

## Research Article

# Constitutional Analysis of Executive Power Limitations in Presidential Systems: A Comparative Study of Indonesia and The United States

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**Abstract:** This research examines the constitutional aspects of executive power limitations in presidential systems by comparing governmental practices in Indonesia and the United States. Through juridical-normative and comparative approaches, this research analyzes constitutional design, jurisprudence, and institutional practices that limit presidential power in both countries. Key findings indicate significant differences in checks and balances mechanisms, with the United States relying on a stricter doctrine of separation of powers compared to Indonesia, which implements power distribution. This research also identifies weaknesses in executive power limitations in Indonesia, particularly concerning legislative authority and the appointment of high-ranking state officials. The results of this research are expected to contribute to strengthening constitutional mechanisms in limiting executive power to prevent abuse of authority..

**Keywords :** checks and balances; Constitutional law; executive power; Indonesia; presidential system; separation of powers; United States

## 1. Introduction

The limitation of executive power represents one of the most fundamental principles in modern constitutional democracies. As Lord Acton famously remarked, "Power tends to corrupt, and absolute power corrupts absolutely," underscoring the inherent risks of unchecked authority. Presidential systems, while offering certain advantages in terms of stability and direct democratic mandate, nonetheless pose unique challenges regarding the concentration of power in the executive branch. This research examines how two prominent presidential systems—Indonesia and the United States—have developed constitutional mechanisms to address these challenges.

Indonesia and the United States present intriguing cases for comparative analysis due to their distinct historical trajectories, legal traditions constitutional system has undergone dramatic transformations since independence, particularly following the fall of Suharto's authoritarian New Order regime in 1998 and the subsequent constitutional amendments from 1999 to 2002.

This article explores how each nation's constitution structures and constrains executive authority, examining both formal constitutional provisions and their practical implementation. By identifying similarities, differences, and respective strengths and weaknesses, this research aims to contribute to the broader discourse on effective constitutional design for limiting executive power in presidential systems.

, and constitutional developments. While the United States has maintained its constitutional framework for over two centuries with incremental changes primarily through judicial interpretation, Indonesia's

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## 2. Theoretical Framework

### 2.1 Separation of Powers and Checks and Balances

The theoretical foundation for limiting executive authority rests primarily on the twin doctrines of separation of powers and checks and balances. Originally articulated by enlightenment thinkers such as Montesquieu and further developed by the American Founders, these principles have become cornerstones of constitutional design worldwide.

The separation of powers doctrine holds that governmental functions should be divided among distinct branches to prevent concentration of authority. As Madison argued in *Federalist* No. 47, "The accumulation of all powers, legislative, executive, and judiciary, in the same hands... may justly be pronounced the very definition of tyranny." However, modern constitutional theory recognizes that complete separation is neither practical nor desirable; rather, a system of "checks and balances" enables each branch to exercise limited control over the others, creating a dynamic equilibrium of power.

### 2.2 Presidential Power in Constitutional Theory

Presidential systems typically concentrate significant authority in a single executive figure, raising particular concerns about power abuse. Constitutional scholars have identified several models for constraining this authority:

- Textual limitation: Explicitly enumerating and limiting presidential powers within constitutional text
- Procedural constraints: Requiring specific processes for executive action
- Institutional counterweights: Empowering other institutions to check executive authority
- Temporal constraints: Limiting presidential terms and establishing removal mechanisms
- Rights-based limitations: Protecting individual rights against executive encroachment

These approaches are not mutually exclusive and typically operate in combination. Their effectiveness depends not only on constitutional design but also on political culture, historical context, and institutional capacity.

### 2.3 Distribution vs. Separation: Distinctive Approaches

A critical theoretical distinction emerges between the strict separation model and the distribution model of powers. The United States leans toward a strict separation approach, where each branch possesses relatively exclusive domains of authority. Indonesia, like many newer democracies, has adopted a more flexible distribution model, where powers may be shared or overlapping between branches. This distinction provides an important analytical lens for understanding the different constitutional approaches in our comparative cases.

## 3. Research Method

This study employs a juridical-normative approach complemented by comparative legal analysis. The primary data sources include constitutional texts, constitutional court decisions, statutes, and executive orders from Indonesia and the United States. Secondary sources encompass academic literature, legal commentaries, and policy analyses examining both countries' executive power constraints.

The comparative framework focuses on several key dimensions:

- Constitutional design and textual provisions limiting executive authority
- Jurisprudence regarding executive power boundaries
- Institutional practices and inter-branch interactions
- Historical development of executive constraints
- Contemporary challenges to effective power limitation

The analysis examines both formal (*de jure*) limitations enshrined in constitutional texts and informal (*de facto*) constraints that have evolved through political norms, judicial

decisions, and institutional practices. This dual focus allows for a more comprehensive understanding of how executive power is effectively constrained in practice, beyond what constitutional texts alone might suggest.

## 4. Results

### 4.1 Constitutional Design: Comparative Analysis

#### United States Constitutional Framework

The U.S. Constitution establishes a system of separate but interdependent branches through several key mechanisms:

- a) **Enumerated Powers:** Article II specifically delineates presidential authorities, including commander-in-chief powers, treaty-making (with Senate advice and consent), and appointment powers.
- b) **Congressional Checks:** Congress possesses significant countervailing powers, including:
  - o Appropriations authority ("power of the purse")
  - o Senate confirmation of executive appointments
  - o Treaty ratification requirements
  - o Impeachment and removal powers
  - o Legislative override of presidential vetoes
- c) **Judicial Review:** While not explicitly stated in the Constitution, the principle established in *Marbury v. Madison* (1803) empowers courts to invalidate executive actions that violate constitutional provisions.
- d) **Federalism:** The division of power between federal and state governments creates additional constraints on federal executive authority.

The U.S. system is characterized by what political scientist Richard Neustadt described as "separate institutions sharing powers," creating built-in tension and competition that restrains unilateral executive action.

#### Indonesian Constitutional Framework

Indonesia's 1945 Constitution, particularly after the post-1998 amendments, establishes a presidential system with distinctive features:

- a. **Presidential Powers:** The President serves as both head of state and head of government, with significant powers including:
  - o Appointment authority for cabinet ministers
  - o Commander-in-chief status
  - o Emergency decree powers
  - o Legislative initiative
- b. **Constitutional Constraints:**
  - o Fixed presidential term limits (maximum two five-year terms)
  - o Requirement of legislative approval for certain appointments
  - o Constitutional Court review of presidential actions
  - o Impeachment procedures through the Constitutional Court and MPR (People's Consultative Assembly)
- c. **Distinctive Features:**
  - o The DPR (House of Representatives) possesses stronger policy-making authority compared to the U.S. Congress
  - o Indonesia's quasi-independent commissions (e.g., Corruption Eradication Commission, National Human Rights Commission) provide additional oversight

- o The Constitutional Court, established in 2003, has emerged as a significant check on executive authority

### Comparative Assessment of Constitutional Design

Several key differences emerge when comparing the constitutional frameworks:

- a) Historical Context: The U.S. Constitution was designed to prevent tyranny based on colonial experience with monarchical overreach, while Indonesia's post-1998 amendments sought to correct the hyper-presidentialism of the Suharto era.
- b) Textual Specificity: The U.S. Constitution employs relatively broad language regarding executive power, relying heavily on institutional practice and judicial interpretation to define limits. Indonesia's amended constitution contains more detailed and specific limitations on presidential authority.
- c) Power Distribution: While both systems formally separate powers, Indonesia's constitution reflects a distribution approach rather than strict separation, with greater emphasis on inter-branch cooperation.
- d) Judicial Role: Both systems rely on constitutional courts as arbiters of power boundaries, but Indonesia's Constitutional Court was explicitly designed as a check on presidential power, while the U.S. Supreme Court's role evolved more gradually through jurisprudence.

These structural differences reflect not only distinct historical experiences but also different constitutional philosophies regarding the optimal balance between governmental effectiveness and restraint of power.

## 4.2 Jurisprudential Development of Executive Constraints

### United States Supreme Court Jurisprudence

The boundaries of U.S. presidential power have been significantly shaped through landmark Supreme Court decisions:

1. Early Foundations:
  - o *Marbury v. Madison* (1803) established judicial review over executive actions
  - o *Little v. Barreme* (1804) confirmed that presidential orders cannot violate statutory restrictions
2. Crisis and War Powers:
  - o *The Prize Cases* (1863) recognized expanded presidential authority during civil insurrection
  - o *Ex parte Milligan* (1866) limited military trials of civilians when civilian courts are operational
  - o *Youngstown Sheet & Tube Co. v. Sawyer* (1952) established the influential Jackson framework for analyzing presidential power in relation to congressional authorization
3. Modern Developments:
  - o *United States v. Nixon* (1974) rejected claims of absolute executive privilege
  - o *Clinton v. Jones* (1997) established that presidents are not immune from civil litigation for unofficial acts
  - o *Trump v. Mazars USA* (2020) and *Trump v. Vance* (2020) addressed executive privilege and immunity claims

Justice Jackson's concurrence in *Youngstown* has proven particularly influential, establishing a three-tiered framework for analyzing executive power: (1) when acting with congressional authorization, presidential power is at its maximum; (2) when Congress is silent,

the President operates in a "zone of twilight"; and (3) when acting against congressional will, presidential power is "at its lowest ebb."

### Indonesian Constitutional Court Jurisprudence

Indonesia's Constitutional Court has developed a distinctive jurisprudence concerning executive limitations:

1. Early Development (2003-2010):
  - o Decision No. 005/PUU-I/2003 established the Court's role in determining constitutional boundaries of presidential authority
  - o Decision No. 138/PUU-VII/2009 imposed strict limitations on presidential emergency regulation powers (Perppu)
2. Critical Cases on Executive Authority:
  - o Decision No. 36/PUU-X/2012 limited presidential authority in oil and gas management
  - o Decision No. 1-2/PUU-XII/2014 restricted presidential discretion in appointing acting governors
  - o Decision No. 25/PUU-XVII/2019 limited presidential authority to revise Corruption Eradication Commission law
3. Institutional Independence:
  - o Series of decisions establishing independence of state commissions from executive control
  - o Decisions reinforcing parliamentary oversight over executive appointments

The Indonesian Constitutional Court has generally adopted a more interventionist approach than its American counterpart, frequently invalidating executive actions that exceed constitutional boundaries. This reflects its express design as a post-authoritarian institution created specifically to prevent power concentration.

### Comparative Jurisprudential Approaches

Several notable contrasts emerge between the jurisprudential approaches:

- a. Judicial Deference: U.S. courts typically demonstrate greater deference to executive authority in foreign affairs and national security, while Indonesian courts have shown greater willingness to scrutinize executive actions across domains.
- b. Interpretive Philosophy: U.S. jurisprudence has evolved through common law incrementalism and historical practice, while Indonesian jurisprudence more explicitly references international norms and democratic principles.
- c. Remedial Powers: The Indonesian Constitutional Court has exercised broader remedial authority, sometimes issuing decisions with specific policy directives, while U.S. courts typically limit themselves to invalidating unconstitutional actions without prescribing specific alternatives.
- d. Democratic Transition Context: Indonesian jurisprudence reflects the context of democratic consolidation, with greater emphasis on preventing authoritarian regression, while U.S. jurisprudence assumes the stability of democratic institutions.

These jurisprudential differences reflect not only distinct legal traditions but also different historical experiences with executive power and its abuses.

### 4.3 Legislative Authority and Executive Power

#### United States: Congressional Oversight and Legislation

The U.S. Congress exercises significant checks on executive power through several mechanisms:

- a) Oversight Functions: Congressional committees conduct investigations, hold hearings, and require testimony from executive officials. These oversight powers, while not explicitly enumerated in the Constitution, have been recognized as essential to the legislative function.
- b) Appropriations Authority: Congress's exclusive power over spending provides a powerful check on executive initiatives. The Anti-Deficiency Act prohibits executive spending without congressional authorization.
- c) Appointment Powers: Senate confirmation is required for cabinet secretaries, federal judges, ambassadors, and other senior officials, creating a significant legislative check on staffing the executive branch.
- d) Legislative Vetoes and Administrative Constraints: While the Supreme Court invalidated the legislative veto in *INS v. Chadha* (1983), Congress has developed alternative mechanisms to influence administrative action, including:
  - o Detailed statutory directives
  - o Sunset provisions
  - o Reporting requirements
  - o Congressional Review Act procedures
- e) Impeachment: The ultimate congressional check, though rarely employed, has been used to remove federal judges and has been initiated against presidents (Andrew Johnson, Richard Nixon, Bill Clinton, and Donald Trump), although only resulting in acquittals for presidents.

### **Indonesia: Parliamentary Controls and Legislative Powers**

The Indonesian legislature exercises distinctive controls over executive authority:

- a. Legislative Dominance in Lawmaking: Unlike the U.S. system, where legislation often originates from the executive branch, Indonesian law explicitly designates the DPR as the primary legislative authority, with the President having only the right of participation rather than initiation in many areas.
- b. Budgetary Authority: The DPR must approve the annual state budget (APBN), with greater line-item control than the U.S. Congress typically exercises.
- c. Interpellation and Questioning Rights: The DPR possesses formal constitutional rights to question the President and cabinet ministers, with potential political consequences for unsatisfactory responses.
- d. Approval Requirements: Presidential appointments for key positions (military leadership, police chief, judicial nominations) require DPR approval.
- e. Impeachment Process: The DPR can initiate impeachment proceedings through the Constitutional Court, with final decision resting with the MPR (People's Consultative Assembly).

### **Comparative Assessment of Legislative Controls**

Several significant differences emerge in legislative constraints on executive power:

- a) Institutional Autonomy: The U.S. Congress operates with greater institutional independence from the executive, while Indonesian legislators often maintain stronger party loyalty to the President, particularly when the President's party holds a parliamentary majority.
- b) Lawmaking Initiative: The Indonesian constitution grants greater formal legislative authority to parliament, while the U.S. system has evolved toward greater executive initiative in legislation despite formal congressional primacy.

- c) Oversight Effectiveness: U.S. congressional oversight benefits from extensive staff resources, established traditions, and information access, while Indonesian parliamentary oversight remains constrained by capacity limitations and political alignments.
- d) Impeachment Politics: Both systems have established impeachment mechanisms that have proven difficult to deploy effectively, reflecting the inherent challenges of removing democratically elected executives through legislative processes.

These differences reflect not only constitutional design choices but also distinct political cultures and party systems that influence how formal powers translate into practical constraints.

#### 4.4 Executive Appointments and Personnel Control

##### United States: Appointment Process and Constraints

The U.S. Constitution establishes a shared appointment power:

- a) Appointment Clause Framework: Article II requires Senate confirmation for principal officers while allowing Congress to vest appointment of inferior officers in the President alone, department heads, or courts.
- b) Senate Confirmation Politics: The confirmation process has become increasingly contentious, with greater scrutiny of nominees and occasional use of procedural tactics to block appointments.
- c) Removal Powers: The Supreme Court has generally recognized presidential authority to remove executive officers (*Myers v. United States*, 1926), though with certain limitations for independent agencies (*Humphrey's Executor v. United States*, 1935).
- d) Independent Agencies: Agencies structured with leadership tenure protections and bipartisan composition requirements provide partial insulation from presidential control.
- e) Civil Service Protections: Career civil servants enjoy significant job protections, limiting presidential ability to restructure bureaucracy through personnel changes.

##### Indonesia: Appointment Systems and Accountability

Indonesia's appointment system reflects its transitional democratic context:

- a) Cabinet Appointments: Ministers serve at the pleasure of the President without parliamentary confirmation, though political considerations often necessitate coalition-building appointments.
- b) Key Position Confirmations: Certain positions—including military commanders, police chief, and judges—require DPR approval.
- c) Independent Commission Appointments: Post-1998 reforms established several independent commissions with complex appointment procedures designed to ensure independence from both executive and legislative control.
- d) Civil Service System: Indonesia's bureaucracy remains more politically penetrable than the U.S. system, with greater executive influence over personnel matters despite formal civil service protections.
- e) Military-Civilian Relations: Constitutional amendments have formalized civilian control over military appointments, a significant change from previous eras when military leadership exercised substantial autonomous authority.

#### Comparative Assessment of Appointment Powers

The appointment systems reveal distinctive approaches to controlling executive power:

- a. Confirmation Scope: The U.S. system subjects a broader range of appointments to legislative confirmation, while Indonesia requires confirmation only for specific high-level positions.
- b. Independent Agencies: Both systems utilize independent agencies to insulate certain functions from direct presidential control, though Indonesia's agencies often face greater challenges in maintaining operational independence.
- c. Politicization Patterns: The U.S. system features deeper politicization at upper levels with stronger civil service protection below, while Indonesia's system permits broader political penetration throughout the bureaucracy.
- d. Military Control: Indonesia's constitutional framework places particular emphasis on civilian control of the military, reflecting its historical experience with military political involvement, a concern less salient in the U.S. context.

These differences highlight how appointment powers and their constraints reflect each nation's distinct historical experiences with executive authority.

#### 4.5 Emergency Powers and Crisis Authority

##### United States: Emergency Powers Framework

The U.S. constitutional system addresses emergency powers through several mechanisms:

- a) Constitutional Provisions: The Constitution contains limited explicit emergency provisions, primarily the suspension of habeas corpus "in Cases of Rebellion or Invasion when the public Safety may require it" (Article I, Section 9).
- b) Statutory Framework: The National Emergencies Act (1976), War Powers Resolution (1973), and International Emergency Economic Powers Act (1977) establish procedural constraints on emergency powers while granting significant substantive authority.
- c) Judicial Treatment: Courts have generally deferred to executive claims of emergency necessity, with limited exceptions:
  - o Ex parte Milligan (1866) restricted martial law during the Civil War
  - o Youngstown (1952) rejected emergency claims for steel seizure
  - o Hamdi v. Rumsfeld (2004) required due process for citizen detainees
- d) Historical Practice: Presidential emergency claims have expanded significantly since the early 20th century, with limited effective constraints despite formal legal restrictions.

##### Indonesia: Emergency Authority and Limitations

Indonesia's emergency powers system reflects efforts to prevent authoritarian backsliding:

- a. Constitutional Provisions: Article 12 authorizes the President to declare states of emergency under conditions regulated by law, while Article 22 permits emergency regulation issuance (Perppu) subject to subsequent DPR approval.
- b. Legislative Framework: Law No. 23/1959 on Emergency Situations and Law No. 24/2007 on Disaster Management establish more detailed procedures and substantive limits than U.S. equivalents.
- c. Constitutional Court Oversight: Decision No. 138/PUU-VII/2009 established that Perppu issuance requires "compelling urgency" and is subject to constitutional review, creating stronger judicial checks than in the U.S. system.



- d. Historical Context: Indonesia's emergency powers framework explicitly reacts against Suharto-era abuses, when emergency authorities were used to suppress political opposition and centralize power.

### **Comparative Assessment of Emergency Powers Constraints**

Several notable differences emerge in emergency powers constraints:

- a) Explicit Limitations: Indonesia's post-1998 system incorporates more explicit textual constraints on emergency powers, reflecting lessons learned from authoritarian abuse.
- b) Legislative Involvement: Both systems require some form of legislative involvement, but Indonesia's system mandates more immediate parliamentary review of emergency declarations.
- c) Judicial Willingness: Indonesian courts have shown greater willingness to scrutinize emergency justifications than their U.S. counterparts, who typically invoke political question doctrine or demonstrate substantial deference.
- d) Sunset Provisions: Indonesia's emergency framework incorporates stronger automatic expiration requirements, while U.S. emergencies can persist indefinitely without affirmative congressional termination.

These differences reflect distinctive historical experiences with emergency powers abuse and different institutional approaches to preventing such abuse in the future.

## **4.6 Contemporary Challenges in Executive Power Limitation**

### **United States: Evolving Challenges**

The U.S. system faces several contemporary challenges in constraining executive authority:

- a. Administrative State Growth: The expansion of executive agencies with broad rule-making authority has shifted substantial policymaking power to the executive branch, raising questions about democratic accountability and legislative delegation.
- b. Polarization Effects: Increasing political polarization has weakened congressional willingness to check presidents of the same party, transforming institutional checks into partisan calculations.
- c. Unitary Executive Theory: Expansive interpretations of presidential authority over administration have gained prominence, challenging traditional understandings of independent agencies and congressional oversight.
- d. Information Asymmetry: Executive control over classified information and national security apparatus creates accountability gaps that other branches struggle to address.
- e. Direct Democracy Claims: Presidents increasingly claim direct democratic mandates to justify unilateral action, bypassing traditional institutional constraints.

### **Indonesia: Emerging Constraints Issues**

Indonesia's relatively young democratic system faces distinctive executive constraint challenges:

- a) Coalition Politics: Presidents typically form broad governing coalitions that incorporate potential parliamentary opposition, blunting the effectiveness of legislative checks.
- b) Judicial Independence Pressures: Despite constitutional protections, the judiciary faces ongoing political pressure that can compromise its checking function.
- c) Regional Autonomy Tensions: Decentralization reforms created potential alternative power centers, but implementation has been uneven and subject to recentralization efforts.

- d) **Informal Power Networks:** Formal constitutional constraints can be circumvented through informal patronage networks and economic influence.
- e) **Democratic Consolidation Dynamics:** As a relatively young democracy, Indonesia continues to negotiate the balance between effective governance and power constraints, with institutions still developing capacity and legitimacy.

### Comparative Assessment of Contemporary Challenges

Both systems face significant challenges that reveal broader patterns in presidential systems:

- a. **Formalism vs. Reality:** Both countries demonstrate gaps between formal constitutional constraints and practical political realities, though these manifest differently.
- b. **Democratic Narrative:** Both systems struggle with competing democratic narratives—direct popular mandate versus representative institutions—that create tension in defining legitimate constraints.
- c. **Institutional Capacity:** The effectiveness of constitutional constraints depends significantly on the capacity and political will of checking institutions, which faces challenges in both contexts.
- d. **Global Patterns:** Both countries reflect broader global trends of executive aggrandizement in presidential systems, suggesting structural challenges beyond specific constitutional designs.
- e. **Reform Directions:** Reform proposals in both countries seek to address gaps in existing constraints, though with different emphasis reflecting distinct historical experiences and current challenges.

These parallels suggest that executive constraint challenges reflect inherent tensions in presidential systems beyond specific constitutional designs.

## 5. Conclusion and Recommendations

### 5.1 Key Findings

This comparative analysis reveals several important conclusions regarding executive power constraints in presidential systems. First, constitutional design matters, as the specific architecture of separation of powers significantly influences constraint effectiveness—with Indonesia's more explicit textual limitations offering certain advantages over the U.S. model, which relies more heavily on institutional practices and norms. Second, historical context shapes implementation, as each system reflects its unique historical development and socio-political background—Indonesia's framework emerged as a direct response to authoritarian rule, while the U.S. system evolved incrementally. Third, despite differing designs, both systems face similar challenges in maintaining effective constraints, particularly in the face of political polarization, the expansion of emergency powers, and informal power dynamics, highlighting underlying tensions within presidential governance. Fourth, the independence of institutions such as the legislature and judiciary is crucial, as effective checks and balances rely heavily on their autonomy and capacity. Lastly, while this analysis focuses on formal constitutional mechanisms, it also underscores the essential role of informal constraints—including political norms, civic engagement, and media scrutiny—as vital complements to formal structures.

### B. Recommendations for Strengthening Executive Constraints

Based on this analysis, several recommendations emerge for strengthening executive power constraints:

- 1. **For Indonesia:**
  - o Strengthen parliamentary oversight capacity through enhanced staff resources and information access rights

- o Reinforce independence of constitutional court justices through reformed selection procedures
- o Codify and strengthen norms regarding executive-legislative consultation
- o Enhance transparency requirements for executive decisionmaking
- o Further develop regional government capacity as counterweights to central executive authority
- 2. For the United States:
  - o Consider more explicit statutory constraints on emergency powers with stronger sunset provisions
  - o Reform legislative veto mechanisms to survive constitutional scrutiny
  - o Enhance congressional oversight capacity, particularly regarding classified information
  - o Develop clearer statutory frameworks for areas of executive discretion
  - o Strengthen inspector general independence and whistleblower protections
- 3. For Presidential Systems Generally:
  - o Incorporate explicit constitutional limitations on emergency powers with automatic expiration
  - o Establish independent agencies with appropriate insulation from direct presidential control
  - o Develop robust information access mechanisms for legislative oversight
  - o Create specialized constitutional courts with explicit authority to resolve inter-branch disputes
  - o Establish fiscal autonomy for checking institutions to prevent budgetary retaliation

## 5.2 Implications for Constitutional Design

This analysis offers several broader insights for constitutional designers considering executive power constraints:

- a. Textual Specificity: More detailed constitutional constraints generally provide stronger limitations than broad principles dependent on institutional interpretation.
- b. Multiple Redundant Constraints: Effective limitation requires overlapping mechanisms, as any single constraint will likely prove insufficient.
- c. Both Formal and Informal Factors: Constitutional designers must consider how formal provisions interact with political culture, party systems, and civic engagement.
- d. Balance Considerations: Overly restrictive constraints risk governmental paralysis, while insufficient limitations invite abuse; constitutional design must balance these concerns.
- e. Adaptive Capacity: Systems require mechanisms to evolve constraints in response to new challenges and changing political contexts.

By carefully considering these lessons from the Indonesian and U.S. experiences, constitutional designers and reformers can develop more effective approaches to the perennial challenge of constraining executive power while maintaining effective governance.

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