

# Legal Politics in the Perspective of the 1945 Constitution of the Republic of Indonesia

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**Abstract:** Legal politics constitutes the fundamental state policy that determines the direction, substance, and implementation of law in order to achieve national objectives. In the Indonesian constitutional system, the 1945 Constitution of the Republic of Indonesia serves as the supreme legal foundation guiding the formulation and development of national legal politics. This study examines legal politics from the perspective of the 1945 Constitution and analyzes its implications for the formation of national law. Employing a normative legal research method, this study applies statutory, conceptual, and historical approaches by analyzing constitutional provisions, legislation, legal doctrines, and scholarly opinions. The findings reveal that the 1945 Constitution provides normative guidance and clear limitations for national legal politics, particularly in upholding the principles of the rule of law, democracy, constitutional supremacy, and the protection of human rights. The Constitution not only functions as the highest legal norm but also as a philosophical and juridical framework that directs legal policy toward achieving justice, legal certainty, and social welfare. Furthermore, legal politics grounded in constitutional values significantly influences the substance of legislation, the legislative process, and mechanisms of constitutional review. A constitutional-oriented legal politics ensures that laws are formulated in a democratic, participatory, and accountable manner while remaining consistent with the objectives of the state as stipulated in the Preamble of the 1945 Constitution. Therefore, strengthening constitutional compliance in legal politics is essential to develop a just, responsive, and socially equitable national legal system in Indonesia.

**Keywords :** legal politics; constitution; the 1945 Constitution; rule of law.

## 1. Introduction

Legal politics plays a crucial role in shaping the direction, substance, and implementation of law within a constitutional state. It reflects the fundamental policy choices of the state in determining how law is formulated, applied, and enforced to achieve national objectives. In this context, law is not merely a technical instrument for regulating social relations, but also a strategic means through which the state realizes its ideological foundations, constitutional values, and long-term development goals. Consequently, legal politics cannot be separated from the constitution, which functions as the supreme legal norm and the primary source of legitimacy for all state actions.

In Indonesia, the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution) serves as the cornerstone of the national legal system. As the highest legal norm, the Constitution provides both normative guidance and substantive limitations for the exercise of state power, including in the field of lawmaking. Article 1 paragraph (3) of the 1945 Constitution explicitly affirms that Indonesia is a state based on the rule of law. This constitutional declaration implies that all actions of state institutions, particularly those related to the formation and implementation of laws, must be grounded in legal norms that are consistent with constitutional principles. Therefore, national legal politics must be directed toward ensuring legal certainty, justice, and usefulness in line with the constitutional mandate.

The concept of legal politics is closely linked to the idea that law is a product of political processes. Laws do not emerge in a normative vacuum; rather, they are shaped by political configurations, ideological orientations, and socio-economic conditions prevailing at a given time. As a result, legal politics reflects the interaction between law and power, where political authority determines the priorities, content, and direction of legal development. However, in a constitutional democracy, such political influence over law must be controlled and limited by constitutional norms to prevent the abuse of power and to safeguard fundamental rights.

The 1945 Constitution plays a central role in this regard by functioning not only as a legal framework but also as a moral and philosophical foundation for national legal politics. The Preamble of

the Constitution articulates the fundamental objectives of the Indonesian state, namely protecting the entire Indonesian nation and its territory, promoting public welfare, educating the life of the nation, and contributing to world order based on freedom, lasting peace, and social justice. These objectives serve as guiding principles for the formulation of legal policies and must be reflected in every legislative product and legal reform initiative. Accordingly, legal politics in Indonesia should not merely serve short-term political interests but must be oriented toward the realization of constitutional goals and social justice.

Furthermore, the Constitution embodies the values of Pancasila, which function as the ideological foundation of the Indonesian legal system. Pancasila emphasizes belief in God, humanity, unity, democracy, and social justice, all of which must be integrated into the substance and direction of national law. Legal politics that neglects these values risks transforming law into an instrument of domination rather than a means of achieving justice and public welfare. Therefore, constitutional and ideological consistency is essential to ensure that legal development remains aligned with the identity and aspirations of the Indonesian nation.

In practice, however, the relationship between legal politics and the Constitution is often challenged by political dynamics. Legislative processes are frequently influenced by competing political interests, economic pressures, and pragmatic considerations that may undermine constitutional principles. This situation raises concerns regarding the extent to which legal politics in Indonesia consistently adheres to the constitutional framework established by the 1945 Constitution. The proliferation of legislation, regulatory overlap, and the emergence of laws that are subsequently challenged before the Constitutional Court indicate the ongoing tension between political interests and constitutional supremacy.

The establishment of the Constitutional Court (Mahkamah Konstitusi) represents a significant institutional mechanism for maintaining the constitutional orientation of legal politics. Through judicial review, the Court functions as the guardian of the Constitution, ensuring that laws enacted by the legislature do not contradict constitutional norms. This mechanism reinforces the principle that legal politics must remain subject to constitutional control and that political power in lawmaking is not absolute. As such, constitutional review serves as an essential corrective tool in preserving the integrity of the national legal system.

Another important dimension of legal politics in the constitutional perspective is the protection of human rights. The amendments to the 1945 Constitution introduced a comprehensive human rights regime under Chapter XA, reflecting Indonesia's commitment to international human rights standards. These constitutional guarantees impose substantive limitations on legal politics, requiring that all laws and policies respect, protect, and fulfill fundamental rights. Legal politics that disregards human rights principles not only violates constitutional norms but also undermines democratic legitimacy and public trust in the legal system.

Moreover, democratic principles enshrined in the Constitution demand that the formation of law be conducted in a transparent, participatory, and accountable manner. Article 1 paragraph (2) of the 1945 Constitution affirms that sovereignty rests with the people and is exercised in accordance with the Constitution. This principle necessitates public participation in the legislative process as an expression of popular sovereignty. Consequently, legal politics must facilitate meaningful engagement between the state and society to ensure that laws reflect societal needs and aspirations.

Given these considerations, the study of legal politics from the perspective of the 1945 Constitution becomes highly relevant and necessary. Analyzing legal politics within a constitutional framework allows for a deeper understanding of how legal policies are shaped, constrained, and evaluated in relation to constitutional values. It also provides a normative basis for assessing whether

the direction of legal development in Indonesia is consistent with the principles of the rule of law, democracy, and constitutionalism.

This article seeks to contribute to the discourse on Indonesian legal politics by examining its conceptual foundations, constitutional positioning, and implications for the formation of national law. Specifically, this study addresses three main issues: first, the concept of legal politics within the Indonesian constitutional system; second, the role and position of the 1945 Constitution in determining the direction of national legal politics; and third, the implications of legal politics for the formation of legislation in Indonesia. By employing a normative legal research method with statutory, conceptual, and historical approaches, this study aims to provide a comprehensive and systematic analysis of legal politics in the constitutional context.

Ultimately, this research is expected to offer both theoretical and practical contributions. From a theoretical perspective, it enriches the understanding of legal politics as an integral component of constitutional law. From a practical standpoint, it provides guidance for lawmakers and policymakers to ensure that legal development remains firmly anchored in constitutional values. Strengthening constitutional compliance in legal politics is essential to realizing a just, democratic, and socially equitable legal system in Indonesia.

## 2. Research Methodology

This study employs a normative legal research method, which focuses on analyzing legal norms, principles, and doctrines governing legal politics within the Indonesian constitutional framework. Normative legal research is particularly appropriate for this study because it examines law as a prescriptive system that determines how legal politics should be formulated and implemented in accordance with constitutional values, rather than merely describing empirical legal phenomena.

### 2.1 Research Approach

To achieve the research objectives, this study applies several complementary approaches, namely the statutory approach, conceptual approach, and historical approach. First, the statutory approach is used to analyze the hierarchy, substance, and coherence of legal norms related to legal politics in Indonesia. This approach focuses primarily on the 1945 Constitution of the Republic of Indonesia as the supreme legal norm, as well as relevant laws and regulations that reflect the direction of national legal politics. Through this approach, the study examines constitutional provisions concerning the rule of law, democracy, human rights protection, and the legislative process to assess their role in guiding and limiting legal politics. Second, the conceptual approach is employed to explore theoretical perspectives and legal doctrines concerning legal politics and constitutionalism. This approach involves analyzing concepts developed by legal scholars, particularly those related to legal politics, the rule of law, constitutional supremacy, and democratic governance. By relying on established legal theories and scholarly interpretations, the conceptual approach provides a normative framework for understanding how legal politics should operate within a constitutional state. Third, the historical approach is applied to examine the development of legal politics in Indonesia over time, particularly in relation to constitutional changes and legal reforms. This approach allows the study to trace the evolution of legal politics before and after the amendments to the 1945 Constitution, thereby providing a deeper understanding of how constitutional dynamics have influenced the direction of national legal development. The historical approach is essential for identifying patterns, shifts, and continuities in Indonesia's legal politics.

## 2.2 Sources of Legal Materials

The legal materials used in this study are classified into primary legal materials **and** secondary legal materials. Primary legal materials consist of authoritative legal sources, including the 1945 Constitution of the Republic of Indonesia and relevant statutory regulations related to lawmaking, constitutional governance, and judicial review. These materials serve as the main reference for analyzing the constitutional foundations and limitations of legal politics in Indonesia. Secondary legal materials include legal literature such as textbooks, peer-reviewed journal articles, academic papers, theses, dissertations, and expert opinions related to legal politics, constitutional law, and Indonesian legal development. These materials are used to support the analysis, enrich theoretical perspectives, and provide comparative insights into the issues discussed. Additionally, legal dictionaries and encyclopedias are utilized as supplementary materials to clarify legal terms and concepts.

## 2.3 Technique of Legal Material Collection

The collection of legal materials is conducted through library research, which involves systematically identifying, reviewing, and classifying relevant legal sources. This technique enables the researcher to obtain comprehensive and reliable legal materials necessary for normative legal analysis. All materials are carefully selected based on their relevance, credibility, and contribution to the research objectives.

## 2.4 Technique of Legal Analysis

The legal materials collected are analyzed using qualitative normative analysis. This analysis involves interpreting legal norms, principles, and doctrines in a systematic and coherent manner. The study applies deductive reasoning by examining general constitutional principles and applying them to specific issues related to legal politics and the formation of national law. Furthermore, the analysis emphasizes constitutional interpretation, particularly in understanding the normative meaning and implications of the provisions of the 1945 Constitution. Through this method, the study evaluates whether the direction of national legal politics aligns with constitutional principles such as the rule of law, democracy, and human rights protection. The results of the analysis are then presented descriptively and analytically to provide clear and logical conclusions.

## 2.5 Research Scope and Limitations

This research is limited to the study of legal politics within the framework of the 1945 Constitution of the Republic of Indonesia. It does not include empirical field research or quantitative analysis. However, this limitation does not reduce the significance of the study, as the normative legal approach is sufficient to address the research questions concerning constitutional principles, legal norms, and the implications of legal politics for national law formation.

## 3. Results and Discussion

### 3.1 Results

This section presents the substantive findings based on normative legal research, supported by contemporary academic references from peer-reviewed journals published within the last five years. The results reveal how legal politics in Indonesia is conceptualized, constrained, and practiced within the constitutional framework of the 1945 Constitution, and how these dynamics affect lawmaking, rule of law, and constitutional governance.

### 3.1.1 Constitutional Foundations of Legal Politics

The 1945 Constitution (Undang-Undang Dasar Negara Republik Indonesia Tahun 1945) remains the fundamental legal source that guides political decisions in lawmaking and governance. It establishes the constitutional order, embedding values such as *rule of law*, *separation of powers*, *human rights protection*, and *popular sovereignty*. Article 1(3) of the Constitution explicitly declares Indonesia as a state based on law (*rechtstaat*), creating a normative foundation for legal politics to uphold lawful governance. Contemporary studies confirm that the foundational constitutional values reflected in UUD 1945 are crucial in constraining political lawmaking and legitimizing legal authority (Ginting et al., 2024, DOI: 10.54443/sibatik.v3i12.2543). These constitutional principles function not merely as legal text but as normative constraints that shape how legal politics must operate, ensuring that law creation remains anchored in democratic legitimacy and human rights obligations.

### 3.1.2 Normative Constraints and Legal Certainty

One core finding is that the constitutional norms articulated in the 1945 Constitution form normative limits on political power. These limits manifest explicitly in provisions that protect fundamental human rights (Chapter XA) and mandate that legislative processes reflect democratic participation. The Constitution's human rights guarantees serve as benchmarks against which all laws—including those initiated through political processes—must be evaluated. Recent scholarship notes that in Indonesia, a gap often exists between constitutional ideals and legal outcomes, especially when political pressures influence legislative drafting (Hermanto, 2024). Although the Constitution mandates human rights and legal certainty, political interests and institutional dynamics sometimes override or dilute these norms, leading to regulatory frameworks that struggle to meet constitutional standards.

### 3.1.3 Popular Sovereignty and Participatory Lawmaking

The Constitution's affirmation of popular sovereignty (Article 1(2)) demands that the lawmaking process reflect the will of the people and respect democratic inclusiveness. This means that legal politics should incorporate public participation, transparency, and accountability in drafting and enacting laws. Empirical legal scholars emphasize that democratic legitimacy in lawmaking is reinforced when citizens are engaged and when legislative processes are publicly accessible (Thamrin et al., 2026). However, research reveals variations in public engagement and democratic participation in lawmaking. While institutional frameworks allow for public comment and hearings, actual public influence remains limited due to political centralization or executive dominance in legislative agendas. Hence, the constitutional promise of participatory lawmaking does not always translate into substantive participatory practices on the ground.

### 3.1.4 Institutional Checks and Balances

An important constitutional instrument in Indonesian legal politics is the Constitutional Court (Mahkamah Konstitusi). Its role as *guardian of the Constitution* enables judicial review of laws that may conflict with constitutional provisions. This judicial mechanism offers a constitutional check on legislative and executive actions, thereby reinforcing legal politics grounded in constitutionalism. Buana and Agustin (2025) analyze how judicial review functions as a constitutional corrective, particularly in adjudicating political disputes with legal consequences. Their findings demonstrate that constitutional litigation has become a key arena where legal politics intersects with political power, especially when constitutional rights or principles are challenged by legislative or executive actions. The Court's decisions, moreover, reaffirm constitutional norms and shape legal interpretations, guiding future lawmaking processes.



### 3.1.5 Challenges to Legal Politics: Political Interest vs. Constitutional Norm

Despite the normative constraints and constitutional safeguards, political interests continue to challenge the realization of constitutional values in lawmaking. Regulatory drafting processes occasionally prioritize political expediency over constitutional conformity, leading to legal texts that face judicial challenges or public criticism for undermining rule of law principles. Research by Iskandar (2025) points out that inconsistent legislative outcomes reflect underlying political tensions that compromise constitutional clarity and legal certainty .

Institutional weaknesses, such as limited legislative oversight and executive influence in drafting regulations, further complicate the alignment between legal politics and constitutional mandates. These findings suggest that while formal constitutional structures exist to support legal politics, their implementation is susceptible to political negotiation, bargaining, and interest group pressures that can distort the constitutional direction of legal development.

## 3.2 Discussion

This discussion contextualizes the findings within broader academic and constitutional debates regarding legal politics, constitutionalism, and lawmaking in contemporary democracies. The discussion elaborates how political dynamics interact with constitutional frameworks, and why this interaction matters for Indonesia's legal and political development.

### 3.2.1 Constitutionalism and Legal Politics

Legal politics in Indonesia as guided by the 1945 Constitution represents a form of constitutionalism, where lawmaking is embedded within a constitutional order that emphasizes legality, accountability, and rights protection. Recent scholarly work highlights that constitutionalism demands more than the presence of formal constitutional text; it requires institutional integrity and cultural adherence to constitutional norms (Hermanto, 2024). Indonesia's constitutional framework, with its emphasis on human rights and democratic participation, aligns with global trends in constitutional design. However, scholars note that constitutional implementation gaps can emerge when political institutions fail to internalize constitutional values, leading to regulatory outcomes that deviate from constitutional expectations. This gap underscores the difference between formal constitutional promises and actual political practice.

### 3.2.2 Rule of Law in Practice

The *rule of law* is central to the constitutional basis of legal politics in Indonesia. The Constitution mandates that all laws must conform to constitutional norms, and institutions such as the Constitutional Court play a key role in enforcing this requirement. However, as Ginting et al. (2024) observe, there are persistent challenges in translating constitutional norms into effective legal frameworks. These challenges include inconsistent regulatory hierarchies, unclear legal standards, and political influences that dilute legal certainty. The Constitutional Court's jurisprudence reflects ongoing efforts to uphold constitutional standards in the face of these challenges. Through judicial review, the Court identifies constitutional violations and provides interpretive guidance that reinforces constitutional meanings. This judicial engagement illustrates how *legal politics and constitutionalism are co-productive*: legal politics is shaped not only by legislative intent, but also by judicial interpretation.

### 3.2.3 Participatory Democracy and Lawmaking

The Constitution's emphasis on popular sovereignty implies that legal politics should incorporate meaningful public participation. Thamrin et al. (2026) emphasize that democratic legitimacy in lawmaking enhances social trust and legal compliance when citizens feel their voices are

included in decision-making. Transparent legislative processes, inclusive consultation, and accessible public forums are essential for realizing constitutional promises of participatory democracy. However, practical limitations emerge due to institutional constraints and political priorities that limit substantive public engagement. While mechanisms exist for public input, political agendas and time constraints often restrict participatory windows. These findings suggest that constitutional commitments to public participation require further institutional support and political will to be meaningfully actualized.

### 3.2.4 Judicial Role in Constitutional Enforcement

The Constitutional Court's role as a regulator of legal politics is significant. It operates as the principal institution for enforcing constitutional limits on politics and lawmaking. Buana and Agustin's research (2025) on judicialization of political disputes highlights how constitutional litigation becomes a mechanism for resolving conflicts between political authority and constitutional norms. The Court's decisions carry normative weight, shaping future legal norms and clarifying constitutional meanings. However, the increased judicial involvement in political disputes also raises critical questions about the balance between judicial activism and democratic policymaking. While judicial review reinforces constitutional norms, it may also limit legislative autonomy when courts frequently correct or restrain political choices. This tension requires deeper reflection on the appropriate scope of judicial intervention in democratic lawmaking.

### 3.2.5 Political Interest and Constitutional Compliance

A persistent theme in the findings is the tension between *political interests* and *constitutional compliance*. Scholars argue that political bargaining and institutional capture can undermine constitutional intentions, especially when political actors prioritize strategic gains over constitutional fidelity (Iskandar, 2025). These dynamics challenge the notion that legal politics naturally leads to progressive constitutional outcomes. Instead, legal politics must be understood as a continuous negotiation between constitutional principles and political power. Constitutional design alone is insufficient if the political culture and institutional practices do not support the internalization of constitutional norms. Strengthening democratic institutions, enhancing legislative transparency, and reinforcing independent judicial review are critical for aligning political behavior with constitutional ideals.

## 4. Conclusion

### 4.1 Conclusion

This study concludes that legal politics in Indonesia is fundamentally anchored in the constitutional framework of the 1945 Constitution of the Republic of Indonesia, which serves as both a normative foundation and a constitutional limitation on political power in lawmaking. The Constitution not only provides the ideological direction for national legal development but also functions as a binding legal instrument that ensures the supremacy of law, democratic governance, and the protection of fundamental human rights. The findings demonstrate that constitutional principles such as the rule of law, popular sovereignty, separation of powers, and human rights protection play a decisive role in shaping the direction and substance of legal politics. In this context, legal politics cannot be understood merely as a reflection of political interests, but rather as a constitutional process that must consistently align with normative legal standards. The existence of constitutional mechanisms, particularly judicial review by the Constitutional Court, reinforces constitutional control over political decision-making and strengthens legal accountability in the legislative process. Nevertheless, this study also reveals persistent challenges in the practical implementation of constitutional legal politics. Political interests, institutional dominance, and limited public participation continue to influence the lawmaking process,

occasionally resulting in regulatory outcomes that deviate from constitutional ideals. These challenges indicate that constitutional guarantees alone are insufficient without strong institutional commitment, democratic culture, and consistent constitutional interpretation by state actors. Therefore, strengthening constitutional awareness among legislators, enhancing meaningful public participation in lawmaking, and reinforcing the independence and authority of constitutional institutions are essential steps to ensure that legal politics remains aligned with constitutional values. From an academic perspective, this study contributes to the discourse on constitutionalism and legal politics by offering a normative analysis that situates political lawmaking within the supremacy of the Constitution. Future research may expand this study by incorporating comparative constitutional perspectives or empirical analysis to further explore the interaction between political power and constitutional law in contemporary democratic systems.

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