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Constitutionalism as A Design For Limiting Power in The Era of *Post-truth* Democracy

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Abstract

The principle of constitutionalism is the main pillar in maintaining the balance of power and upholding the rule of law in a democratic system of government. In the Indonesian context, the dynamics of state administration show that this principle is increasingly relevant, especially amid the trend of widening executive and legislative powers and the challenges of the *post-truth* era of democracy. This research uses a descriptive qualitative method with a literature study approach, reviewing various literature and research results from 2020 to 2025 to understand the urgency, implementation, and challenges of constitutionalism in limiting power in Indonesia. The discussion begins with an elaboration on the nature of constitutionalism and its function in democracy, followed by an analysis of the mechanism for limiting power as a manifestation of constitutional principles, as well as the issue of term extension as an early symptom of the erosion of these principles. Furthermore, new challenges in the digital era involving the influence of technology and oligarchy in shifting the meaning of constitutionalism to mere formality are examined. The findings show that the weakening of the principle of constitutionalism does not only occur through normative violations, but also through political engineering of power hidden in the practice of procedural democracy. Thus, strengthening constitutionalism through legal reform, strict institutional control, and public political literacy is an urgent agenda in maintaining the integrity of a healthy and equitable democratic system.

Keywords

Constitutionalism, Limitations on Power, *Post-truth* Democracy



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Introduction

The principle of constitutionalism is the main foundation of a modern constitutional system that upholds the rule of law and limits power. In the context of a democratic state, constitutionalism not only acts as a normative framework, but also as an instrument of protection against abuse of power by state institutions and political actors. Constitutionalism places the constitution as the supreme law that regulates the distribution of power fairly, guarantees human rights, and ensures that every action of state administrators is subject to legal limits determined by the constitution.¹

In practice, the principle of constitutionalism requires the limitation of power as the main condition for a substantial democracy. The limitation of power is not only a matter of tenure or periodization of government, but also concerns transparency, accountability, and the supremacy of the constitution.² Constitutionalism was born out of the realization that unlimited power tends to breed tyranny and authoritarianism. This is emphasized by Rachmawan, who identifies the symptoms of authoritarianism in Indonesia's democratic climate as a form of deviation from the basic principles of constitutionalism.³

In the context of Indonesian constitutionalism, the dynamics of limiting power show high complexity. One of the actual issues that has emerged is the extension of the term of office of the village head and the discourse on increasing the period of the president's term of office. Arhdan criticized this discourse as a form of deviation from the principles of a healthy democratic state.⁴ Meanwhile, Al Malik, Salman, and Ristawati emphasize that the extension of positions without strong control can undermine public accountability and weaken the checks and balances mechanism.⁵

Constitutionalism is not only about written norms, but also about practices in the administration of government. Amalina emphasized that upholding the supremacy of the constitution is a key pillar in the development of a democratic and just constitutional system.⁶ When the constitution is only used as a tool to legitimize power without commitment to constitutional values, democracy loses its substantive meaning.

¹ Asshiddiqie, Jimly. 2021. *Konstitusi dan Konstitusionalisme Indonesia*. Jakarta: Sinar Grafika.

² Alfauzi, R. I., dan Effendi, O. 2020. "Pembatasan Kekuasaan Berdasarkan Paham Konstitusionalisme Di Negara Demokrasi." *Politica: Jurnal Hukum Tata Negara Dan Politik Islam* 7(2): 111–133.

³ Rachmawan, M. D. 2024. "Gejala Otoritarianisme dalam Iklim Demokrasi Indonesia." *SIYASI: Jurnal Trias Politica* 2(1): 97–109.

⁴ Arhdan, S. M. 2023. "Problematika Perpanjangan Masa Jabatan Kepala Desa Menurut Prinsip Negara Demokrasi." *DiH: Jurnal Ilmu Hukum*: 169–178.

⁵ Al Malik, R., Salman, R., dan Ristawati, R. 2024. "Politik Hukum Perpanjangan Masa Jabatan Kepala Desa dalam Perspektif Pembatasan Kekuasaan dan Akuntabilitas." *PUSKAPSI Law Review* 4(2): 108–123.

⁶ Amalina, Z. 2024. "Penegakan Supremasi Konstitusi pada Lingkup Perkembangan Ketatanegaraan Indonesia: Upholding the Supremacy of the Constitution in the Scope of Indonesian Constitutional Development." *Jurnal Nomokrasi* 2(2): 75–84.

In a broader scope, the limitation of power reflects a collective effort to create a balance between the interests of the state and the protection of citizens. Erham, Ma'arij and Gufran explain that the limitation of power must be seen within the framework of the constitution as the supreme law that binds all elements of power without exception.⁷ Even in the context of strengthening legislative institutions such as *Dewan Perwakilan Daerah Republik Indonesia* (DPD-RI), the discussion of constitutionalism is important to prevent the domination of uncontrolled power.⁸

Madjid and Akbar point out that the constitutional amendments to the 1945 Constitution of the Republic of Indonesia have brought a more progressive spirit of constitutionalism by strengthening the principle of power sharing and clarifying the functions of state institutions.⁹ However, Murtadho underlines that there is a shift in the understanding of constitutionalism that creates gray spaces in constitutional practice, especially when the constitution is read politically, not normatively.¹⁰

This phenomenon is also reflected in the absence of periodization arrangements for legislative members such as the *Dewan Perwakilan Rakyat Republik Indonesia* (DPR-RI), which is considered a form of constitutional vacuum in controlling long-term political power.¹¹ In such conditions, the principles of constitutionalism such as the division of powers, the rule of law, and the guarantee of human rights must continue to be upheld. As emphasized by Yasser and Desiandri, the constitution not only guarantees the rights of citizens, but is also a tool to limit the authority of the state so that it is not arbitrary in regulating public life.¹² It is also important to understand constitutionalism in a local and digital context. Cahyono in his analysis of local government highlights the weak implementation of constitutionalism principles at the local level due to weak institutional and supervisory capacity.¹³ Meanwhile, Subekti, Handayani and Hidayat point out that digital constitutionalism is a new challenge in

⁷ Erham, E., Ma'arij, A., dan Gufran, G. 2024. "Diskursus Pembatasan Kekuasaan di Indonesia Dalam Perspektif Konstitusi dan Konstitusionalisme." *Legalitas: Jurnal Hukum* 16(1): 72–78.

⁸ Failaq, M. R. F., dan Arelia, F. A. 2022. "Merancang Konstitusionalisme dalam Amandemen Penguatan DPD RI." *Sanskara Hukum dan HAM* 1(02): 25–36.

⁹ Madjid, M. A. S. W., dan Akbar, M. I. 2023. "Tinjauan Prinsip Konstitusionalisme Dalam Undang-Undang Dasar 1945 Hasil Amandemen Dan Wacana Perubahannya." *Jurnal Hukum Dan HAM Wara Sains* 2(03): 152–162.

¹⁰ Murtadho, A. M. 2022. "Pergeseran Pemahaman Konstitusionalisme dalam Ketatanegaraan Indonesia." *Rechtenstudent* 3(2): 172–186.

¹¹ Riqiey, B. 2024. "Ketidaaan Pengaturan Pembatasan Periodisasi Anggota Dewan Perwakilan Rakyat dalam Perspektif Konstitusionalisme." *Prosiding Mewujudkan Sistem Hukum Nasional Berbasis Pancasila*: 503–519.

¹² Yasser, M., dan Desiandri, Y. S. 2023. "Konsep Hak Asasi Manusia Dalam Konstitusi Indonesia." *Iuris Studia: Jurnal Kajian Hukum* 4(3): 164–172.

¹³ Cahyono, A., Pratama, N. M., Setiawan, I., dan Huda, F. A. 2022. "Implementasi Konstitusionalisme Dalam Pemerintahan Daerah (Suatu Analisis Evaluatif)." *Sosio Yustisia: Jurnal Hukum dan Perubahan Sosial* 2(2): 34–49.

organizing the relationship between state power and citizens' digital rights in the modern era.¹⁴

Thus, the limitation of power in a democracy cannot be separated from a deep understanding of the principle of constitutionalism. In a constitutional democracy, power must be limited, not only to maintain the sustainability of democracy, but also to ensure justice, public participation and the rule of law. Wibowo states that the space for power to be limited by the constitution is a necessity to prevent the consolidation of undemocratic power.¹⁵

The study of the principles of constitutionalism and limitation of power has become very relevant in the midst of various political and legal discourses that have developed in Indonesia. This research will examine in depth how constitutionalism as a basic principle of democracy can function effectively in limiting power and ensuring that the government continues to run within the corridors of law, ethics and the constitution.¹⁶ Unlike previous studies that focused on formal norms, this study explores how the *post-truth* era and digital challenges create procedural manipulation that threatens the principle of power restrictions.

Therefore, researchers are interested in raising this topic in a scientific study with the title: "The Principles of Constitutionalism in the Limitation of Power in the Era of Democracy" This title was chosen because it reflects the urgency and relevance of the study to the actual conditions of Indonesian state administration, where there is a tug of war between political interests and the principles of constitutional law. This research is expected to provide academic and practical contributions in strengthening constitutional culture, as well as a foothold in improving the system of limitation of power in order to remain in line with the spirit of democracy and the principles of a just rule of law.

Based on the background of the problem as described above, this study draws the following problem formulations: (1) How limitation of power can be an instrument of constitutionalism? (2) How do the Challenges of Implementing Constitutionalism in the era of *post-truth* democracy in Indonesia? This study fills the gap in existing literature by providing a critical analysis of how digital manipulation and 'autocratic legalism' in the *post-truth* era are being used to bypass traditional power limitations in Indonesia

¹⁴ Subekti, N., Handayani, I. G. A. K. R., dan Hidayat, A. 2023. "Konstitutionalisme Digital di Indonesia: Mengartikulasikan Hak dan Kekuasaan dalam Masyarakat Digital." *Peradaban Journal of Law and Society* 2(1): 1–22.

¹⁵ Wibowo, A., Fani, R., Rinaldi, F., dan Nenggolan, S. E. 2024. "Ruang Gerak Kekuasaan dalam Wadah Demokrasi Konstitusional." *Wacana Paramarta: Jurnal Ilmu Hukum* 23(2): 26–36.

¹⁶ Tarigan, R. S. 2024. *Konstitusi dan Kekuasaan Studi Kasus dalam Hukum Tata Negara*. Ruang Karya Bersama.

Methods

This research uses a qualitative approach with a literature study method (library research) as the main strategy in exploring, analyzing, and interpreting the concepts and practices of the principles of constitutionalism in limiting power in the era of democracy, especially in the context of Indonesian state administration.¹⁷ This approach was chosen because it is in line with the main objective of the research, which is to conduct a conceptual and normative exploration of the dynamics of power in a democratic system based on a constitutional frame. According to Afrizal, the qualitative approach emphasizes the interpretative process of complex social and legal phenomena by exploring the meaning behind the data, rather than simply measuring frequency or statistical relationships.¹⁸ This is important in the context of constitutionalism studies because the reality of power and its limitation mechanisms are not always empirical, but often symbolic, ideological and normative.¹⁹ Therefore, the qualitative approach provides ample space for researchers to understand the phenomenon of power through legal, social, and political frameworks in a complete and contextual manner. The library research method is used to obtain secondary data from relevant sources, such as scientific books, academic journal articles, dissertations, regulations, and previous research results that discuss constitutionalism, limitation of power, and democratic dynamics.²⁰ The literature study aims to build a strong theoretical foundation, as well as provide space for critical analysis of various views and legal concepts that have been developed by experts.

Results and Discussion

I. Limitation of Power as an Instrument of Constitutionalism

a. The Urgency of Constitutionalism in The Implementation of Democracy

Constitutionalism is a fundamental principle in the constitutional system that places the constitution as the highest norm that limits, regulates, and directs the exercise of state power. According to Asshiddiqie, constitutionalism does not merely refer to the formal existence of a constitution, but rather emphasizes the enforcement of fundamental principles of the rule of law, such as the limitation of power, the protection of human rights, the supremacy of law, and the system of checks and balances. Constitutionalism emerged as a reaction to uncontrolled absolute power,

¹⁷ Sugiyono. 2022. *Metode Penelitian Kuantitatif, Kualitatif, dan R&D*. Bandung: Alfabeta.

¹⁸ Afrizal. 2019. *Metode Penelitian Kualitatif: Sebagai Upaya Mendukung Penggunaan Penelitian Kualitatif dalam Berbagai Disiplin Ilmu*. Jakarta: PT Rajagrafindo Persada.

¹⁹ Sugiyono. 2022. *Metode Penelitian Kuantitatif, Kualitatif, dan R&D*. Bandung: Alfabeta.

²⁰ Anim Purwanto. 2022. *Konsep Dasar Penelitian Kualitatif: Teori dan Contoh Praktis*. Jakarta: Pusat Pengembangan Pendidikan dan Penelitian Indonesia.

and therefore became the main foundation for building a democratic government that is accountable and fair.²¹

In the context of a democratic state, constitutionalism plays an essential role as a guardrail so that power is not concentrated in one hand or a particular group. As explained by Alfauzi and Effendi, constitutionalism is a fundamental principle in shaping the order of a democratic state because it functions as a legal and moral instrument in managing power so that it does not get out of the democratic corridor.²² This thinking is in line with Montesquieu's classical view emphasizing the importance of the division of powers to prevent tyranny, which was later adopted in many modern systems of government. Madjid and Akbar emphasized that after the amendment of the 1945 Constitution, Indonesia has strengthened the normative application of the principle of constitutionalism.²³ The amendments introduced various power control mechanisms such as the Constitutional Court, the Regional Representative Council, and strengthened the role of the legislature. However, the reality still shows that constitutionalism has not been fully internalized in government practices. This can be seen from the many policies that do not favor the principles of justice, transparency and accountability.

Constitutionalism should not be understood only as a set of written laws, but should be part of political culture.²⁴ When state officials do not have a commitment to constitutionalism, the potential for abuse of power will still occur, even though legal instruments are available. This shows that the urgency of constitutionalism is not only structural, but also cultural. Amalina highlighted that constitutional supremacy is a crucial element in constitutionalism. The enforcement of constitutional supremacy in Indonesia still faces serious challenges, especially when political practices often violate the basic principles of the constitution for the sake of power. In fact, constitutional supremacy demands that every legal product and public policy is always tested based on the principle of constitutionality, not just legal proceduralism.²⁵

Constitutionalism also contains the principle of accountability as part of the supervision of the exercise of power.²⁶ In a democratic system, unrestricted power is easily abused, so responsibility and transparency in every state decision are the main

²¹ Arhdan, S. M. 2023. "Problematika Perpanjangan Masa Jabatan Kepala Desa Menurut Prinsip Negara Demokrasi." *DiH: Jurnal Ilmu Hukum*: 169–178.

²² Alfauzi, R. I., dan Effendi, O. 2020. "Pembatasan Kekuasaan Berdasarkan Paham Konstitusionalisme Di Negara Demokrasi." *Politica: Jurnal Hukum Tata Negara Dan Politik Islam* 7(2): 111–133.

²³ Madjid, M. A. S. W., dan Akbar, M. I. 2023. "Tinjauan Prinsip Konstitusionalisme Dalam Undang-Undang Dasar 1945 Hasil Amandemen Dan Wacana Perubahannya." *Jurnal Hukum Dan HAM Wara Sains* 2(03): 152–162.

²⁴ Erham, E., Ma'arij, A., dan Gufran, G. 2024. "Diskursus Pembatasan Kekuasaan di Indonesia Dalam Perspektif Konstitusi dan Konstitusionalisme." *Legalitas: Jurnal Hukum* 16(1): 72–78.

²⁵ Kansil, C. S., dan Tobing, S. A. S. L. 2024. "Arti Dan Makna Memahami Konsep Konstitusionalisme & Demokrasi Dalam Konteks Implementasi Sistem Tata Negara." *Jurnal Pendidikan Sejarah dan Riset Sosial Humaniora* 4(2): 192–203.

²⁶ Al Malik, R., Salman, R., dan Ristawati, R. 2024. "Politik Hukum Perpanjangan Masa Jabatan Kepala Desa dalam Perspektif Pembatasan Kekuasaan dan Akuntabilitas." *PUSKAPSI Law Review* 4(2): 108–123.

demands. When power runs without limits and supervision, it opens the way to authoritarianism, even in the packaging of procedural democracy. In the realm of local government, constitutionalism also plays an important role. Cahyono emphasized that the principle of constitutionalism in local government must be continuously evaluated so that the implementation of autonomy does not deviate from the national legal framework.²⁷ The application of constitutionalism at the local level is important to ensure that the principles of democracy are comprehensive and do not stop at the central level.

Furthermore, Wutsqah and Erham state that constitutionalism is an important foundation in designing an inclusive, participatory and fair constitutional system.²⁸ In this regard, principles such as transparency, public participation, respect for human rights, and a system of checks and balances on power should be integral to constitutional design and the practice of state administration.

Constitutionalism is also closely linked to the protection of human rights. Yasser and Desiandri state that the constitution should be the main instrument to guarantee citizens' basic rights, such as freedom of speech, freedom of assembly, and the right to education.²⁹ Without constitutionalism, these rights are very vulnerable to being violated by the authorities, especially in crisis or emergency situations. Substantive justice is one of the main goals of constitutionalism.³⁰ In practice, justice must not stop at the legal-formal aspect, but must touch the social and economic aspects of the people. Therefore, a good constitution is one that is able to answer the needs of the people and ensure sustainable prosperity.³¹ Understanding constitutionalism means understanding the essence of democracy itself. Without constitutionalism, democracy will lose its spirit and become mere proceduralism controlled by the power elite. A true democracy is one that is based on the constitution, run by the law, and in favor of the people.

Thus, it can be concluded that constitutionalism is the main pillar in realizing a just, civilized, and law-abiding democratic state. This principle is not only important as a legal norm, but also as a value and spirit in building a healthy, transparent and accountable government system. In the midst of various challenges, both structural and cultural, strengthening constitutionalism is an urgent agenda in the journey of Indonesian democracy.

²⁷ Cahyono, A., Pratama, N. M., Setiawan, I., dan Huda, F. A. 2022. "Implementasi Konstitusionalisme Dalam Pemerintahan Daerah (Suatu Analisis Evaluatif)." *Sosio Yustisia: Jurnal Hukum dan Perubahan Sosial* 2(2): 34–49.

²⁸ Wutsqah, U., dan Erham, E. 2024. "Diskursus Pembatasan Kekuasaan di Indonesia dalam Perspektif Konstitusi dan Konstitusionalisme." *Jurnal Citizenship Virtues* 4(2): 771–784.

²⁹ Yasser, M., dan Desiandri, Y. S. 2023. "Konsep Hak Asasi Manusia Dalam Konstitusi Indonesia." *Iuris Studia: Jurnal Kajian Hukum* 4(3): 164–172.

³⁰ Gusman, D. 2023. "Keadilan dalam Perspektif Konstitusionalisme." *Unes Journal of Swara Justisia* 7(1): 284–293.

³¹ Hatim, A., Harijanti, S. D., dan Taufik, G. A. 2024. "The Idea of Presidential Term Limit as an Implicit Unamendable Provision: Gagasan Pembatasan Masa Jabatan Presiden sebagai Implicit Unamendable Provision." *Jurnal Konstitusi* 21(4): 542–564.

As a case study, Law Number 3 of 2024 shows signs of a shift from substantive constitutionalism to manipulative procedural constitutionalism. The extension of the village head's term of office to eight years is a form of 'political rent-seeking' cloaked in legality. Theoretically, slow circulation of power at the local level will foster village oligarchy and break the chain of public accountability. Extension of the village head's term of office can be linked to the principle of checks and balances, which is a constitutional principle that has the same function in the legislative, executive and judicial fields, namely controlling each other, so that there is no abuse of power by state administrators, as well as individuals who hold positions in state institutions, one of which is the village head.³² The author argues that this policy is an instrument of 'political barter' that threatens the constitutional rights of villagers to obtain fresh and innovative leadership. This is no longer about the effectiveness of development, but about securing a political mass base through formal legal legitimacy, which is slowly killing the life of sociological democracy in Indonesia.

In addition, The Court's controversial rulings, notably Decision No. 90/PUU-XXI/2023, exemplify how politicized judicial appointments, procedural opacity, and a reactive ethical framework have collectively undermined the Court's legitimacy as an impartial guardian of constitutional democracy.³³ The Constitutional Court's Decision No. 90/PUU-XXI/2023 illustrates systemic flaws in Indonesia's judicial architecture, where politicized appointments, opaque procedures, and delayed ethical mechanisms have severely compromised its role as a neutral protector of democratic principles.

b. Limitation of Power as an Instrument of Constitutionalism

Limitation of power is one of the most fundamental elements in constitutionalism, especially in a democratic system based on the principle of the rule of law. In this context, the limitation of power is intended to prevent abuse of authority by the ruler, as well as to ensure that the power of the state does not lead to authoritarianism. This limitation aims to protect the rights of individuals and society, maintain justice, and ensure accountability in every government action.³⁴ Restrictions on power in a democracy must be structural, normative and operational.³⁵ Structural means that there is a clear separation of powers between the legislature, executive and judiciary. Normative refers to the limitations outlined in the constitution as the highest norm of the state, while operational refers to the implementation of the principle of limitation in every state policy and action. This limitation of power, in practice,

³² Hartono, H. (2024). Pengaturan Masa Jabatan Kepala Desa Dalam Perspektif Konstitusi Dan Demokrasi. *Jurnal Intelek Insan Cendikia*, 1(6), 2161-2169.

³³ Fathi, M., Riyanto, A. A. P., Prasetyoningsih, N., & Amirullah, M. N. R. (2025). From Guardians to Threats? Abusive Judicial Review and Public Distrust. *Jurnal Hukum Ius Quia Iustum*, 32(2), 505-527.

³⁴ Haidar, R. A. 2023. "Oligarki di Tengah Sistem Pembagian Kekuasaan Negara." *Jurnal Hukum Media Justitia Nusantara* 13(1): 36–45.

³⁵ Alfauzi, R. I., dan Effendi, O. 2020. "Pembatasan Kekuasaan Berdasarkan Paham Konstitutionalisme Di Negara Demokrasi." *Politica: Jurnal Hukum Tata Negara Dan Politik Islam* 7(2): 111–133.

becomes the basis for keeping state power in the corridor determined by the constitution.³⁶

In the discourse of Indonesian constitutionalism, the limitation of power cannot be separated from the long history of struggle against authoritarian government practices. According to Asshiddiqie, constitutionalism in Indonesia, as mandated by the 1945 Constitution, strictly regulates the division of power between state institutions to avoid the concentration of power in one hand.³⁷ This limitation of power applies not only in the context of relations between state institutions, but also in relation to the people, whose rights are protected through the constitution.

The limitation of state power, according to them, must always prioritize the principle of respect for the basic rights of individuals, including the rights to freedom, equality and justice.³⁸ In a democratic system of government, the law becomes the main instrument to enforce such restrictions, and the state should not act arbitrarily against its citizens. For example, in limiting executive power, the existence of an independent judiciary is essential to ensure that there are no violations of human rights by the government.³⁹ This limitation of power is also closely related to the principle of accountability which is at the core of any democratic system of government. As explained by Al Malik, Salman, and Ristawati, in the political practice of Indonesian law, especially in terms of the extension of the term of office of the village head, the limitation of power also requires a strict supervisory mechanism.⁴⁰ This is important to prevent abuse of power that could harm society and undermine democratic principles. Limits on the tenure of village heads, for example, should be in line with efforts to ensure accountable governance and prevent corruption and nepotism at the local level.

In addition, in the context of local government, restrictions on power must also be applied by taking into account different local characteristics.⁴¹ The limitation of power in the context of regional government needs to be adjusted to the principle of regional autonomy, which must also be within a larger constitutional framework. Thus, although regions are given the authority to regulate their own government affairs, such authority must still be exercised in accordance with the basic principles of the state constitution.

³⁶ Failaq, M. R. F., dan Arelia, F. A. 2022. "Merancang Konstitusionalisme dalam Amandemen Penguatan DPD RI." *Sanskara Hukum dan HAM* 1(02): 25–36.

³⁷ Asshiddiqie, Jimly. 2021. *Konstitusi dan Konstitusionalisme Indonesia*. Jakarta: Sinar Grafika.

³⁸ Erham, E., Ma'arij, A., dan Gufran, G. 2024. "Diskursus Pembatasan Kekuasaan di Indonesia Dalam Perspektif Konstitusi dan Konstitusionalisme." *Legalitas: Jurnal Hukum* 16(1): 72–78.

³⁹ Cahyono, A., Pratama, N. M., Setiawan, I., dan Huda, F. A. 2022. "Implementasi Konstitusionalisme Dalam Pemerintahan Daerah (Suatu Analisis Evaluatif)." *Sosio Yustisia: Jurnal Hukum dan Perubahan Sosial* 2(2): 34–49.

⁴⁰ Al Malik, R., Salman, R., dan Ristawati, R. 2024. "Politik Hukum Perpanjangan Masa Jabatan Kepala Desa dalam Perspektif Pembatasan Kekuasaan dan Akuntabilitas." *PUSKAPSI Law Review* 4(2): 108–123.

⁴¹ Cahyono, A., Pratama, N. M., Setiawan, I., dan Huda, F. A. 2022. "Implementasi Konstitusionalisme Dalam Pemerintahan Daerah (Suatu Analisis Evaluatif)." *Sosio Yustisia: Jurnal Hukum dan Perubahan Sosial* 2(2): 34–49.

It is important to note that the limitation of power does not only occur at the normative or legal level, but must also be realized in political practice. As explained by Hatim, Harijanti, and Taufik, the idea of limiting the presidential term as an implicit unamendable provision is a concrete example of an effort to prevent a protracted concentration of power in the hands of one individual or group.⁴² Term limits aim not only to maintain leadership diversity, but also to ensure a healthy rotation of power in a democratic state. Limiting power is key in preventing the emergence of oligarchy in a democratic system.⁴³ Oligarchies, which are governments controlled by a select group of people or families, can arise if restrictions on power are not strictly enforced. Therefore, according to him, it is important for the constitution to include effective mechanisms to limit the power held by the ruler, including restrictions on elections and oversight of state institutions. In addition to limiting the term of office of the president, restrictions on power can also be seen in restrictions on policies that can affect the lives of the people, such as economic policy and foreign policy. Purnomo noted that supervision of state policies, both from the legislature and the judiciary, is needed to ensure that the policies do not contradict the principles of constitutionalism, especially in terms of social justice and equitable development.⁴⁴

Meanwhile in today's digital world, restrictions on power also need to be extended to the digital realm.⁴⁵ These restrictions include the protection of privacy and freedom of speech online, which are increasingly important amid the rapid development of information technology. Digital constitutionalism, as explained by Subekti, needs to be recognized as part of the limitation of state power that must be properly regulated to prevent the misuse of personal data and excessive surveillance by the state.⁴⁶

In a broader perspective, the limitation of power serves not only to safeguard democracy, but also to ensure a balance between individual freedom and state power. Gusman underlined that this limitation is a very effective way to uphold justice, both at the national and international levels.⁴⁷ Without clear restrictions, the system of power will tend to turn to authoritarianism, which is very dangerous for the survival of democracy.

⁴² Hatim, A., Harijanti, S. D., dan Taufik, G. A. 2024. "The Idea of Presidential Term Limit as an Implicit Unamendable Provision: Gagasan Pembatasan Masa Jabatan Presiden sebagai Implicit Unamendable Provision." *Jurnal Konstitusi* 21(4): 542–564.

⁴³ Rachmawan, M. D. 2024. "Gejala Otoritarianisme dalam Iklim Demokrasi Indonesia." *SIYASI: Jurnal Trias Politica* 2(1): 97–109.

⁴⁴ Purnomo, C. E. 2022. "Refleksi Kekuasaan Konstitusional Presiden Republik Indonesia." *Jurnal Kompilasi Hukum* 7(1).

⁴⁵ Wibowo, A., Fani, R., Rinaldi, F., dan Nenggolan, S. E. 2024. "Ruang Gerak Kekuasaan dalam Wadah Demokrasi Konstitusional." *Wacana Paramarta: Jurnal Ilmu Hukum* 23(2): 26–36

⁴⁶ Subekti, N., Handayani, I. G. A. K. R., dan Hidayat, A. 2023. "Konstitusionalisme Digital di Indonesia: Mengartikulasikan Hak dan Kekuasaan dalam Masyarakat Digital." *Peradaban Journal of Law and Society* 2(1): 1–22.

⁴⁷ Gusman, D. 2023. "Keadilan dalam Perspektif Konstitusionalisme." *Unes Journal of Swara Justisia* 7(1): 284–293.

The limitation of power is a very important instrument in the practice of constitutionalism, which not only serves as a barrier against abuse of power, but also as a tool to ensure accountability and fairness in governance. Therefore, the application of limitation of powers in various aspects of government, both at the central and regional levels, must always be seen in a larger context, namely maintaining the sustainability of democracy and protecting the fundamental rights of every citizen.

II. The Challenges of Implementing Constitutionalism in The Era of Post-truth Democracy

a. The Problem of Power Extension in Indonesia

The issue of extending the term of office of village heads and other state officials in Indonesia is a very relevant issue in the study of power limitation and constitutionalism. This discourse does not only involve technical issues of legislation, but also relates to political dynamics, ethics, and the basic principles of democracy regulated by the state constitution. The extension of power, especially for officials who hold important positions such as village heads, often creates tension between practical political needs and the principles of constitutionalism that emphasize the limitation of power. One example that can be used as a reference is the extension of the term of office of the village head, which has become a highlight in Indonesian legal politics. Al Malik, Salman, and Ristawati review that the extension of the village head's term is often seen as an effort to increase accountability and sustainability of village development programs.⁴⁸ However, from the perspective of limiting power, such a policy could open the door to potential abuses of power and strengthen local oligarchies, which is contrary to democratic principles. In this case, unlimited power risks creating injustice and power imbalances between the ruler and the community.⁴⁹

According to Cahyono, limiting the term of office of public officials, including village heads, is an important mechanism in maintaining the balance of power in the local government structure. Such restrictions are not only to avoid corrupt practices, but also as an effort to maintain healthy social and political dynamics. Without term limits, public officials can be trapped in a comfort zone that makes them reluctant to innovate or adapt to the changing needs of society. In this context, term extension is

⁴⁸ Al Malik, R., Salman, R., dan Ristawati, R. 2024. "Politik Hukum Perpanjangan Masa Jabatan Kepala Desa dalam Perspektif Pembatasan Kekuasaan dan Akuntabilitas." *PUSKAPSI Law Review* 4(2): 108–123.

⁴⁹ Haidar, R. A. 2023. "Oligarki di Tengah Sistem Pembagian Kekuasaan Negara." *Jurnal Hukum Media Justitia Nusantara* 13(1): 36–45.

often questioned in terms of accountability, given the many potential abuses of power that may occur.⁵⁰

In terms of constitutional theory, an understanding of the limitation of power is very important. Alfauzi and Effendi underline that constitutionalism is not only about upholding the rule of law, but also serves to keep power from accumulating in one party alone.⁵¹ In a democracy, the limitation of power is intended to prevent authoritarian tendencies that arise due to protracted concentration of power. Term limits for state officials, including village heads, are one example of the implementation of the principle of constitutionalism that can protect democracy from such tendencies.⁵²

It is important to note that while limiting power is important, the issue of term extension in Indonesia cannot be viewed simply. The process requires a deeper consideration of whether the extension is truly in the interest of the people or for long-term political gain to the detriment of the wider community. This is also reinforced by Wutsqah and Erham, who state that the limitation of power in a democratic system should be done in a way that is transparent, fair, and does not benefit only certain groups.⁵³

One example of a real problem in this regard is the change in policy regarding the extension of the term of office of village heads, which has occurred several times in the last few decades. Erham, Ma'arij, and Gufran note that this policy is often the subject of controversial discussions because it relates to how a village head can develop the village without fear of losing the position, but on the other hand it also provides a loophole for local oligarchic practices that can hinder the development of democracy and marginalize the community.⁵⁴ On the one hand, term extension can strengthen the stability of local government, but if not properly monitored, it can open the door to the emergence of unchecked power.

On the other hand, if term limits are effective, they can prevent the practice of abuse of power. This is in line with Asshiddiqie's view, which emphasizes that Indonesian constitutionalism serves as a control on existing power. When local governments are given time limits on their terms of office, this not only provides a mechanism for change for the better, but also guards against rulers who regard the office as a personal right that must be maintained indefinitely.⁵⁵

⁵⁰ Cahyono, A., Pratama, N. M., Setiawan, I., dan Huda, F. A. 2022. "Implementasi Konstitusionalisme Dalam Pemerintahan Daerah (Suatu Analisis Evaluatif)." *Sosio Yustisia: Jurnal Hukum dan Perubahan Sosial* 2(2): 34–49.

⁵¹ Alfauzi, R. I., dan Effendi, O. 2020. "Pembatasan Kekuasaan Berdasarkan Paham Konstitusionalisme Di Negara Demokrasi." *Politica: Jurnal Hukum Tata Negara Dan Politik Islam* 7(2): 111–133.

⁵² Muhlashin, I. 2021. "Negara Hukum, Demokrasi Dan Penegakan Hukum Di Indonesia." *Jurnal Al-Qadâu: Peradilan Dan Hukum Keluarga Islam* 8(1): 87–100.

⁵³ Wutsqah, U., dan Erham, E. 2024. "Diskursus Pembatasan Kekuasaan di Indonesia dalam Perspektif Konstitusi dan Konstitusionalisme." *Jurnal Citizenship Virtues* 4(2): 771–784.

⁵⁴ Erham, E., Ma'arij, A., dan Gufran, G. 2024. "Diskursus Pembatasan Kekuasaan di Indonesia Dalam Perspektif Konstitusi dan Konstitusionalisme." *Legalitas: Jurnal Hukum* 16(1): 72–78.

⁵⁵ Asshiddiqie, Jimly. 2021. *Konstitusi dan Konstitusionalisme Indonesia*. Jakarta: Sinar Grafika.

Power limitation policies must also follow basic democratic principles, as explained by Hatim who highlights the importance of presidential term limits in Indonesia's presidential system.⁵⁶ The concept of clear and firm term limits is very important so that no one party controls the entire government system, which in turn can lead to authoritarianism and suppress the rights of the people. Term limits are an integral part of a system of government that prioritizes democratic principles.⁵⁷

Ultimately, the problem of term extension must be studied further by involving all components of society, legal experts, and policy makers. Wise and people-oriented limitation of power is the key to keeping the democratic system in Indonesia alive and thriving, and to avoid the harmful practice of authoritarianism.

b. The Challenges of Implementing Constitutionalism in The Era of Post-truth Democracy

The implementation of constitutionalism in Indonesia faces increasingly complex challenges, especially with the existence of two major dynamics that contribute to the effectiveness of the application of constitutional principles in state governance in the era of *post-truth* democracy characterized by the development of digital technology and the dominant role of political oligarchy. These two phenomena have become crucial issues in maintaining the balance of power and maintaining the integrity of Indonesian democracy. Without proper handling, these two factors can worsen the already fragile quality of democracy in several sectors of government.

Post-truth democracy refers to a political condition where emotions, personal opinions and subjective narratives influence public opinion more than objective facts. In this context, "truth" becomes relative, and disinformation or manipulation of facts is used as a legitimate political tool. The term "*post-truth*" itself has become popular since Oxford Dictionaries named it the 2016 Word of the Year, indicating the increasing use of the term in political and media contexts following events such as Brexit and the election of Donald Trump. Keyes defines the *post-truth* era as an age when lies are not only accepted, but feel "normal" in everyday life as a culture that nurtures disinformation in the public sphere.⁵⁸

Digitalization has changed many aspects of human life, including the way the state interacts with its citizens. One of the significant changes brought about by the digital era is the transformation in the political decision-making process. Social media, online platforms and information technology have drastically changed the ways of communication and political campaigning, creating new spaces for public participation, but also opening up opportunities for manipulation and abuse of power.

⁵⁶ Hatim, A., Harijanti, S. D., dan Taufik, G. A. 2024. "The Idea of Presidential Term Limit as an Implicit Unamendable Provision: Gagasan Pembatasan Masa Jabatan Presiden sebagai Implicit Unamendable Provision." *Jurnal Konstitusi* 21(4): 542–564.

⁵⁷ Winarni, Eny Apri. 2025. "Negara, Agama dan Demokrasi dalam Penegakan Hukum di Indonesia." *Adi Karsa: Jurnal Teknologi Komunikasi Pendidikan* 16(1): 73–82.

⁵⁸ Ralph Keyes, 2004. *The Post-Truth Era: Dishonesty And Deception In Contemporary Life*, New York: St. Martin's Press.

Subekti revealed the importance of understanding constitutionalism in a digital framework, taking into account the huge influence that technology has on the basic rights of citizens.⁵⁹ In this regard, Indonesia's legal system must be able to adapt to the development of digital technology in a way that not only supports progress, but also protects the constitutional rights of citizens, such as the right to privacy, freedom of expression, and access to correct information. Technology, while providing many benefits, can often be used to manipulate public opinion, spread disinformation, and even undermine the integrity of elections.

The emergence of algorithm-based political practices, for example in the form of personalized and targeted digital campaigns, opens space for increasingly sharp polarization in society. This, as Erham points out, has a negative impact on the quality of democracy, which relies heavily on a public sphere free from information manipulation.⁶⁰ As a result, freedom of expression and access to information, which should be protected by the constitution, are threatened by the misuse of technology by powerful parties to strengthen their political position.

Furthermore, digital technology also plays a role in weakening social control over the government. In this case, the government, which is supposed to be the servant of the people, can instead be trapped in a logic that focuses more on controlling information and public opinion through technology. This is contrary to the basic principles of constitutionalism that prioritize accountability and transparency in government.

On the other hand, the dominance of political oligarchy in Indonesia poses an equally large challenge to the implementation of constitutionalism. Political oligarchy refers to the concentration of enormous power in small groups, which are often connected to economic interests and large corporations. This phenomenon can lead to decision-making that favors elite groups over the interests of the masses. As a result, the basic principles of constitutionalism, which prioritize equitable distribution of power and accountable governance, are increasingly difficult to implement.

Haidar in his study of oligarchy reveals that the dominance of political elites co-opted by oligarchic interests can erode the foundations of democracy, especially in the context of limiting power.⁶¹ Oligarchy often hinders efforts to strengthen control over state power, because power concentrated in the hands of a few people or groups makes it easier for abuse of authority to harm the public at large. In this situation, restrictions on government power, which should be part of constitutionalism, are hampered by the interests of political elites.

⁵⁹ Subekti, N., Handayani, I. G. A. K. R., dan Hidayat, A. 2023. "Konstitutionalisme Digital di Indonesia: Mengartikulasikan Hak dan Kekuasaan dalam Masyarakat Digital." *Peradaban Journal of Law and Society* 2(1): 1–22.

⁶⁰ Erham, E., Ma'arij, A., dan Gufran, G. 2024. "Diskursus Pembatasan Kekuasaan di Indonesia Dalam Perspektif Konstitusi dan Konstitutionalisme." *Legalitas: Jurnal Hukum* 16(1): 72–78.

⁶¹ Haidar, R. A. 2023. "Oligarki di Tengah Sistem Pembagian Kekuasaan Negara." *Jurnal Hukum Media Justitia Nusantara* 13(1): 36–45.

In his analysis, Muhtar emphasized that constitutionalism implemented in a democratic system must be able to limit power so as not to fall into authoritarianism.⁶² In reality, however, political oligarchy often makes it very difficult to limit power, as key decisions are often influenced by an elite group that has great control over political parties and state institutions. Vague restrictions on public office, such as the extension of the term of office for village heads, are an example of how the principles of limiting power can be overridden for the political benefit of certain groups.⁶³

In addition, oligarch-controlled government structures can lead to "false democracy," where people are only given the illusion of political engagement through elections controlled by oligarchic forces. This phenomenon directly threatens constitutional values that prioritize genuine political participation and a government oriented towards the interests of the people, not the elite.

Addressing these two challenges requires a careful and comprehensive approach so that constitutionalism can be effectively implemented. One of the solutions proposed by Amalina is to strengthen the legal system that can maintain a balance between individual freedom and public interest in the digital space.⁶⁴ This requires policies that can control the use of technology without compromising freedom of speech and other constitutional rights. The constitution must be a flexible platform to respond to the dynamics of the digital world, while still upholding the principles of a clean and manipulation-free democracy.

In addition, in order to strengthen constitutionalism in the face of oligarchy, structural reforms in the political and legal systems need to be made that allow for tighter control over power.⁶⁵ Term limits for public officials, for example, are measures that can reduce the dominance of elites in government. However, it also requires greater oversight of the state institutions that oversee the exercise of power. The author argues that the convergence of *post-truth* dynamics, digitalization, and oligarchic dominance has birtically reshaped the landscape of Indonesian constitutionalism. This intersection fosters a phenomenon known as '*Cyber-oligarchy*,' where digital platforms are weaponized to engineer 'manufactured consent' for policies that erode power limitations. Unlike traditional authoritarianism, these challenges operate through '*Autocratic Legalism*,' where constitutional norms are technically followed but substantively betrayed. The revision of the ITE Law (Law No. 1 of 2024) and the discourse on extending terms of office are clear evidence that digital control and legal manipulation are being used to bypass the checks and balances system. Consequently, constitutionalism must evolve into a 'Digital

⁶² Muhtar, M. H. 2023. "BAB 2 Konstitutionalisme dan Prinsip-Prinsip Konstitusi." *Hukum Tata Negara* 17.

⁶³ Raesitha, Z. 2023. *Konstitutionalisme Masa Jabatan Presiden dan Wakil Presiden dalam Sistem Presidensil*. Disertasi Doktoral, Universitas Lampung.

⁶⁴ Amalina, Z. 2024. "Penegakan Supremasi Konstitusi pada Lingkup Perkembangan Ketatanegaraan Indonesia: Upholding the Supremacy of the Constitution in the Scope of Indonesian Constitutional Development." *Jurnal Nomokrasi* 2(2): 75–84.

⁶⁵ Tarigan, R. S. 2024. *Konstitusi dan Kekuasaan Studi Kasus dalam Hukum Tata Negara*. Ruang Karya Bersama

Constitutionalism' framework—one that not only protects formal rights but also actively dismantles the digital and oligarchic structures that paralyze democratic accountability.

In conclusion, the implementation of constitutionalism in the context of digitalization and political oligarchy requires a deeper understanding of how technology and politics interact in the formation of public policies. With the right approach, Indonesia can overcome these challenges and ensure that constitutionalism remains a solid pillar in maintaining democracy and social justice.

Conclusion

Based on the overall discussion, it can be concluded that the principle of constitutionalism in limiting power in the democratic era is an essential foundation for the realization of a fair, transparent and accountable government. Constitutionalism not only guarantees the supremacy of the constitution, but also becomes the main instrument in controlling and limiting power so that it is not abused, especially in a democratic system that tends to be vulnerable to the domination of unlimited power. In Indonesia, issues such as the extension of the term of office of village heads and the absence of restrictions on the periodization of legislative members reflect a weak commitment to this principle. The challenge becomes even more complex when digitalization and oligarchic forces create new spaces for the undermining of constitutionalism, both through the manipulation of public information and the concentration of power in a few elites. Therefore, strengthening the principle of constitutionalism as a power-limiting mechanism must be a priority in maintaining the sustainability of substantive democracy that favors the interests of the people, not a handful of rulers.

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