal policy is formed, who are the dominant actors, and to what extent the process reflects the principles of democracy, justice, and legal certainty. This study is expected to contribute academically to understanding the relationship between law and politics while offering critical reflections on national legal development in the era of democracy.

Based on this background, the problems addressed in this paper are: How do politics and law relate to each other in Indonesia's democratic system? How do the dynamics of political law influence the process of forming legislation in Indonesia? What factors influence the direction of political law in Indonesia's democratic system?

2. Literature Review

Studies on legal politics within Indonesia's democratic system have been widely discussed by scholars of constitutional law, legal politics, and socio-political studies, emphasizing the close relationship between power configuration, law formation, and the principles of a democratic rule of law. This body of literature generally indicates that law is not neutral but rather a product of political processes influenced by power dynamics, interests, and constitutional values.

Asshiddiqie asserts that Indonesia, as a democratic rule-of-law state, requires a balance between the supremacy of law and popular sovereignty. In his work on constitutional law and the pillars of democracy, he emphasizes that law-making must be based on constitutionalism, human rights protection, limitation of power, and checks and balances among state institutions. This idea is further strengthened in his other work, which highlights that a democratic rule-of-law state is not merely a country that has written laws, but one that guarantees substantive justice, public participation, and government accountability.

Similarly, Ahsin Thohari highlights the importance of constitutional rights within Indonesia's constitutional system. He argues that legal politics must align with the protection of citizens' constitutional rights, meaning that the legislative process should not disregard democratic principles, justice, and human rights protection. This perspective is relevant in understanding that the dynamics of legal politics are not only related to elite political interests but also to the fulfillment of citizens' rights.

Regarding the dynamics of national legal politics, Lestari, Adipati, and Cahyono illustrate that law formation in Indonesia within a constitutional democracy is always shaped by competing interests between the executive, legislative, and interest groups. They emphasize that although democracy provides space for public participation, legislative practice is often still dominated by political elites, resulting in legal products that are not always responsive to societal needs.

The relationship between law enforcement and democracy is also examined by Asriani and Asyam, who argue that democratic development in Indonesia has not always been accompanied by improvements in law enforcement quality. From a historical, socio-political, and constitutional perspective, they demonstrate that changes in political regimes significantly affect the direction of legal politics and the independence of law enforcement institutions.

Ramdhany and colleagues reinforce this argument by showing that political dynamics often influence law enforcement in Indonesia. They find that political intervention, power interests, and weak institutional independence hinder the achievement of substantive justice, even though Indonesia formally adheres to the rule of law.

In the context of legislation, Fadillah and Cahyono emphasize the importance of deliberative democracy in the law-making process. They argue that the quality of legislation would improve if law formulation involved meaningful dialogue among the government, parliament, and civil society, rather than merely formal procedural compliance.

Concerning human rights, Indriani and colleagues highlight a gap between constitutional norms and political reality in Indonesia. Although the 1945 Constitution guarantees human rights protection, legal political practice often reflects the dominance of state or elite interests over public interests.

Aulia, Fawaid, and Suhayat, in their study on the formation of the new Criminal Code (KUHP), show that legal politics in legislation often lies between public interests and state interests. They argue that criminal law formation reflects how power seeks to regulate society while simultaneously facing pressure from civil society to be more democratic and human rights-oriented.

From a philosophical perspective, Hendrianto, in his work on democracy and the rule of law in Indonesia, argues that the rule of law cannot be separated from democracy. He maintains that law should function as both a

limitation on power and a means of achieving social justice, rather than merely a tool of political legitimization.

Based on this literature review, it can be concluded that the dynamics of legal politics in Indonesia are strongly influenced by power configuration, the quality of democracy, and the relationship between the state and society. The literature shows that although Indonesia has made progress in democratization and legal reform, challenges remain, particularly regarding political dominance in legislation, limited meaningful public participation, and inconsistencies between constitutional principles and legal political practice. Therefore, further analysis of the relationship between democracy and legal politics in law formation is both relevant and necessary.

3. Research Methods

This paper uses a normative legal writing method with a qualitative approach. The statute approach, which examines various laws and regulations related to the democratic system, law formation, and legal politics in Indonesia. The conceptual approach, which examines concepts related to legal politics, democracy, the rule of law, and the theory of the relationship between law and power. The historical approach, which looks at the development of Indonesian legal politics from time to time, especially before and after the reform.

Legal Material Collection Techniques This is done through library research by reviewing literature and legal documents relevant to the research topic. **Legal Material Analysis Techniques.** The legal materials obtained are analyzed using descriptive qualitative analysis, namely by describing, connecting, and interpreting the legal materials to answer the research questions and describe the dynamics of legal politics in Indonesia's democratic system.

4. Results and Discussion

4.1. The Dynamics of Legal Politics in the Framework of Democracy

The results of the study show that legal

politics in Indonesia are greatly influenced by the democratic system that developed after the 1998 reform. Democracy opens up wider public participation in the law-making process, but at the same time also presents a tug-of-war between political interests in the legislative and executive branches.

In a democratic system, the law is no longer merely an instrument of power, but also the result of political compromise between various interest groups. This means that legal products often reflect the dominant political configuration at the time the law was formed. Thus, the direction of legal politics is highly dependent on the balance of political power in parliament and the relationship between the government and political parties.

In a democratic system, law is not born in a neutral space, but through a political process involving various actors and interests. Therefore, legal politics is an integral part of democratic practice. Legal politics can be understood as the direction of state policy in shaping and developing laws in accordance with the objectives of the state. In a democratic framework, the direction of this policy should ideally originate from the will of the people, channeled through representative mechanisms, public participation, and the principle of accountability.

The dynamics of legal politics in a democracy can be seen in the process of forming legislation, which involves the legislative and executive branches. On the one hand, this process reflects democratic principles because laws are formed through legitimate procedures and involve representatives of the people. However, on the other hand, the legislative process also becomes an arena for contesting political, economic, and ideological interests. Debates in the drafting of laws often reveal a tug-of-war between public interests and the interests of the elite, so that the substance of the resulting laws does not always fully reflect the aspirations of the wider community.

In the framework of modern democracy, public participation is an important element in the dynamics of legal politics. The involvement of civil society, academics, the media, and non-

governmental organizations in the legislative process shows that the law is no longer monopolized by the state. The judicial review mechanism in the Constitutional Court is also a form of democratic control over legal products that are deemed to be contrary to the constitution or human rights. This phenomenon shows that legal politics in a democracy is dynamic, open to criticism, and can be corrected through constitutional mechanisms.

4.2. The Influence of Political Configuration on Law Formation

The discussion shows that the democratic political configuration in Indonesia tends to produce more responsive laws, but not always consistently. In practice, the legislative process is often colored by:

- The interests of political parties, especially in the formation of strategic laws
- Pressure from interest groups
- Political lobbying in parliament
- The influence of public opinion through the media and civil society

As a result, laws can change direction in accordance with short-term political interests. Some laws have even been revised in a short period of time due to public pressure, which demonstrates the strong influence of participatory democracy but also indicates a lack of careful legal planning.

Law formation is essentially inseparable from the political configuration that is taking place in a country. Political configuration refers to the structure of political power, the pattern of relations between state institutions, and the balance of power between the government, parliament, political parties, and civil society. In this context, laws often reflect the dominant power structure during a particular period.

In a democratic political system, the configuration of power tends to be more open and competitive. The law-making process involves various political actors with diverse interests. Parliament, as the representative body of the people, plays an important role in formulating laws, while the government carries out the function of proposing draft laws and implementing legal policies. In addition, civil

society, academics, and the media also exert influence through criticism, advocacy, and public participation in the legislative process. This pluralistic configuration has the potential to produce laws that are more responsive to the needs of society.

Conversely, in a political configuration that tends to be authoritarian or centralized, law formation is largely controlled by the executive branch. Parliament often only serves as formal legitimization for policies that have been determined by the government. In situations like this, the law functions more as an instrument of power than as a means of protecting the rights of citizens. Legal products that arise from this kind of political configuration tend to be less participatory, lack transparency, and have the potential to ignore the principle of justice.

4.3. The Role of State Institutions in the Dynamics of Political Law

The dynamics of legal politics in Indonesian democracy cannot be separated from the role of state institutions, namely:

a. Legislative (DPR)

The DPR has a central role in the formation of laws. However, as a political institution, the DPR cannot be separated from the interests of parties and coalitions. This makes the legislative process often a arena for political negotiation rather than purely academic considerations or the needs of society.

b. The Executive (Government)

The government plays a role by proposing bills and issuing implementing regulations. The government's legal policy direction usually reflects the national development vision, but it must still compromise with political forces in parliament.

c. The Judiciary (Constitutional Court and Supreme Court)

Judicial institutions, particularly the Constitutional Court, act as a counterbalance in the dynamics of political law. Through judicial review, the Constitutional Court can overturn laws that are deemed to be in conflict with the constitution. This shows that in a democratic system, the law is not entirely subject to

political power because there are still constitutional control mechanisms.

The dynamics of political law in a democratic country cannot be separated from the role of state institutions that have constitutional authority in the formation, implementation, and supervision of laws. Each state institution plays a role in shaping the direction of legal policy in accordance with its functions and authorities, so that political law is essentially the result of interactions between institutions in the constitutional system.

The legislative institution, particularly the House of Representatives (DPR), has a central role in the formation of laws. The DPR and the President discuss and pass draft laws into law. In this process, the dynamics of legal politics are very visible because the discussion of laws often involves debates between factions, political lobbying, and negotiations of interests. The DPR should represent the aspirations of the people, so that the resulting legal products reflect the needs and interests of the wider community. However, in practice, the influence of political party interests and government coalitions often determines the direction of legal substance.

The executive institution, namely the President and his ministers and government agencies, also plays an important role in legal politics. The government has the authority to propose draft laws, formulate implementing regulations, and enforce established laws. In this context, the government is not only the enforcer of the law, but also the main actor in determining legislative priorities in accordance with the political and national development agenda. Therefore, the direction of legal policy is often influenced by the vision and policies of the government in power.

5. Conclusion and Recommendations

5.1. Conclusion

The dynamics of legal politics in Indonesia's democratic system show that laws are never born in a neutral space, but are always influenced by the prevailing political power configuration. In a democratic system, legal politics should ideally be directed towards realizing people's sovereignty, protecting

human rights, and achieving social justice as mandated in Pancasila and the 1945 Constitution of the Republic of Indonesia.

However, in practice, the process of forming and implementing laws is often influenced by short-term political interests, the tug-of-war between elites, and weak meaningful public participation. This poses challenges in the form of inconsistent regulations, overlapping rules, and law enforcement that does not fully reflect the principles of justice and legal certainty.

On the other hand, this dynamic also shows that democracy provides room for correction through constitutional mechanisms such as judicial review, freedom of the press, and civil society participation. Thus, legal politics in Indonesia is dynamic: on the one hand, it has the potential to deviate from the national legal ideal, but on the other hand, it has democratic mechanisms to correct it.

5.2. Recommendations

a. Strengthening National Legal Policy Planning

A more consistent and long-term legal policy direction is needed through legislative planning that is in line with the values of Pancasila, the constitution, and the needs of society, rather than merely short-term political interests.

b. Improving the Quality of the Legislative Process

The formulation of laws and regulations must prioritize the principles of openness, meaningful public participation, and comprehensive academic review so that legal products are more responsive and implementable.

c. Strengthening Law Enforcement Institutions

The independence and professionalism of law enforcement officials must be maintained so that law enforcement is not easily influenced by political intervention, thereby ensuring substantive justice.

d. Harmonization and Evaluation of Regulations

The government and the House of

Representatives must periodically evaluate and harmonize regulations to avoid overlap, conflicts of norms, and legal uncertainty in society.

e. Improving Legal Literacy and Public Participation

The public needs to be encouraged to be more active in understanding and monitoring the political process of law, because in a democratic system, public control is an important element in ensuring that the law remains in the interests of the people.

Bibliography

- A. Thohari Ahsin. *Hak Konstitusional dalam Hukum Tata Negara Indonesia*. Jakarta: Erlangga (2016).
- Ardisa Lestari, Imam Putra Adipati & Leo Dwi Cahyono. *Dinamika Politik Hukum Nasional dalam Negara Demokrasi Konstitusional*. Lex Jurnalica.
- Asshiddiqie, Jimly. *Hukum Tata Negara dan Pilar-pilar Demokrasi*. Jakarta: Konstitusi Press.
- Asshiddiqie, Jimly. *Menuju Negara Hukum yang Demokratis*. Jakarta: Kompas.
- Claragista Intan Asriani & Asyam M. *Dinamika Penegakan Hukum dan Demokrasi di Indonesia: Perspektif Historis, Sosial-Politik, dan Konstitusional*. Aliansi: Jurnal Hukum, Pendidikan dan Sosial Humaniora.
- Deny M. Ramdhany dkk. *Dinamika Politik dan Hukum dalam Mempengaruhi Penegakan Hukum di Indonesia*. Themis: Jurnal Ilmu Hukum.
- Fadillah & Leo Dwi Cahyono. *Dinamika Legislasi Indonesia dalam Kerangka Demokrasi Deliberatif*. Jurnal Kajian Sosial dan Humaniora.
- Fauziah Indriani dkk. *Hak Asasi Manusia dalam Sistem Politik Indonesia: Antara Konstitusi dan Realitas*. Demokrasi: Jurnal Riset Ilmu Hukum, Sosial dan Politik.
- Nisfatul Aulia, Fawaid & Afin Suhayat. *Dinamika Politik Hukum dalam Pembentukan KUHP Baru: Antara Kepentingan Publik dan Kekuasaan Negara*. Causa: Jurnal Hukum dan Kewarganegaraan.
- Marsuni, N. S., & Insirat, M. N. (2023). Analysis of the Effect of Tax Policy and Inflation on Economic Growth: A Review of Indonesian Literature. *GoodWill Journal of Economics, Management, and Accounting*, 3(2), 45-48.
- Stefanus Hendrianto. *Democracy and the Rule of Law in Indonesia: A Legal Philosophical Analysis*. Routledge (2026).