ISSN 2613-9995 (Cetak)
ISSN 2614-0179 (Online)
AJUDIKASI
Jurnal Ilmu Hukum
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e-jurnal.lppmunsera.org/index.php/ajudikasi

PRESIDENTIAL PREROGATIVE POWERS IN THE JUDICIAL SPHERE: A REVIEW OF LEGAL POLITICS IN APPLYING THE SEPARATION OF POWERS

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Article Info

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History:
Submitted: March 21, 2026
Last Revised: June 21, 2026
Accepted: June 25, 2026

Keyword:

Power; President; Prerogative; Judicial; Separation of Powers.

Ajudikasi: Jurnal Ilmu Hukum
Volume 10 Issue 1, June 2026
https://doi.org/10.30656/ajudikasi.v10i1.12398

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Abstract

The President's authority in the judicial sphere serves as a constitutional link between the executive and judicial branches in Indonesia. Article 14 of the 1945 Constitution of the Republic of Indonesia grants the President the powers to grant pardons, rehabilitation, amnesty, and to abolish sentences. This arrangement demonstrates that Indonesia's separation of powers is defined by division and delegation, rather than by absolute separation. This study examines the legal policy regulating the President's prerogative powers in the judicial sphere and investigates the implementation of the trias politica in relation to the rule of law, judicial independence, and constraints on authority. The research utilizes a qualitative, normative legal methodology, including literature review and legislative analysis. The findings show that, while the Constitution distributes power among the executive, legislative, and judicial branches, the President retains constitutionally mandated authority within the judicial domain. Judicial independence is preserved, ensuring autonomy in judicial functions. The President must exercise prerogative powers in the judicial sphere in accordance with constitutional principles and with consideration of input from the legislative and judicial branches. Legal policy may influence judicial power if the boundaries of authority within the separation of powers are not clearly defined.

E-ISSN: 2614-0179 | P-ISSN: 2613-9995
https://doi.org/10.30656/ajudikasi.v10i1.12398

A. INTRODUCTION

The organization of state power is grounded in the principle of the rule of law, which provides a legitimate framework for both defining and restricting the authority granted to state organs. The evolution of the rule of law is closely associated with the concepts of rechtstaat and the rule of law. Within the rechtstaat tradition, Immanuel Kant and Friedrich Julius Stahl advocated for the Constitution as codified law, establishing it as the primary foundation for state governance by delineating the boundaries of governmental power. In contrast, the rule of law, shaped by the ideas of Albert Venn Dicey, underscores the supremacy of law, focusing on legality, the distribution and limitation of authority, and the accountability of state institutions.[1] Jimly Asshiddiqie identifies the modern state governed by law-encompassing both rechtsstaat and the rule of law as "nomocracy" (nomocratie), wherein law serves as the ultimate determinant in the exercise of state power.[2]

Indonesia's constitutional framework establishes the nation as a state governed by the rule of law, as articulated in the 1945 Constitution. Article 1, paragraph (3) explicitly states that Indonesia is a state governed by the rule of law. The Indonesian interpretation of this concept emphasizes the supremacy of law and the Constitution, realized through the separation and limitation of powers.[3] This framework underscores the primacy of legal supremacy within the rule of law. According to A. V. Dicey, the rule of law in any country adhering to this principle is founded on three core tenets: the supremacy of law, equality before the law, and due process of law.[4]

The application of the rule of law in Indonesia implies that governmental power is exercised with accountability, grounded in constitutional provisions. This ensures that authority does not exceed the boundaries established by legislation, consistent with the principle of legal supremacy. According to Aristotle, a state governed by the rule of law is structured by a Constitution designed to serve the public interest, prevent arbitrariness, and ensure governance reflects the will of the people.[5] Bagir Manan characterizes the Constitution as a set of principles and rules that organize the state.[6] The constitutional framework is frequently interpreted as constitutionalism, which Jimly Asshiddiqie defines as the principle that political power must be limited.[7] Consequently, the Constitution is regarded as the highest

[1] Fajlurrahman Jurdi, *Teori Negara Hukum* (Setara Press, 2016). Hlm. 44
[2] Jimly Asshiddiqie, *Konstitusi Dan Konstitusionalisme Indonesia*, Cet. Ke-1 (Jakarta: Sinar Grafika, 2011). Hlm. 152
[3] Oksidelfa Yanto, *Negara Hukum: Kepastian, Keadilan, Dan Kemanfaatan Hukum (Dalam Sistem Peradilan Pidana Di Indonesia)*, Cet. Ke-1 (Bandung: Pustaka Reka Cipta, 2020). Hlm. 5
[4] Syaiful Bakhri, *Kejahatan Narkotika Dan Psikotropika, Suatu Pendekatan Melalui Kebijakan Hukum Pidana* (Jakarta: Gramata Publishing, 2012). Hlm. 5
[5] Romi Librayanto, *Trias Politica Dalam Struktur Ketatanegaraan Indonesia*, Cet. Ke-1 (Makasar: PuKAP - Indonesia, 2008). Hlm. 11
[6] Bagir Manan and Susi Dwi Harijanti, *Memahami Konstitusi: Makna Dan Aktualisasi*, Cet. Ke-2 (Jakarta: Rajawali Pers, 2015). Hlm. 146
[7] Jimly Asshiddiqie, *Op. cit.* Hlm, 118

law within a jurisdiction, functioning to restrict governmental authority. Laica Marzuki further explains that, within the context of constitutionalism, the Constitution creates a "limited state" to prevent arbitrary administration; this principle is explicitly articulated and regulated in the articles of the Constitution.[8]

The limitation of power is a manifestation of balance in the administration of the state. This concept is often referred to as "checks and balances." The framework of checks and balances in the constitutional system serves as a constitutional mechanism to prevent power from being controlled by a single organ or concentrated in a single branch of government. Randall G. Holcombe describes the framework of checks and balances as a system that outlines a pattern of mutual oversight and counterbalancing within government institutions; separating and distributing power among several branches is necessary to prevent the government from abusing its authority.[9]

The principle of checks and balances within state administration is fundamentally linked to the concept of the separation of powers. This framework divides governmental authority into three primary functions: rule-making, rule-application, and rule-adjudication.[10] In Two Treatises of Government, John Locke identifies three branches of state power: legislative, executive, and federative. In contrast, Montesquieu, in The Spirit of the Laws, delineates the branches as legislative, executive, and judicial.[11] The separation of powers aims to prevent the concentration of authority within a single branch, thereby reducing the risk of absolutism.

The Indonesian Constitution establishes the executive branch, represented by the President, who serves as both head of state and head of government. The President's authority is derived from Indonesia's adoption of a presidential system, in which state power and governmental authority are exercised by the President. According to the Constitution, the President holds executive powers, including administrative functions. Additionally, under the 1945 Constitution of the Republic of Indonesia, which has been amended four times, the President possesses legislative authority, such as the ability to propose draft laws and issue government regulations and presidential decrees. The President also exercises certain judicial powers, including granting clemency, pardons, amnesties, and abolitions to individuals facing legal proceedings, as stipulated in the Constitution.

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[8] Laica Marzuki, "Konstitusionalisme Dan Hak Asasi Manusia," *Jurnal Konstitusi* 8, no. 4 (2011): 479–88, https://doi.org/10.31078/jk843.

[9] Randall G Holcombe, "Checks and Balances: Enforcing Constitutional Constraints," *Economies* 6, no. 4 (2018): 1–12, https://doi.org/10.3390/economies6040057.

[10] Miriam Budiardjo, *Dasar-Dasar Ilmu Politik*, Revisi (Jakarta: Gramedia Pustaka Utama, 2008). Hlm. 281

[11] Chrisdianto Eko Purnomo, "Refleksi Kekuasaan Konstitusional Presiden Republik Indonesia," *Jurnal Kompilasi Hukum* 7, no. 1 (2022): 1–14, https://doi.org/10.29303/jkh.v7i1.92.

E-ISSN: 2614-0179 | P-ISSN: 2613-9995
https://doi.org/10.30656/ajudikasi.v10i1.12398

The concentration of powers described above within the executive branch contravenes the principle of separation of powers, which is designed to ensure checks and balances as articulated in the trias politica doctrine. The extensive powers held by the President of Indonesia illustrate a weakness in the system of checks and balances, as one branch of government maintains authority over others. A central issue arising from this arrangement concerns the limits of authority exercised by a branch of government beyond its primary responsibilities.

Historically, the President's authority in Indonesia's constitutional system has been predominantly concentrated within the executive branch. Prior to the amendments to the 1945 Constitution, the President's control over all three branches of government was a subject of significant debate. Following the reform era, constitutional amendments introduced limitations on presidential power; however, evidence suggests that loopholes enabling presidential intervention persist in practice. Under the post-amendment constitutional framework, the judicial branch is intended to function independently, with authority vested in the Supreme Court and the Constitutional Court. Therefore, the President's role should be limited to uphold the principle of checks and balances.

Bagir Manan and Zainal Arifin Moechtar state that presidential prerogatives are rights granted directly by the Constitution, even though these rights are not explicitly detailed.[12] Pakaya and Nalali, drawing on Lawrence Friedman's legal systems theory, examine institutional structures and emphasize the importance of design in ensuring independence and effective law enforcement.[13] The President's authority over the judicial branch reveals inconsistencies in governance, especially regarding the application of checks and balances, a core principle of the reform movement.

In light of these dynamics, this study analyzes constitutional legal policy regarding the President's powers over the judicial branch and evaluates judicial independence through the trias politica framework. While previous research, such as that by Cheryll Zilya Lirungan et al.,[14] has explored presidential judicial powers, this study is distinct in its use of the trias politica principle for legal-political analysis.

[12] Yehezkiel, Made Sugi Hartono, and I Nengah Suastika, "Penggunaan Hak Prerogatif Presiden Dalam Memberikan Grasi Kepada Terpidana Korupsi Di Indonesia," *Jurnal Ilmu Hukum Sui Generis* 4, no. 1 (2024): 1–11, https://doi.org/10.23887/jih.v4i1.5023.

[13] Salahudin Pakaya and Adrianto Nalali, "Political Law Regulation of Judicial Institutions in Exercising the Powers of an Independent Judgment : Before and After Amendments to the 1945 Constitution," *International Journal Papier Public Review* 1, no. 2 (2020): 119–28, https://doi.org/10.47667/ijppr.v1i2.91.

[14] Cheryll Zilya Lirungan, Supriyadi, and Susianto, "Legal Politics of the President's Grant of Lesion Based on the Perspective of Justice and Humanity in the Indonesian Judicial System," *International Journal of Research in Social Science and Humanities* 5, no. 5 (2024): 42–47, https://doi.org/10.47505/IJRSS.2024.5.4.

B. RESEARCH METHODS

This study uses a qualitative analytical model to systematically describe, interpret, and connect legal materials, enabling a thorough understanding of the legal issues examined. Qualitative analysis informs legal reasoning, interpretation of legal norms, and the study of relationships among legal principles, theories, concepts, and statutory provisions.[15] Legal materials are classified by relevance, analyzed descriptively and prescriptively, and conclusions are drawn through logical, systematic reasoning.

This research adopts a normative legal methodology, examining law as a system of norms, rules, principles, doctrines, and regulations.[16] The analysis focuses on primary, secondary, and, when necessary, tertiary legal materials. A statutory approach is used to review all relevant laws and regulations related to the legal issue. This allows for an assessment of whether the current legal framework ensures certainty, protection, justice, and benefits for the parties involved.[17] Legal materials are gathered through a literature review, which includes cataloging, searching, reading, and documenting relevant laws, regulations, and literature.

C. RESULT AND DISCUSSION

1. Constitutional Foundations of Presidential Authority in Indonesia's System of Government

The constitutional framework set forth in the 1945 Constitution of the Republic of Indonesia establishes the Indonesian state and nation as a country with a presidential system of government. This is evident from Indonesia's form of government, which defines the country as a republic. The choice of a republican form of government establishes the President as the holder of executive power, as stated in Article 4, Paragraph (1): "The President of the Republic of Indonesia holds executive power in accordance with the Constitution." The Constitution clearly states that the President holds executive power, serves a fixed term of office, and is elected directly by the people. Article 6A, Paragraph (1), stipulates that the President and Vice President are elected as a single pair directly by the people. This direct election grants the President strong democratic legitimacy, as his mandate derives directly from the people.

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[15] Jonaedi Efendi and Johnny Ibrahim, *Metode Penelitian Hukum: Normatif Dan Empiris*, Cet. Ke-1 (Jakarta: Prenadamedia Group, 2018). Hlm. 23-25

[16] Irwansyah and Ahsan Yunus, *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel* (Yogyakarta: Mira Buana Media, 2020). Hlm. 56

[17] Fuqoha Fuqoha, "Implikasi Green Constitution Dalam Pemenuhan Hak Konstitusional Atas Lingkungan Hidup," *Jurnal HAK: Kajian Ilmu Hukum, Administrasi Negara, Dan Komunikasi* 2, no. 1 (2025): 35–48, https://doi.org/10.30656/jhak.v2i2.11927.

E-ISSN: 2614-0179 | P-ISSN: 2613-9995
https://doi.org/10.30656/ajudikasi.v10i1.12398

Within the context of the state's institutional framework as defined by the Constitution of the Republic of Indonesia, the President is positioned as the head of the executive branch; in relation to the other branches of government, this relationship is one of equals, not that of a superior and subordinate. The other branches of government within the state's institutional framework include the People's Consultative Assembly (Majelis Permusyawaratan Rakyat), the People's Representative Council (Dewan Perwakilan Rakyat), and the Regional Representative Council (Dewan Perwakilan Daerah), which constitute the legislative branch. Meanwhile, the judicial branch consists of the Supreme Court (Mahkamah Agung), the Constitutional Court (Mahkamah Konstitusi), and the Judicial Commission (Komisi Yudisial). Therefore, the President cannot dissolve other state institutions such as the House of Representatives (DPR), and/or conversely, the House of Representatives (DPR) cannot remove the President solely due to political differences, unless the President commits a legal violation as stipulated in the Constitution. This is as stated in Article 7C, which provides that "The President may not suspend and/or dissolve the People's Representative Council." The removal of the President may only be carried out based on reasons and procedures that have been exhaustively defined as set forth in Article 7A, which states that "The President and/or Vice President may be removed from office during their term by the People's Consultative Assembly upon the proposal of the People's Representative Council, either if it is proven that they have committed a legal violation in the form of treason against the state, corruption, bribery, other serious criminal offenses, or disgraceful conduct, or if it is proven that they no longer meet the requirements to serve as President and/or Vice President."

The 1945 Constitution clearly establishes that the State of Indonesia is a state governed by the rule of law. Article 1, Paragraph (3), states: "The State of Indonesia is a state governed by the rule of law." In the theory of a state based on the rule of law, it is essential that the law is supreme and that it is the duty of every state or government official to be subject to the law.[18] Regarding the constitutional state, Dario Castiglione notes that the constitution functions as a political concept, an ideological construct, and a political formation.[19]

This authority is based on the 1945 Constitution, specifically Article 4, paragraph (1), which states, "The President of the Republic of Indonesia holds executive power in accordance with the Constitution." This provision confirms that the President's executive power is exercised within the executive branch and is not absolute. The phrase "in accordance with the Constitution" indicates that presidential power is both derived from and

[18] Romi Librayanto, *Op. cit.* Hlm. 10

[19] Dario Castiglione, "The Political Theory of the Constitution," *Political Studies* 44, no. 3 (1996): 417–35, https://doi.org/10.1111/j.1467-9248.1996.tb00592.x.

limited by the Constitution, which serves as the source of legitimacy and a check on presidential authority.

The President's constitutional powers are intended to support executive governance. Sudirman categorizes these powers into two main roles: head of state and head of government.[20] As head of state, the President leads the nation, commands the military, and grants pardons or remits legal penalties. As head of government, the President formulates legislation, appoints and dismisses ministers, oversees administration, and manages foreign relations.[21] Denny Indrayana notes that the Constitution grants broad powers to the presidency, describing the 1945 Constitution as "heavily executive-oriented."[22]

Zainal Arifin Mochtar states that in a presidential system, the President holds central authority as head of the executive branch and also influences the legislative and judicial branches, resulting in a dual role. This concentration of power can create opportunities for abuse through discretionary actions or policies.[23] Therefore, the President's authority must be clearly limited within the constitutional framework. Golia and Teubner note that a constitution serves two main functions: it legitimizes normative communication and limits the expansion of power within the state.[24]

The President's authority is primarily based on Article 4, paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which designates the President as the executive power holder. The Constitution, particularly Articles 4 through 17 after the amendments, outlines the President's powers as both head of state and head of government. These powers include administering government, issuing regulations, appointing ministers, overseeing defense and international relations, declaring states of emergency, granting pardons and amnesties, and submitting the national budget. This framework embodies the separation of powers to maintain checks and balances.

2. Judicial Independence in Indonesia within the Framework of Trias Politica

The separation of powers is founded on the principle that state authority should not be centralized within a single individual or institution. Montesquieu and Locke articulated this concept by dividing governmental power into three distinct branches: the legislative branch, responsible for enacting laws; the executive branch, tasked with enforcing laws; and

[20] Sudirman, "Single Executive in The Indonesian Presidential System," *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 1 (2023): 1–16, https://doi.org/10.29303/ius.v11i1.962.
[21] *Ibid.*
[22] Soenobo Wiryosoegito and Noer Indriati, "Pembatasan-Pembatasan Konstitusional Kekuasaan Presiden Sesudah Perubahan Amandemen UUD 1945," *Jurnal Idea Hukum* 1, no. 2 (2015): 1–12, https://doi.org/10.20884/1.jih.2015.1.2.14.
[23] Zainal Arifin Mochtar and Kardiansyah Afkar, "President's Power, Transition, and Good Governance," *Bestuur* 10, no. 1 (2022): 68–83, https://doi.org/10.20961/bestuur.v10i1.59098.
[24] Mario Angkawidjadja, "Meninjau Kembali Gagasan Pluralisme Konstitusi Di Tengah Krisis Konstitusionalisme Modern: Prospek Penerapannya Bagi Indonesia," *Mimbar Hukum* 35, no. 2 (2023): 1–29, https://doi.org/10.22146/mh.v35i2.7557.

E-ISSN: 2614-0179 | P-ISSN: 2613-9995
https://doi.org/10.30656/ajudikasi.v10i1.12398

the judicial branch, which adjudicates legal violations and resolves disputes. This structural division aims to prevent the abuse of power, as centralization within one entity increases the risk of arbitrary governance.

The concept of trias politica, as embedded in the Indonesian Constitution, functions as a safeguard for the balance of power by preventing its concentration within a single state institution. Consequently, the constitutional principle of separation of powers aims to deter autocratic and authoritarian governance. Valentina Arena observes that state institutions, as holders of authority, possess the potential to monopolize power.[25] Therefore, the separation of powers is essential for establishing a balanced governmental structure and ensuring the independence of state organs in fulfilling their respective duties and functions.

The judicial branch within the framework of the Indonesian constitutional system is defined in the 1945 Constitution, which following the amendments states in the section on judicial power, as set forth in Article 24, paragraph (1), that "the judiciary is an independent branch of government responsible for administering justice to uphold the law and justice." This constitutional provision gave rise to state institutions within the judicial branch, including the Supreme Court (MA), the Constitutional Court (MK), and the Judicial Commission (KY). The guarantee of the independence of the judiciary is further reinforced in Law of the Republic of Indonesia No. 48 of 2009 on the Judiciary. This law defines the judiciary as an independent branch of government responsible for administering justice in accordance with Pancasila and the 1945 Constitution. Therefore, parties outside the judiciary are prohibited from interfering in judicial matters, except in cases expressly permitted by the 1945 Constitution.

The independence of the judiciary within Indonesia's constitutional system is an essential pillar in the realization of checks and balances within the framework of the Trias Politica theory. Judicial independence is not merely a separation of functions but a prerequisite for the upholding of freedom. Therefore, the separation of powers guarantees the independence of the branches of government in order to eliminate tyrannical practices in governance. Constitutionally, the concept of the Trias Politica grants legitimate authority and prevents interference from the legislative and executive branches. Thus, drawing on Afreen Alshar Alam's ideas, maintaining a balance of power by granting equal weight (co-equal) to the branches allows them to mutually check one another and prevent the abuse of power.[26] The separation of powers ensures that every institution holds an equal standing. Consequently, every legal decision—whether constitutional or concerning technical legal

[25] Valentina Arena, "The Roman Republic of Jean-Jacques Rousseau," *History of Political Thought* 37 (2016): 8–31, https://www.jstor.org/stable/26228683.

[26] Afreen Afshar Alam, "The Theory of Checks and Balances," *SSRN Electronic Journal*, no. 48 (2020): 4, https://doi.org/10.2139/ssrn.4712245.

policies on the division of functions—serves as a crucial foundation for democratic stability. Although, as Afreen Alshar Alam notes, this is difficult to achieve in practice, empirical realities are considered crucial for maintaining the independence of state institutions.[27]

The issue of the independence of the judiciary is an absolute necessity. Odang Suparman explains that the judiciary is inherently an independent institution, free from political influence and other forms of power.[28] Therefore, in carrying out its functions, the judicial branch cannot be interfered with or influenced by other institutions or powers in order to uphold and maintain the rule of law. Drawing on the ideas of Shivaraj S. Huchhanavar, the concept of judicial independence can be viewed from three dimensions: institutional, internal, and individual.[29]

The concept of judicial independence in the institutional dimension, as articulated by Shivaraj S. Huchhanavar, clearly calls for the separation of powers and limits the influence and role of actors from other branches of government. This is intended to ensure that the judicial branch is free from political pressures and attempts to exert influence in the exercise of its authority. Meanwhile, the internal dimension can be understood as the strength of the judicial institution's governance against influence and intervention within the judicial branch itself. In the institutionalization of judicial power in Indonesia, the potential for internal independence can be threatened when confronted with practices of seniority and the politicization of positions due to the involvement of state institutions from other branches of government. Another concept of judicial independence concerns individual independence, which can be understood in the context of an individual's integrity in exercising their authority. This individual dimension requires every holder of judicial power to possess and uphold qualities such as integrity, impartiality, competence, diligence, and honesty in performing their judicial duties.

3. Legal Policy on Presidential Judicial Powers in the Indonesian Constitutional System

The President's judicial power is established by the 1945 Constitution, which serves as the primary legal foundation for presidential authority in the judicial domain. This constitutional provision delineates the relationship between the judicial and executive branches, clarifying that the President exercises not only executive and administrative authority but also specific judicial powers. Article 14, paragraphs (1) and (2) of the Constitution explicitly outline the President's authority to grant pardons, rehabilitation, amnesty, and abolition of sentences.

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[27] *Ibid.*

[28] Odang Suparman, "Konsep Lembaga Negara Indonesia Dalam Perspektif Teori Trias Politica Berdasarkan Prinsip Checks and Balances System," *AHKAM: Jurnal Hukum Islam Dan Humaniora* 2, no. 1 (2023): 59–75, https://doi.org/10.58578/ahkam.v2i1.898.

[29] Shivaraj S. Huchhanavar, "Conceptualising Judicial Independence and Accountability from a Regulatory Perspective," *Oslo Law Review* 9, no. 2 (2023): 110–48, https://doi.org/10.18261/olr.9.2.3.

E-ISSN: 2614-0179 | P-ISSN: 2613-9995
https://doi.org/10.30656/ajudikasi.v10i1.12398

The President's judicial powers constitute a core component of the legal framework governing the administration of the Republic of Indonesia and are intended to align with prevailing societal values to achieve national objectives. Although the allocation of judicial powers to the President appears to contradict the principle of separation of powers, which divides authority among three branches to prevent absolutism, the application of the trias politica theory in Indonesia is implicit rather than absolute.[30] The 1945 Constitution implements this theory with modifications that reflect the unique culture and characteristics of Indonesia. This adaptation has generated ongoing debate regarding the political implications of granting judicial authority to the President.

The concept of the separation of powers in Indonesia's current system of government is understood as a normative principle whereby state power is divided among three distinct branches to prevent the abuse of power. The Trias Politica is regarded as a normative framework that separates the functions of the state into legislative (lawmaking), executive (law enforcement), and judicial (resolution of legal disputes) in order to prevent the abuse of power.[31] However, the normative framework in the Constitution that grants judicial power to the President as pointed out by Odang Suparman indicates that the trias politica is limited to the separation of the branches of government but does not preclude the possibility of power and authority being granted to specific state institutions. This reality demonstrates that, in practice, the concept of the trias politica is confronted with legal politics.

R. Abdoel Djamali believes that a country's legal policy is shaped by its constitution.[32] In contrast, Soediman Kartohadiprodjo argues that how laws are applied depends on the country's legal policy.[33] These two perspectives show that legal policy plays a key role in a nation's legal system. Legal policy includes the steps taken by the state, through its institutions or officials, to decide which laws should be changed, kept, or introduced. These decisions help the government run smoothly and achieve the country's goals in an organized way.[34]

The state's legal policy regarding the President's judicial powers suggests limited confidence in the judiciary's independence. As a result, the President is vested with judicial powers that permit actions or decisions capable of altering judicial proceedings.

[30] Odang Suparman, *Loc. cit*.
[31] Heru Pradijonrika, "The Role of People's Representatives Council and President Post the Amendment to Basis of the 1945 Law in the Establishment of Law," *Journal of World Science* 1, no. 11 (2022): 1063–76, https://doi.org/10.47701/jws.v1i11.144.
[32] Otong Rosadi and Andi Desmon, *Studi Politik Hukum (Suatu Optik Ilmu Hukum)*, Cet. Ke-3 (Yogyakarta: Thafa Media, 2020). Hlm. 9
[33] *Ibid.* Hlm. 60
[34] Amran Suadi and Mardi Candra, *Politik Hukum (Perspektif Hukum Perdata Dan Pidana Islam Serta Ekonomi Syariah)*, Cet. Ke-1 (Jakarta: Kencana, 2016). Hlm. 2

Constitutionally, the President holds the prerogative to grant pardons, rehabilitation, amnesties, and abolitions. When granting pardons and rehabilitation, the President may intervene, although this process is subject to the Supreme Court's consideration. Similarly, the granting of amnesties and abolitions is closely linked to the political process, wherein the President possesses the authority to halt legal proceedings based on the legislative branch's consideration, specifically that of the House of Representatives (DPR).

In a state governed by the rule of law, the President is constitutionally obligated to respect and enforce court rulings, even when such decisions conflict with the government's political agenda. Failure to comply with court rulings constitutes constitutional defiance, as it disregards the final and binding nature of judicial decisions and undermines the principle of constitutional supremacy.

D. CONCLUSION

The President of the Republic of Indonesia holds the special authority to grant pardons, amnesties, sentence abolitions, and rights related to rehabilitation. This executive power intersects with the judicial branch and serves as an expression of humanity, a means to correct errors, and a tool for political reconciliation. The President's prerogative in the judicial sphere reflects Indonesia's unique approach to the separation of powers. Rather than a rigid separation, the post-amendment 1945 Constitution adopts a division of powers with checks and balances. As a result, the President retains certain judicial authorities, such as granting pardons, rehabilitation, amnesty, and abolition. However, these powers are now limited by the involvement of other state institutions, especially the Supreme Court and the People's Representative Council.

The President's authority in the judicial sphere should be viewed as a constitutional tool to balance legal, justice, humanitarian, and national interests, rather than as judicial intervention. However, practical implementation remains challenging due to the absence of clear, objective criteria for exercising these powers, which allows for subjectivity and political influence. Strengthening legal policy requires more transparent, measurable, and accountable mechanisms for the President's prerogative powers in the judicial sphere. Establishing clearer regulations on the criteria for granting pardons, rehabilitation, amnesties, and abolitions, as well as defining the roles of the Supreme Court and the House of Representatives, will help maintain balance among the branches of government.

E-ISSN: 2614-0179 | P-ISSN: 2613-9995
https://doi.org/10.30656/ajudikasi.v10i1.12398

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