

ISSN 2797-8508 (Print)
ISSN 2807-8330 (Online)

VOL. 5 NO. 2, JUNE-DEC (2025)

Riwayat Artikel

History of Article

Diajukan: 17 Maret 2026

Submitted

Direvisi: 25 Maret 2026

Revised

Diterima: 17 April 2026

Accepted

Saran Perujukan

How to cite:

Muhammad, Raihan., & Sapiroto, R. (2025). Popular Sovereignty vs Rule of Law: Regulating Convicted President-Elect Status in the Indonesia Constitution? *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal*, 5(2), 387-410.
<https://doi.org/10.15294/ipmhi.v5i2.47807>

© 2022 Authors. This work is licensed under a [Attribution-NonCommercial-ShareAlike 4.0 International \(CC BY-NC-SA 4.0\)](#). All writings published in this journal are personal views of the authors and do not represent the views of this journal and the author's affiliated institutions. This title has been indexed by [Google Scholar](#)

Popular Sovereignty vs Rule of Law: Regulating Convicted President-Elect Status in the Indonesian Constitution

Raihan Muhammad¹  , Rian Sapiroto² 

¹ Faculty of Law, Universitas Negeri Semarang

² National Research and Innovation Agency



Email Korespondensi: rainesia15@gmail.com

Abstract: The Indonesian Constitution upholds the principles of popular sovereignty and the supremacy of law as the foundation of the government system. However, it lacks explicit provisions regarding the legal status of a president-elect convicted of a crime before inauguration, creating a constitutional void that could lead to political instability and governance crises. This study examines the urgency of regulating this issue within the Constitution to maintain a balance between democratic legitimacy and the rule of law. Using a juridical-normative approach, this research analyzes comparative legal frameworks and best practices in addressing criminal convictions of executive leaders. The findings reveal that the absence of clear constitutional provisions may result in a legitimacy crisis, legal uncertainty, and declining public trust in democratic

institutions. Several constitutional options can be considered to address this issue, including granting limited immunity to the president-elect except in cases of corruption, treason, or gross human rights violations; authorizing the Constitutional Court to assess whether a conviction nullifies the right to be inaugurated; or delegating the decision to the People's Consultative Assembly through a special session. Additionally, a leadership succession mechanism must be ensured, allowing the vice president-elect to automatically assume the presidency if the president-elect is disqualified. These reforms are essential to prevent legal and political manipulation while ensuring the continuity of democratic governance under the rule of law.

Keywords: Constitution, President-elect, Criminal Conviction, Popular Sovereignty, Rule of Law.

Abstrak: *Konstitusi Indonesia menjunjung prinsip kedaulatan rakyat dan supremasi hukum sebagai dasar penyelenggaraan pemerintahan. Namun demikian, konstitusi belum mengatur secara eksplisit mengenai status hukum presiden terpilih yang dipidana sebelum pelantikan, sehingga menimbulkan kekosongan konstitusional yang berpotensi memicu instabilitas politik dan krisis pemerintahan. Penelitian ini mengkaji urgensi pengaturan persoalan tersebut dalam konstitusi guna menjaga keseimbangan antara legitimasi demokratis dan negara hukum. Dengan menggunakan pendekatan yuridis-normatif, penelitian ini menganalisis kerangka hukum perbandingan serta praktik terbaik dalam menangani pemidanaan terhadap pemimpin eksekutif. Hasil penelitian menunjukkan bahwa ketiadaan pengaturan konstitusional yang jelas dapat menimbulkan krisis legitimasi, ketidakpastian hukum, serta menurunnya kepercayaan publik terhadap institusi demokrasi. Beberapa opsi konstitusional yang dapat dipertimbangkan antara lain pemberian imunitas terbatas kepada presiden terpilih, kecuali dalam perkara korupsi, makar, atau pelanggaran HAM berat; pemberian kewenangan kepada Mahkamah Konstitusi untuk menilai apakah putusan pidana membatalkan hak pelantikan; atau penyerahan keputusan kepada Majelis Permusyawaratan Rakyat melalui sidang khusus. Selain itu, mekanisme suksesi kepemimpinan perlu dipastikan dengan memberi ruang bagi wakil presiden terpilih untuk secara otomatis menggantikan apabila presiden terpilih didiskualifikasi. Reformasi ini penting untuk mencegah manipulasi hukum dan politik serta menjamin keberlangsungan pemerintahan demokratis berdasarkan supremasi hukum.*

Kata kunci: *Konstitusi, Presiden Terpilih, Putusan Pidana, Kedaulatan Rakyat, Negara Hukum.*

A. Introduction

Indonesia is a rule-of-law country.¹ This means that every action and policy taken by the government—including the president—must be based on applicable law and

¹ Nazla Arliva Rahman and Ratih Damayanti, "Revolutionizing Indonesia's Administrative Court: A Bold Push for Fairness and Proportionality," *Indonesian State Law Review* 7, no. 1 (April 30, 2024),

the country's constitution. This principle is reflected in the 1945 Constitution of the Republic of Indonesia², which states that the Indonesian state is based on law—not power alone (a power state).³ The state cannot act arbitrarily, and every individual, including the president, must submit to existing laws.⁴ The rule of law also guarantees the protection of the basic rights of citizens.⁵ A fair legal system provides legal certainty for society, including equality before the law.⁶ In this system, law is not only a tool to control government actions but also a means to protect individual rights from abuse of power.⁷ Therefore, the rule of law requires that all government policies and actions comply with applicable regulations and prioritize the principles of justice. With the rule of law in place, the president's position as head of state and government must comply with existing legal provisions.

There is no absolute legal immunity for anyone—including the president, which means that every action that violates the law can still be accounted for by applicable procedures.⁸ This ensures that presidential power is not used for personal or group interests, but rather for the interests of the state and the people, in accordance with the rules set out in the Constitution. The principle of the rule of law emphasizes that even though the president has a critical position in the state power structure, they should not be above the law. In this case, the principle rule of law⁹ requires the president to act in accordance with applicable legal provisions before and during his term of office. There is no room for exceptions in cases of legal

<https://doi.org/10.15294/ISLREV.V7I1.18860>; Sulaiman Sulaiman, "Epistemology of the Indonesian Law State (Re-Conceptualization of Indonesian Law)," *Law Research Review Quarterly* 2, no. 4 (November 30, 2016): 543–66, <https://doi.org/10.15294/SNH.V2I01.21341>.

² See Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (1945).

³ Zahermann Armandz Muabezi, "Negara Berdasarkan Hukum (Rechtsstaats) Bukan Kekuasaan (Machtsstaat)," *Jurnal Hukum dan Peradilan* 6, no. 3 (November 30, 2017): 421–46, <https://doi.org/10.25216/JHP.6.3.2017.421-446>.

⁴ Dani Muhtada and Ayon Diniyanto, *Dasar-Dasar Ilmu Negara* (Semarang: BPFH UNNES, 2018).

⁵ Desty Puspita Maharani, Pratama Herry Herlambang, and Ridwan Arifin, "Is Public Information Openness the Key to Unlocking Justice in Indonesia's State Administrative Court?," *Indonesian State Law Review* 7, no. 1 (April 30, 2024), <https://doi.org/10.15294/ISLREV.V7I1.18861>.

⁶ Daron Acemoglu and Alexander Wolitzky, "A Theory of Equality Before the Law," *The Economic Journal* 131, no. 636 (May 4, 2021): 1429–65, <https://doi.org/10.1093/EJ/UEAA116>.

⁷ Simon Deakin et al., "Legal Institutionalism: Capitalism and the Constitutive Role of Law," *Journal of Comparative Economics* 45, no. 1 (February 1, 2017): 188–200, <https://doi.org/10.1016/J.JCE.2016.04.005>.

⁸ Aziz Epik, "No Functional Immunity for Crimes under International Law before Foreign Domestic Courts: An Unequivocal Message from the GeTo strengthen Indonesia's state administration system based on the principle of the rule of law, Indonesia needs to adopt adequate regulations on this matter to avoid confusion in the implementation of government policies rman Federal Court of Justice," *Journal of International Criminal Justice* 19, no. 5 (February 3, 2021): 1263–81, <https://doi.org/10.1093/JICJ/MQAB071>.

⁹ See Katia Cejie, "Rule of Law: A Fundamental Concept Without a Coherent Meaning: Analysis of the Swedish and Chinese Understandings," *European Journal of Comparative Law and Governance* 9, no. 3 (July 14, 2022): 287–320, <https://doi.org/10.1163/22134514-BJA10036>.

violations committed by the president, including if an elected president is involved in a criminal case before being inaugurated.

Clear regulations regarding the legal status of an elected president who has been convicted of a crime are significant for maintaining the integrity of the legal system and ensuring that no individual can abuse power for personal or group interests. In this case, the lack of clarity in the law—especially in Indonesia—regarding the status of an elected president charged with a crime before his inauguration can create legal uncertainty and potential injustice in the government system.

Suppose an elected president is convicted of a crime before his inauguration. In that case, it creates a dilemma about whether he still has the right to exercise his duties and authority as head of state. Ambiguity on this issue has the potential to create political instability, as the mandate given by the people through general elections must be respected. Still, at the same time, the law must be enforced indiscriminately. This regulation is not only about legal action against an elected president found to have committed a crime, but also about ensuring adequate mechanisms for responding to situations like this, which involve not only legal but also political and moral aspects. In this case, a clear constitutional mechanism is essential to maintain the sustainability of a democratic and stable government system, free from legal uncertainty or the abuse of power by the elected president, who may be involved in criminal cases.

As a legal state grounded in democratic principles, Indonesia needs comprehensive regulations regarding the status of elected presidents who face criminal sentences. Without strict regulations, either in the constitution or in other laws and regulations, there is a risk of a legal vacuum or even the manipulation of power, which will damage public trust in the legal system and government. To strengthen Indonesia's state administration system based on the principle of the rule of law, Indonesia needs to adopt adequate regulations on this matter to avoid confusion in the implementation of government policies and to maintain justice and legal certainty.

As head of state and head of government, the president in Indonesia is not above the law.¹⁰ The principle of the rule of law requires that every individual, including the president, must comply with applicable laws. In theory, nothing is beyond the reach of the law, and the president must be responsible for any actions that violate the law.¹¹ However, in reality, phenomena often occur executive

¹⁰ Adam Setiawan et al., "Impeachment Sebagai Bentuk Pertanggungjawaban Presiden Indonesia dalam Negara Hukum yang Demokratis," *Jatijajar Law Review* 2, no. 2 (2023): 123, <https://doi.org/10.26753/jlr.v2i2.1161>.

¹¹ Michael P. Foran, "THE RULE OF GOOD LAW: FORM, SUBSTANCE AND FUNDAMENTAL RIGHTS," *The Cambridge Law Journal* 78, no. 3 (November 1, 2019): 570–95, <https://doi.org/10.1017/S0008197319000618>.

heavy¹²—where executive power, held by the president, tends to be more dominant than other branches, such as the legislature and the judiciary.

This phenomenon occurs because the president's position is powerful in the government. As head of state and government, the president often greatly influences political, economic, and legal policies. In many cases, the president can control the operation of the government, formulate major policies, and even influence legal decisions. Although, in theory, there is no legal immunity for the president, in practice, this strong executive position often results in an imbalance that makes the legal system less effective in upholding justice against the president, especially when he is involved in a criminal case.

This creates a significant dilemma in constitutional law. When an elected president is caught in a crime before his inauguration, for example, the law can be greatly hampered by the elected president's executive dominance. At this point, excessive executive power could cover or even hinder legal processes that should run independently. For example, even when the president-elect is convicted of a crime, the tendency to maintain political stability often takes precedence, leading to political decisions rather than legal ones, such as delaying or manipulating legal processes to preserve the continuity of government.

This situation illustrates the importance of a clear balance between executive power and the other branches of government in the Indonesian system. If there is no effective mechanism to control excessive presidential influence, it risks abuse of power. Although the president is not supposed to be above the law, the reality shows that this strong executive system often influences the implementation of the law, which in turn creates injustice and legal uncertainty in government.¹³ The president is not above the law, so there is no immunity from criminal prosecution for presidents who commit crimes.

Reflecting on the United States, the phenomenon of presidential immunity has been the subject of long debate, even though there is no explicit constitutional provision providing for it.¹⁴ Some conventions give the president immunity for actions in an official capacity, as confirmed in the case of *Nixon vs. Fitzgerald* (1982),¹⁵ which declares "absolute immunity" for official action. However, the US Supreme Court also held in *Clinton v. Jones* (1997) that the president does not have immunity from civil suits unrelated to official duties. The most recent controversy

¹² Muhammad Mutawalli Mukhlis et al., "Heavy Parliamentary v. Heavy Executive: Ambiguity of Power in Indonesian Constitutional Practices," *Jurnal Media Hukum* 31, no. 2 (July 8, 2024): 186–205, <https://doi.org/10.18196/JMH.V31I2.21703>.

¹³ Tim Lindsey and Simon Butt, *Indonesian Law* (Oxford: Oxford University Press, 2018).

¹⁴ Read United States Senate, "U.S. Senate: Constitution of the United States," n.d., <https://www.senate.gov/about/origins-foundations/senate-and-constitution/constitution.htm>.

¹⁵ Bradford E. Biegon, "Presidential Immunity in Civil Actions: An Analysis Based upon Text, History and Blackstone's Commentaries," *Virginia Law Review* 82, no. 4 (1996), <https://doi.org/10.2307/1073815>.

occurred during the presidency of Donald Trump, who faced criminal charges and ruled that he did not have immunity for actions outside of official duties, indicating that actions outside of authority should still be met by the law.¹⁶

The phenomenon of presidential immunity in the United States provides an important lesson for Indonesia in regulating the legal status of elected presidents facing criminal charges before their inauguration. In the United States, although the president enjoys legal immunity for acts committed in an official capacity, this does not mean that the president is immune from lawsuits or crimes committed outside the scope of official duties. In this case, even though the president has a powerful position, this does not allow the president to act outside the law.

The same principle should apply in Indonesia, where, even though the president holds enormous power, there should be no exceptions for law violations, either during his term of office or before his inauguration. Clear regulations regarding the legal status of elected presidents charged with crimes are essential to maintain the integrity of the country's legal system. If there are no strict provisions, this can create legal uncertainty, disrupt political stability, and damage public trust in government.

Without clear rules, there is the potential for abuse of power, which can harm the government system and damage the principles of justice.¹⁷ Indonesia must have a clear constitutional mechanism to deal with this situation. It is important to balance executive power with other branches so that no individual, including the president, is above the law. In this way, the government system can run democratically and fairly, ensuring that the principle of the rule of law is maintained in every policy taken by the state. As a country that adheres to the principles of democracy and the supremacy of law,¹⁸ Indonesia needs to ensure that existing legal mechanisms can prevent abuse of power at all levels of government. In this case, strict regulation regarding the legal status of an elected president who commits a crime is essential, as a lack of clear regulation risks a crisis of public confidence in the government. A clear regulation will not only provide legal certainty but also prevent political interference, which could damage the independence of legal institutions in carrying out their duties.

The legal process against an elected president facing criminal charges before his inauguration must be carried out without political bias, ensuring that every individual, including state officials, is treated equally under the law. With clear regulations, society can see that the law can be enforced fairly regardless of a

¹⁶ Denny Indrayana, "Presiden (Tidak) Kebal Hukum," 2024, <https://dennyindrayana.com/2024/09/01/presiden-tidak-kebal-hukum/>.

¹⁷ Laura Valentini et al., "Justice and Democracy," 2010, <http://social-justice.politics.ox.ac.uk>.

¹⁸ Anna Grzywacz, "Democracy in Indonesian Statepresidency Narratives. A New Framework of Coherence Analysis," *Journal of Current Southeast Asian Affairs* 39, no. 2 (August 1, 2020): 250–69, https://doi.org/10.1177/1868103420903594/ASSET/1FC60D00-2648-4FDD-A34C-B03885238FC5/ASSETS/IMAGES/LARGE/10.1177_1868103420903594-FIG2.JPG.

person's position or status. This will strengthen a democratic system grounded in justice and human rights, with no room for impunity or the abuse of power that harms the people.

Furthermore, this clear regulation will also guide other state institutions, such as the Constitutional Court and the General Election Commission, in handling cases involving elected presidents who may face criminal charges. The clarity of this regulation will make it easier to implement the law and reduce the risk of confusion at the public policy level, thereby reducing the risk of damage to long-term political stability. Therefore, Indonesia must have a firm and unambiguous constitutional provision regarding this matter to ensure that power continues to be exercised within a just legal framework and that democracy is upheld.

An elected president has been found to have committed a criminal offense before his inauguration. In that case, this is a serious indicator of the leader's integrity and morality in carrying out his duties going forward. A state leader is responsible for running the government and must serve as an example to their people. How could the people trust him to uphold law and justice during his leadership if he broke the law from the start? Public trust in leaders is a fundamental aspect¹⁹ of a healthy democratic system, and a president who has been proven to have committed a criminal act will face difficulties in building legitimacy and gaining broad public and other state institutional support.

In addition, his criminal record before his inauguration raised concerns that similar actions could continue during his presidency. Suppose a president has great influence over law enforcement officials and other state institutions. In that case, there is a great potential that he will abuse his authority to protect himself from legal consequences. This risks giving rise to impunity, where it is feared that the law will no longer be enforced (according to the principle *fiat justitia ruat caelum*)²⁰ fairly and even become a political tool for the ruler to maintain his power. A government led by someone with a criminal record is more likely to fall into practices of corruption, collusion, and nepotism.²¹ When a president lacks integrity from the start, he can easily prioritize his personal and group interests over the interests of

¹⁹ Annika Härenstam, Lisa Björk, and Linda Corin, "Trust Chains in Public Sector Organizations and Their Significance for Work Unit Performance, Presidency and Employee Turnover Intention," *International Public Management Journal* 27, no. 6 (2024): 921–47, <https://doi.org/10.1080/10967494.2024.2322142>.

²⁰ Somogy Varga, "Fiat Justitia, Ruat Caelum. Habermasian Reflections on Moral Constraints," *Ethics, Policy and Environment* 17, no. 2 (2014): 153–56, <https://doi.org/10.1080/21550085.2014.926076/ASSET//CMS/ASSET/32149A08-D24C-4A99-BDB1-F776475675BD/21550085.2014.926076.FP.PNG>.

²¹ Delfina Gusman, "The Strong Influence of Nepotism on Corruption On The Buying of Positions In The Reason of Government," *Journal of Law, Politic and Humanities* 4, no. 3 (April 12, 2024): 239–46, <https://doi.org/10.38035/JLPH.V4I3.352>.

the people.²² This situation will lead to poor governance, where policies are more oriented towards narrow political interests than towards the welfare of the wider community.

From a constitutional law perspective, the presence of a president with a criminal record can also threaten political stability and the government. In a democratic system, state stability depends not only on legal legitimacy but also on people's trust in their leaders.²³ Suppose a president from the start has had a bad record in terms of compliance with the law. In that case, there will always be doubts about every policy and decision, both from the public, parliament, and the international community. This can hinder government functioning, trigger a political crisis, and even lead to prolonged social conflict.

Therefore, the Indonesian legal system needs a clear mechanism for handling cases involving elected presidents who are convicted of crimes before their inauguration. Without strict regulations, there will always be loopholes that allow individuals with criminal records to remain in power, ultimately undermining the legal system and democracy. The rule of law must not tolerate leaders with integrity issues, as this would set a bad precedent for future leadership. To maintain stability and public trust in the government, individuals found guilty of crimes should not be allowed to assume the presidency.

B. Research Methods

This article employs a juridical-normative legal research method with a descriptive-analytical approach. The study examines the constitutional vacuum regarding the legal status of a president-elect who is convicted of a criminal offense before inauguration in Indonesia. As a review-based legal study, this research does not involve fieldwork but instead relies on doctrinal analysis of legal norms, constitutional principles, and comparative constitutional practices. The data used in this research consist of primary and secondary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, statutory regulations governing presidential elections and succession, and relevant judicial decisions. Secondary legal materials include books, journal articles, scholarly commentaries, policy papers, and academic publications discussing constitutional law, democratic legitimacy, rule of law, presidential immunity, and executive

²² Luigi Curini, "The Integrity of the 2016 US Presidential Election: Exploring the Possible Impact of Ideology on Experts' Judgments," *Party Politics* 27, no. 1 (January 1, 2021): 81–91, <https://doi.org/10.1177/1354068818809524>.

²³ Ryan Pevnick and Ryan Pevnick, "Democratic Stability and Backsliding," *Political Philosophy* 1, no. 2 (November 12, 2024), <https://doi.org/10.16995/PP.17029>; Steven Van de Walle and Geert Bouckaert, "Public Service Performance and Trust in Government: The Problem of Causality," *International Journal of Public Administration* 26, no. 8–9 (2003): 891–913, <https://doi.org/10.1081/PAD-120019352>.

succession. Relevant comparative materials from other jurisdictions, particularly the United States, are also examined to enrich the analysis. Data were collected through library research by identifying, selecting, and reviewing relevant legal sources and academic literature connected to the topic. The collected materials were then analyzed qualitatively using statutory, conceptual, and comparative approaches. The statutory approach examines applicable constitutional and legal provisions. The conceptual approach explores doctrines such as popular sovereignty, rule of law, constitutionalism, and legal certainty. Meanwhile, the comparative approach reviews how other constitutional systems address criminal convictions involving elected executive leaders. The purpose of this method is to formulate ideal constitutional arrangements for Indonesia to address potential disputes involving a convicted president-elect, while preserving democratic legitimacy and legal supremacy. This research is limited to normative legal analysis and does not assess political feasibility, public opinion, or empirical institutional behavior. Therefore, the findings are intended primarily as constitutional and theoretical recommendations for future legal reform.

C. Results and Discussion

1. Dilemma of Popular Sovereignty vs. Supremacy of Law

In the Indonesian constitutional system, the principles of popular sovereignty and the supremacy of law are the two main pillars of constitutional democracy. Popular sovereignty emphasizes that the highest power is in the hands of the people, as mandated in Article 1, paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Meanwhile, the supremacy of law demands that every individual, including the elected president, submit to the law without exception.

In the constitutional system, the principle of popular sovereignty holds that ultimate power lies with the people. The people—as owners of sovereignty—have the right to elect leaders and determine the direction of state policy through democratic mechanisms, such as general elections.²⁴ The power given to the government is not absolute but rather a mandate that must be carried out in the interests of the wider community.²⁵ So, leaders elected through a democratic process must act within the law and maintain the trust of the people.

²⁴ Lars Trägårdh, "Society and People: History of the Concept," *International Encyclopedia of the Social & Behavioral Sciences: Second Edition*, January 1, 2015, 887–91, <https://doi.org/10.1016/B978-0-08-097086-8.03117-2>.

²⁵ Bob Hudson, David Hunter, and Stephen Peckham, "Policy Failure and the Policy-Implementation Gap: Can Policy Support Programs Help?," *Policy Design and Practice* 2, no. 1 (2019): 1–14, <https://doi.org/10.1080/25741292.2018.1540378>.

Popular sovereignty is not just the right to elect leaders but also reflects the state's obligation to ensure meaningful political participation.²⁶ A healthy democracy must ensure that the people's aspirations are heard not only during elections but also in the policy-making process. Therefore, transparency, accountability, and civil liberties are key elements in maintaining the legitimacy of power originating from the people.²⁷ However, the main challenge in implementing popular sovereignty is maintaining a balance between the voice of the majority and protecting the rights of minority groups.²⁸ Democracy must not lead to the tyranny of the majority, which ignores the rights of individuals and vulnerable groups.²⁹ Therefore, the principle of popular sovereignty must always go hand in hand with respect for human rights and guarantees of social justice for all citizens.

For popular sovereignty to be truly realized, democratic institutions, such as political parties, representative institutions, and law enforcement institutions, must function optimally. If the mechanisms for representing and supervising the government are weak, popular sovereignty will become little more than a formality. By strengthening these institutions, power can be exercised in the interests of the people at large, safeguarding civil liberties and ensuring accountable government. Popular sovereignty in a democratic system emphasizes that power derives from the people and must be exercised in their interests. In presidential elections, the people have the fundamental right to elect a leader they consider capable of governing. However, problems arise when a president-elect faces a criminal conviction before his inauguration. This situation creates a dilemma between respecting the will of the people who have elected them and the state's obligation to uphold the supremacy of law. Without clear provisions in the constitution, the legitimacy of election results can be questioned, and people's sovereignty can be distorted by legal uncertainty.

Without clear regulations regarding the status of an elected president who has been convicted of a crime, there is the potential for certain groups to ignore the voice of the people or even manipulate the legal system for political interests. On the one hand, voters have been given a mandate; on the other, the principle of the rule of law demands that everyone, without exception, comply with the applicable law. The constitution needs to accommodate mechanisms that can balance respect for the will of the people and the need to maintain the integrity of the law, for example,

²⁶ Phil Parvin, "Democracy Without Participation: A New Politics for a Disengaged Era," *Res Publica* 24, no. 1 (February 1, 2018): 31–52, <https://doi.org/10.1007/S11158-017-9382-1/METRICS>.

²⁷ Prapto Dinna Raharja, *Democracy and Inclusivity: A Reflection from the 2019 Bali Civil Society and Media Forum* (Jakarta: Friedrich-Ebert-Stiftung, 2020).

²⁸ Parvathi Menon, "The Uncomfortable Balance between a Minority and a People: The Global/Local Disconnect," *International Journal on Minority and Group Rights* 24, no. 3 (2017): 254–72, <https://doi.org/10.1163/15718115-02403003>.

²⁹ *Ibid.*

by establishing conditions for automatic dismissal or a replacement mechanism that does not betray the people's voice.

If aspects of popular sovereignty are not managed well in this situation, there is a risk of distrust in the democratic system. People can feel their voices are not respected, while the state can lose legitimacy in its implementation of the rule of law. For this reason, strict and constitutional regulations regarding the status of an elected president convicted of a crime are crucial to ensure that democracy continues to run according to the principles of justice and that the government formed maintains strong legitimacy in the eyes of the people.

On the other hand, the supremacy of law emphasizes that no individual or institution is above the law,³⁰ including the president-elect. In a rule of law state, as emphasized in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, every action of state administrators must be based on applicable law. Even though a president has been elected through a democratic process, a criminal conviction against him can serve as a basis for questioning his suitability and legitimacy as a leader. Suppose there is no legal mechanism that regulates the status of the elected president in this situation. In that case, uncertainty will arise in government administration, potentially leading to a constitutional crisis that threatens the country's stability.

The rule of law functions as a control against possible abuse of power.³¹ A leader found guilty of a criminal act—especially if it involves a serious crime, such as corruption or human rights violations—may lose the moral and legitimacy to govern. In this case, the rule of law aims to uphold ethical leadership and ensure that only individuals with a clean track record can hold the highest public office. Furthermore, the supremacy of law is not merely an abstract principle but a fundamental element that ensures the sustainability of the democratic rule of law.

Without an upright and consistent rule of law, popular sovereignty risks becoming a tool of legitimacy for figures who should not be worthy of leading. Democracy is not just about election results but also about the integrity and accountability of elected leaders.³² If an elected president remains in office even after he is legally and convincingly found guilty of a crime, this could set a dangerous precedent that undermines public confidence in the legal system and creates an opening for political impunity.

³⁰ Martin Krygier, "Why the Rule of Law Matters," *Jurisprudence* 9, no. 1 (January 2, 2018): 146–58, <https://doi.org/10.1080/20403313.2017.1331633/ASSET//CMS/ASSET/E8DEA6CF-6544-41BD-9E8B-C530438CC9AF/20403313.2017.1331633.FP.PNG>.

³¹ András Sajó, "Militant Rule of Law and Not-so-Bad Law," *Hague Journal on the Rule of Law* 16, no. 3 (December 1, 2024): 525–49, <https://doi.org/10.1007/S40803-024-00221-8/METRICS>.

³² Tobias Heinrich and Matt W. Loftis, "Democracy Aid and Electoral Accountability," *The Journal of Conflict Resolution* 63, no. 1 (2019).

In addition, the supremacy of law demands firm legal certainty and must not be subject to political compromise.³³ In cases where a leader has been found guilty, the legal system must ensure that the process proceeds without interference, political pressure, or electoral calculations. Allowing a convicted person to remain in power violates the principle of the rule of law. It can also create a domino effect that damages the credibility of other state institutions, including the judiciary, parliament, and law enforcement agencies. Suppose the supremacy of law can be negotiated for political interests. In that case, the law may lose its binding power as the highest norm governing government operations.

If the pretext of "people's sovereignty" overrides the supremacy of law, then what is happening is the manipulation of democracy, not the strengthening of people's rights. The concept of popular sovereignty must not be understood simplistically as the result of elections alone. Still, it must include the fulfillment of people's rights to be led by a government that is clean, honest, and free from personal corruption. If the rule of law is sacrificed for short-term political interests, democracy will become procedural rather than substantive. Indeed, cases like this raise a dilemma between popular sovereignty and the supremacy of law (law enforcement), as seen in the following diagram.

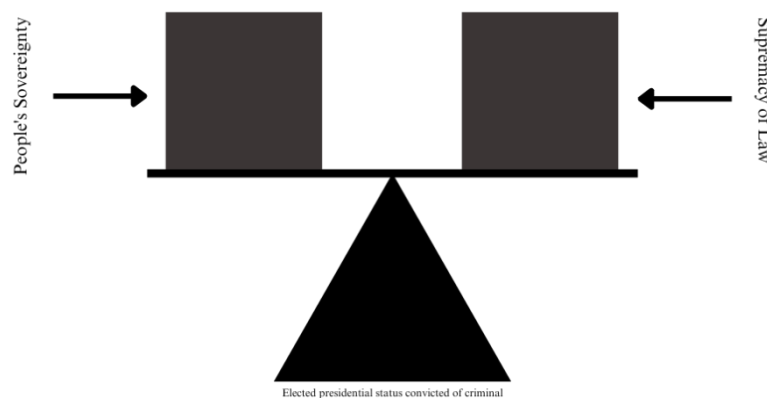


Illustration of the image of popular sovereignty vs. supremacy of law (law enforcement) in this case. (Personally prepared illustration)

The diagram above shows how the dilemma between popular sovereignty and the supremacy of law (law enforcement) operates in a democratic system. On the one hand, popular sovereignty holds that government power derives from the people, often expressed through elections and electoral legitimacy. However, when popular sovereignty is narrowly understood as simply winning a majority vote,

³³ Artha Debora Silalahi, "The Framework of Law Impacts in Philosophy of Law and Justice: How the Certainty and Justice Understood?," *Digital Press Social Sciences and Humanities* 09 (2023), <https://doi.org/10.29037/DIGITALPRESS.409434>.

there is the potential for abuse of authority that ignores the principles of law and justice. On the other hand, the supremacy of law demands that all forms of government must comply with applicable laws.³⁴ This includes the principles of checks and balances, public officials' accountability, and fair and nondiscriminatory law enforcement. When the supremacy of law is weakened in the name of "the will of the people," practices of corruption, nepotism, or abuse of power that harm the people themselves are neglected.

This diagram illustrates that the balance between popular sovereignty and the supremacy of law is crucial to ensuring that democracy is not only procedural but also substantive, protecting people's rights. In other words, a healthy democracy is not just about who is elected but how the elected government remains within the corridors of law, transparency, and accountability. This can create a situation in which the law becomes flexible to political interests, rather than a guideline to be followed by all parties without exception. To avoid conflict between popular sovereignty and the supremacy of law, a clear and firm legal mechanism is needed to address the status of elected presidents who face criminal charges before their inauguration. This regulation must ensure that democratic principles are oriented towards fulfilling the will of the majority and remain within the corridors of a rule of law that consistently upholds justice.

This issue becomes even more complex, given that the Indonesian constitution contains no explicit regulations on the status of elected presidents who are convicted of crimes before their inauguration. In practice, mechanisms for disqualifying or canceling election results are more strictly regulated in legislative and regional head elections. In contrast, presidential elections have broader political and constitutional dimensions. The Indonesian Constitution only regulates the requirements and prohibitions for presidential and vice presidential candidates before the election, but does not provide clarity regarding the status of the elected president who faces a criminal sentence after the election process is complete.³⁵

In electoral democracy, popular sovereignty confirms that the winner of the election has political legitimacy that cannot easily be overridden.³⁶ However, in the rule of law, the supremacy of law ensures that no individual is above the law³⁷—including the president-elect. Without explicit provisions in the constitution, this potential dilemma could create legal uncertainty and political instability, especially if there is a tug-of-war between electoral legitimacy and legal obligations. If the status of an elected president who has been convicted of a crime is not immediately

³⁴ *Op. Cit.* Sajó, "Militant Rule of Law and Not-so-Bad Law."

³⁵ See the 1945 Constitution of the Republic of Indonesia (1945).

³⁶ Richard Tuck, "Democratic Sovereignty and Democratic Government," in *Popular Sovereignty in Historical Perspective*, ed. Richard Bourke and Quentin Skinner (Cambridge: Cambridge University Press, 2016), 115–41, <https://doi.org/10.1017/CBO9781316418024.006>.

³⁷ *Op. Cit.* Cejse, "Rule of Law: A Fundamental Concept Without a Coherent Meaning: Analysis of the Swedish and Chinese Understandings."

regulated in the Constitution, then two extreme scenarios could occur: *First*, a president is still inaugurated even though he has been legally proven to have committed a criminal act, which can damage the legal and moral credibility of the country; or *second*, election results can be overruled entirely solely based on legal rulings, which has the potential to lead to political delegitimization in the eyes of the people.

To maintain a balance between popular sovereignty and the supremacy of law, the Constitution must include strict regulations governing the status of elected presidents who have been convicted of crimes. This is important not only to ensure legal certainty but also to prevent future political and constitutional crises. The Constitution must provide a fair and proportional mechanism for addressing this situation while preserving democratic values, justice, and legal certainty. Therefore, there needs to be clear constitutional regulations regarding the legal consequences for an elected president who is convicted of a crime before his inauguration, so that democratic mechanisms are not misused as a shield to avoid legal accountability.

2. Ideal Regulation of the Status of Elected Presidents Convicted of Crimes in the Indonesian Constitution

The current Indonesian Constitution does not explicitly regulate the status of elected presidents who are found guilty by a court before their inauguration. The 1945 Constitution of the Republic of Indonesia contains no provision clarifying whether the political mandate of an elected presidential candidate found guilty of a crime will be automatically invalidated or remain in effect. This legal vacuum has the potential to create uncertainty in the constitutional system and requires a clear constitutional solution to address it.

The absence of explicit rules regarding the status of elected presidents convicted of crimes before their inauguration reflects a weakness in constitutional design that could trigger a political and constitutional crisis. In a presidential democratic system—such as Indonesia—a president's legitimacy derives from the people's mandate as expressed through elections. At the same time, the rule of law demands that every individual, without exception, submits to the supremacy of the law. The absence of clear rules in the constitution creates a constitutional dilemma that can seriously impact government stability, especially if there is a conflict between the sovereignty of the people and the legal obligations of an elected president.

In Indonesia's constitutional history, an elected president has never faced a criminal sentence before his inauguration, so (indeed) there is no legal precedent to serve as a reference. However, increasingly complex political dynamics and the possibility of legal proceedings against potential state leaders require legal certainty to answer these challenges. Without firm regulation, this condition could create

uncertainty and constitutional debate over whether an elected president who has been convicted still has the legitimacy to serve.

Suntana puts forward an interesting view. Some of the options he put forward included granting legal immunity to elected presidents, except in cases of corruption, treason, or serious human rights violations; giving authority to the Constitutional Court to test integrity and decide whether criminal convictions invalidate the right to inauguration; and/or submitting the decision to the MPR through a special session.³⁸ He stressed that there was no need to repeat the election if the president-elect was found guilty because this would prolong government uncertainty.³⁹ The case of Donald Trump underscores the importance of balancing the people's political mandate and the integrity of the law, as well as the need for constitutional safeguards to prevent political criminalization that could disrupt the country's stability.

In this case, lessons from the Donald Trump case underscore that the main challenge in modern democracy is ensuring electoral legitimacy and upholding the rule of law without sacrificing political stability. On the one hand, democratic principles demand respect for the voice of the people. On the other hand, the rule of law requires that every individual, including the elected president, be responsible for their legal actions. Ideal constitutional regulations must maintain a balance between the two so that the country is not trapped in a prolonged political crisis over differences in interpreting the suitability of an elected president found guilty.

The legal mechanism adopted must account for various possibilities, including the possibility that the elected president could be politically criminalized, which could undermine government stability. Ideally, a limited immunity scheme for elected presidents should be implemented to prevent the misuse of the law as a political tool, with exceptions for serious crimes that pose a threat to public interest. However, this policy must still be combined with an independent testing mechanism, such as that proposed by the authority of the Constitutional Court or the MPR, to ensure that an elected president continues to meet ethical standards and maintain integrity in his leadership.

The draft regulations must clarify the mechanism for transferring power if an elected president is found unfit to serve. Indonesia's presidential system has established succession mechanisms through the vice presidency but has not explicitly specified procedures for when the elected president fails to be inaugurated for legal reasons. Stricter regulations governing the vice president's role in these circumstances are crucial to avoid a power vacuum that could create political and constitutional uncertainty.

³⁸ Ija Suntana, "Vonis Donald Trump Dan Kekosongan Hukum Tata Negara," Kompas.com, January 13, 2025, <https://www.kompas.com/global/read/2025/01/13/094014470/vonis-donald-trump-dan-kekosongan-hukum-tata-negara?page=all>.

³⁹ *Ibid.*

Apart from the options put forward by Suntana, an ideal approach to resolving this constitutional dilemma is to revise Articles 6A and 7 of the 1945 Constitution of the Republic of Indonesia,⁴⁰ to include explicit provisions regarding the legal status of the president-elect convicted before inauguration. This regulation must stipulate that an elected president who has received a court decision with permanent legal force (*inkracht*) in a criminal case with a certain criminal threat—for example, a minimum of five years in prison—automatically loses the right to be inaugurated. This step is important to ensure that individuals who will occupy the highest positions in government remain of high moral standards and integrity.

A more concrete transition mechanism is needed to prevent a leadership vacuum without relying solely on the vice president. One option is to implement a presidential contingency plan, namely giving the General Election Commission (KPU) the authority to automatically appoint the presidential candidate with the second-highest number of votes as a replacement, without the need to repeat the election. In other words, if the elected president is found guilty and loses his rights before being inaugurated, then the candidate with the next-highest number of votes will immediately assume the people's mandate without disrupting the government's stability.

This approach is more rational than submitting decisions to the Constitutional Court or the People's Consultative Assembly (MPR) through a special session, as it ensures legal certainty that is not subject to political or institutional interpretations that may be politicized. If this mechanism is implemented, constitutional stability can be maintained because leadership succession will occur automatically, without a long, drawn-out political process. Apart from that, to avoid potential political criminalization of the elected president, the Presidential Integrity Council—an independent institution consisting of elements from the Constitutional Court, Judicial Commission, KPU, and constitutional law academics—is tasked with assessing whether a criminal decision against the elected president has indications of political engineering or is truly a pure violation of law. This institution will ensure that the decision to revoke the right to inauguration based on a criminal conviction is not used as a tool to trip up political opponents arbitrarily.

The Presidential Integrity Council is ideally suited to serve as such an institution. It is only active when a president-elect faces a criminal conviction before the inauguration, so that it does not become part of a permanent bureaucracy vulnerable to politicization. This institution serves as an independent testing mechanism to assess whether a criminal decision against an elected president truly reflects the supremacy of law or shows signs of political criminalization. The Existence Presidential Integrity Council aims to maintain a balance between the principles of democracy and the rule of law by ensuring that an elected president

⁴⁰ See the 1945 Constitution of the Republic of Indonesia (1945).

loses the right to be inaugurated only through a decision that is fair, objective, and free from political interference.

One of the Presidential Integrity Council's main tasks is to review every court decision involving the president-elect—especially those that could affect the status of his inauguration. If indications of political criminalization are found, this institution may decide to inaugurate the elected president and vice president. On the other hand, if the criminal decision is found valid and does not involve political engineering, the Presidential Integrity Council can determine that the elected president loses his right to be inaugurated under the Constitution.

The existence of the Presidential Integrity Council also helps prevent legal and political uncertainty in the national leadership succession process. With a clear testing mechanism, decisions regarding the suitability of an elected president can be made transparently and accountably, without relying on special sessions of the MPR or other political processes that may be politicized. This is in line with the principle of the rule of law, which demands legal certainty and ensures that the democratic process continues to run with strong legitimacy. Hence, the formation of the Presidential Integrity Council is a strategic step to strengthen Indonesia's political system and ensure that elected leaders maintain integrity and meet applicable legal standards.

With a clear mechanism for the eligibility of the elected president, the presidential election need not be repeated even if the winning candidate is declared unfit to be appointed. Repeated elections will not only prolong political uncertainty but also hamper government stability and the implementation of state policies. The elections that have taken place reflect the will of the people. Hence, a more efficient solution is to ensure that the transition of power process continues within the established constitutional framework.

Instead of repeating elections, an automatic succession mechanism could be put in place to maintain the continuity of government. One option is to appoint the presidential candidate with the second-most votes as a replacement for the elected president who fails to be inaugurated. This alternative is more rational because it still respects the election results without repeating the entire process, which takes time and energy and has huge costs. In this way, political and governmental stability is maintained without sacrificing democratic principles and the supremacy of law.

Apart from that, repeated elections also open the door to various forms of political intervention that could undermine the independence of the democratic process. Certain parties can use this uncertainty to worsen the political situation, prolong inter-elite conflicts, or even delegitimize the election. If not anticipated, this could lead to a broader constitutional crisis. Therefore, regulations governing succession mechanisms must be designed to avoid creating gaps that could lead to political and legal instability.

The presidential system adopted by Indonesia already has institutional tools

that allow leadership transitions without the need for repeated elections. The vice president selected in a package with the president should be able to immediately assume the presidency if the elected president fails to be inaugurated. However, if this option is deemed inadequate, there needs to be further regulation in the UUD NRI 1945 to allow the candidate with the most votes to take over the mandate automatically. This step can avoid a power vacuum without relying on parliament's political decisions, which are vulnerable to political interests.

best solution to address the issue of a president-elect convicted of a criminal offense is not to hold a new election but to establish a clear constitutional mechanism for their replacement. Strong regulations are essential to maintaining the balance between the people's mandate and the supremacy of law. A combination of constitutional amendments, a presidential contingency plan, and the establishment of a Presidential Integrity Council can effectively resolve legal uncertainties. Fundamentally, Indonesia's Constitution does not regulate the status of a president-elect who is convicted before inauguration, indicating a legal vacuum that necessitates constitutional options. These options include granting limited legal immunity, empowering the Constitutional Court to assess integrity, or allowing the People's Consultative Assembly to decide through a special session. A re-election is unnecessary as it would only prolong governmental uncertainty. Furthermore, an automatic succession mechanism for the vice president must be ensured to prevent a power vacuum. The case of Donald Trump highlights the importance of constitutional safeguards to prevent the rule of law from being misused to criminalize politics, which could disrupt national stability.

D. Conclusion

This research underscores the urgency of explicitly regulating, within the Indonesian Constitution, the legal status of a president-elect convicted of a crime before inauguration to maintain a balance between popular sovereignty and the supremacy of law. The absence of clear constitutional provisions creates a legal vacuum that may lead to a constitutional crisis, political uncertainty, and the risk of political criminalization, ultimately threatening governmental stability. To address this issue, amending Articles 6A and 7 of the 1945 Constitution is a strategic necessity to establish strict legal parameters for a president-elect's eligibility. This should be accompanied by an objective integrity assessment mechanism, implemented by independent institutions such as the Presidential Integrity Council. Furthermore, consistent with Suntana's perspective, three constitutional options should be considered: (1) granting limited legal immunity to the president-elect, except in cases of corruption, treason, or gross human rights violations; (2) empowering the Constitutional Court to assess whether a criminal conviction invalidates the right to inauguration; or (3) entrusting the final decision to the

People's Consultative Assembly through a special session. Additionally, a clear leadership succession mechanism is essential to prevent a power vacuum. This can be achieved either by automatically granting the vice president the authority to assume the presidency or by ensuring that the presidential candidate with the second-highest number of votes can assume the presidency if the elected president fails to be inaugurated. The case of Donald Trump highlights the importance of constitutional safeguards to prevent the misuse of legal proceedings for political delegitimization. Thus, this constitutional reform not only reinforces the legitimacy of electoral democracy but also ensures that national leadership remains stable and operates within a just and lawful framework, free from political manipulation.

E. References

- Acemoglu, Daron, and Alexander Wolitzky. "A Theory of Equality Before the Law." *The Economic Journal* 131, no. 636 (May 4, 2021): 1429–65. <https://doi.org/10.1093/EJ/UEAA116>.
- Ahmad, and Novendri M. Nggilu. "View of Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution." *Jurnal Konstitusi* 16, no. 4 (2019). <https://doi.org/https://doi.org/10.31078/jk1646>.
- Biegon, Bradford E. "Presidential Immunity in Civil Actions: An Analysis Based upon Text, History and Blackstone's Commentaries." *Virginia Law Review* 82, no. 4 (1996). <https://doi.org/10.2307/1073815>.
- Cejie, Katia. "Rule of Law: A Fundamental Concept Without a Coherent Meaning: Analysis of the Swedish and Chinese Understandings." *European Journal of Comparative Law and Governance* 9, no. 3 (July 14, 2022): 287–320. <https://doi.org/10.1163/22134514-BJA10036>.
- Christiani, Theresia Anita. "Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object." *Procedia - Social and Behavioral Sciences* 219 (May 31, 2016): 201–7. <https://doi.org/10.1016/J.SBSPRO.2016.05.006>.
- Curini, Luigi. "The Integrity of the 2016 US Presidential Election: Exploring the Possible Impact of Ideology on Experts' Judgments." *Party Politics* 27, no. 1 (January 1, 2021): 81–91. <https://doi.org/10.1177/1354068818809524>.
- Deakin, Simon, David Gindis, Geoffrey M. Hodgson, Kainan Huang, and Katharina Pistor. "Legal Institutionalism: Capitalism and the Constitutive Role of Law." *Journal of Comparative Economics* 45, no. 1 (February 1, 2017): 188–200. <https://doi.org/10.1016/J.JCE.2016.04.005>.
- Debora Silalahi, Artha. "The Framework of Law Impacts in Philosophy of Law and Justice: How the Certainty and Justice Understood?" *Digital Press Social Sciences and Humanities* 09 (2023).

- <https://doi.org/10.29037/DIGITALPRESS.409434>.
- Epik, Aziz. "No Functional Immunity for Crimes under International Law before Foreign Domestic Courts: An Unequivocal Message from the German Federal Court of Justice." *Journal of International Criminal Justice* 19, no. 5 (February 3, 2021): 1263–81. <https://doi.org/10.1093/JICJ/MQAB071>.
- Epstein, Kayla, and Madeline Halpert. "Trump Avoids Prison or Fine in Sentencing of Unconditional Discharge." BBC, January 11, 2025. <https://www.bbc.com/news/articles/czjdjk1dpplo>.
- Foran, Michael P. "THE RULE OF GOOD LAW: FORM, SUBSTANCE AND FUNDAMENTAL RIGHTS." *The Cambridge Law Journal* 78, no. 3 (November 1, 2019): 570–95. <https://doi.org/10.1017/S0008197319000618>.
- Grewal, Amandeep S. "The President's Criminal Immunity The President's Criminal Immunity THE PRESIDENT'S CRIMINAL IMMUNITY." *SMU Law Review Forum* 77 (2024). <https://doi.org/10.25172/slr.77.1.5>.
- Grzywacz, Anna. "Democracy in Indonesian Strategic Narratives. A New Framework of Coherence Analysis." *Journal of Current Southeast Asian Affairs* 39, no. 2 (August 1, 2020): 250–69. https://doi.org/10.1177/1868103420903594/ASSET/1FC60D00-2648-4FDD-A34C-B03885238FC5/ASSETS/IMAGES/LARGE/10.1177_1868103420903594-FIG2.JPG.
- Gusman, Delfina. "The Strong Influence of Nepotism on Corruption On The Buying of Positions In The Reason of Government." *Journal of Law, Politics and Humanities* 4, no. 3 (April 12, 2024): 239–46. <https://doi.org/10.38035/JLPH.V4I3.352>.
- Härenstam, Annika, Lisa Björk, and Linda Corin. "Trust Chains in Public Sector Organizations and Their Significance for Work Unit Performance and Employee Turnover Intention." *International Public Management Journal* 27, no. 6 (2024): 921–47. <https://doi.org/10.1080/10967494.2024.2322142>.
- Heinrich, Tobias, and Matt W. Loftis. "Democracy Aid and Electoral Accountability." *The Journal of Conflict Resolution* 63, no. 1 (2019).
- Hudson, Bob, David Hunter, and Stephen Peckham. "Policy Failure and the Policy-Implementation Gap: Can Policy Support Programs Help?" *Policy Design and Practice* 2, no. 1 (2019): 1–14. <https://doi.org/10.1080/25741292.2018.1540378>.
- Hutzler, Alexandra. "'Surprising' and 'Disturbing': Legal Experts React to Supreme Court Arguments on Trump's Immunity Claim - ABC News." abc News, April 30, 2024. <https://abcnews.go.com/Politics/surprising-disturbing-legal-experts-react-supreme-court-arguments/story?id=109748598>.
- Indrayana, Denny. "Presiden (Tidak) Kebal Hukum," 2024.

- <https://dennyindrayana.com/2024/09/01/presiden-tidak-kebal-hukum/>.
- Kelly, Michelle M., Tasha Martin-Peters, and Jessica Strohm Farber. "Secondary Data Analysis: Using Existing Data to Answer New Questions." *Journal of Pediatric Health Care* 38, no. 4 (July 1, 2024): 615–18. <https://doi.org/10.1016/J.PEDHC.2024.03.005>.
- Krygier, Martin. "Why the Rule of Law Matters." *Jurisprudence* 9, no. 1 (January 2, 2018): 146–58. <https://doi.org/10.1080/20403313.2017.1331633/ASSET//CMS/ASSET/E8DEA6CF-6544-41BD-9E8B-C530438CC9AF/20403313.2017.1331633.FP.PNG>.
- Lindsey, Tim, and Simon Butt. *Indonesian Law*. Oxford: Oxford University Press, 2018.
- Maharani, Desty Puspita, Pratama Herry Herlambang, and Ridwan Arifin. "Is Public Information Openness the Key to Unlocking Justice in Indonesia's State Administrative Court?" *Indonesian State Law Review* 7, no. 1 (April 30, 2024). <https://doi.org/10.15294/ISLREV.V7I1.18861>.
- Menon, Parvathi. "The Uncomfortable Balance between a Minority and a People: The Global/Local Disconnect." *International Journal on Minority and Group Rights* 24, no. 3 (2017): 254–72. <https://doi.org/10.1163/15718115-02403003>.
- Muabezi, Zahermann Armandz. "Negara Berdasarkan Hukum (Rechtsstaats) Bukan Kekuasaan (Machtsstaat)." *Jurnal Hukum Dan Peradilan* 6, no. 3 (November 30, 2017): 421–46. <https://doi.org/10.25216/JHP.6.3.2017.421-446>.
- Muhtada, Dani, and Ayon Diniyanto. *Dasar-Dasar Ilmu Negara*. Semarang: BPFH UNNES, 2018.
- Mukhlis, Muhammad Mutawalli, Harlida Abdul Wahab, Zulhilmi Paidi, Nila Sastrawaty, and Haslinda Hasan. "Heavy Parliamentary v. Heavy Executive: Ambiguity of Power in Indonesian Constitutional Practices." *Jurnal Media Hukum* 31, no. 2 (July 8, 2024): 186–205. <https://doi.org/10.18196/JMH.V31I2.21703>.
- Nugroho, Sigit Sapto, Anik Tri Haryani, and Farkhani. *Metodologi Riset Hukum*. Surakarta: Oase Pustaka, 2020.
- Parvin, Phil. "Democracy Without Participation: A New Politics for a Disengaged Era." *Res Publica* 24, no. 1 (February 1, 2018): 31–52. <https://doi.org/10.1007/S11158-017-9382-1/METRICS>.
- Pevnick, Ryan, and Ryan Pevnick. "Democratic Stability and Backsliding." *Political Philosophy* 1, no. 2 (November 12, 2024). <https://doi.org/10.16995/PP.17029>.
- Raharja, Prapto Dinna. *Democracy and Inclusivity: A Reflection from the 2019 Bali Civil Society and Media Forum*. Jakarta: Friedrich-Ebert-Stiftung, 2020.

- Rahman, Nazla Arliva, and Ratih Damayanti. "Revolutionizing Indonesia's Administrative Court: A Bold Push for Fairness and Proportionality." *Indonesian State Law Review* 7, no. 1 (April 30, 2024). <https://doi.org/10.15294/ISLREV.V7I1.18860>.
- Sajó, András. "Militant Rule of Law and Not-so-Bad Law." *Hague Journal on the Rule of Law* 16, no. 3 (December 1, 2024): 525–49. <https://doi.org/10.1007/S40803-024-00221-8/METRICS>.
- Setiawan, Adam, Nehru Asyikin, Fatma Hidayati, and Isnawati Isnawati. "Impeachment Sebagai Bentuk Pertanggungjawaban Presiden Indonesia Dalam Negara Hukum Yang Demokratis." *Jatijajar Law Review* 2, no. 2 (2023): 123. <https://doi.org/10.26753/jlr.v2i2.1161>.
- Shahrasbi, Sanya. "Can a Presidential Pardon Trump an Article III Court's Criminal Contempt Conviction? A Separation of Powers Analysis of President Trump's Pardon of Sheriff Joe Arpaio," 2020. <https://www.law.georgetown.edu/public-policy-journal/in-print-2/volume-18-number-1-winter-2020/can-a-presidential-pardon-trump-an-article-iii-courts-criminal-contempt-conviction-a-separation-of-powers-analysis-of-president-trumps-pardon-of-sheriff-joe-arpai/>.
- Snyder, Hannah. "Literature Review as a Research Methodology: An Overview and Guidelines." *Journal of Business Research* 104 (November 1, 2019): 333–39. <https://doi.org/10.1016/J.JBUSRES.2019.07.039>.
- Sulaiman, Sulaiman. "Epistemology of the Indonesian Law State (Re-Conceptualization of Indonesian Law)." *Law Research Review Quarterly* 2, no. 4 (November 30, 2016): 543–66. <https://doi.org/10.15294/SNH.V2I01.21341>.
- Suntana, Ija. "Vonis Donald Trump Dan Kekosongan Hukum Tata Negara." *Kompas.com*, January 13, 2025. <https://www.kompas.com/global/read/2025/01/13/094014470/vonis-donald-trump-dan-kekosongan-hukum-tata-negara?page=all>.
- Trägårdh, Lars. "Society and People: History of the Concept." *International Encyclopedia of the Social & Behavioral Sciences: Second Edition*, January 1, 2015, 887–91. <https://doi.org/10.1016/B978-0-08-097086-8.03117-2>.
- Tuck, Richard. "Democratic Sovereignty and Democratic Government." In *Popular Sovereignty in Historical Perspective*, edited by Richard Bourke and Quentin Skinner, 115–41. Cambridge: Cambridge University Press, 2016. <https://doi.org/10.1017/CBO9781316418024.006>.
- United States Senate. "U.S. Senate: Constitution of the United States," n.d. <https://www.senate.gov/about/origins-foundations/senate-and-constitution/constitution.htm>.
- Valentini, Laura, Enrico Biale, Emanuela Ceva, Zsuzsanna Chappel, David Estlund, Nannerl Keohane, Andrew Lister, et al. "Justice and Democracy ☐,"

2010. <http://social-justice.politics.ox.ac.uk>.

Varga, Somogy. "Fiat Justitia, Ruat Caelum. Habermasian Reflections on Moral Constraints." *Ethics, Policy and Environment* 17, no. 2 (2014): 153–56. <https://doi.org/10.1080/21550085.2014.926076/ASSET//CMS/ASSET/32149A08-D24C-4A99-BDB1-F776475675BD/21550085.2014.926076.FP.PNG>.

Walle, Steven Van de, and Geert Bouckaert. "Public Service Performance and Trust in Government: The Problem of Causality." *International Journal of Public Administration* 26, no. 8–9 (2003): 891–913. <https://doi.org/10.1081/PAD-120019352>.

“This Page Intentionally Left Blanks”