A Critical Study of People's Sovereignty Post-Amendment of the 1945 Constitution in Strengthening the Presidential System

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ABSTRACT: *This study critically examines the concept of people's sovereignty following the amendments to the 1945 Constitution of Indonesia, with a particular focus on its role in strengthening the presidential system. The research aims to identify key issues related to the implementation of people's sovereignty after the amendments, analyze the extent to which these changes have contributed to the consolidation of the presidential system, and assess the effectiveness and challenges of the new constitutional framework. Using a normative juridical approach combined with a critical analysis of legal documents and relevant literature, the study finds that the constitutional amendments significantly enhanced the principle of direct democracy and clarified the separation of powers. However, several challenges remain in ensuring the optimal realization of people's sovereignty within the presidential system, particularly regarding checks and balances and institutional practices.*

Kajian ini secara kritis menganalisis konsep kedaulatan rakyat pasca-amandemen Undang-Undang Dasar 1945, dengan penekanan pada perannya dalam memperkuat sistem presidensial. Penelitian ini bertujuan untuk mengidentifikasi isu-isu utama terkait implementasi kedaulatan rakyat setelah amandemen, menganalisis sejauh mana perubahan tersebut berkontribusi pada konsolidasi sistem presidensial, serta menilai efektivitas dan tantangan kerangka konstitusi yang baru. Dengan menggunakan pendekatan yuridis normatif dan analisis kritis terhadap dokumen hukum serta literatur terkait, penelitian menemukan bahwa amandemen konstitusi secara signifikan memperkuat prinsip demokrasi langsung dan memperjelas pemisahan kekuasaan. Namun, masih terdapat beberapa tantangan dalam mewujudkan kedaulatan rakyat secara optimal dalam sistem presidensial, khususnya terkait mekanisme checks and balances serta praktik kelembagaan.

Keywords: *People's Sovereignty, Constitutional Amendment, Presidential System, Separation of Powers.*

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I. INTRODUCTION

The transformation of the Indonesian state after the 1998 Reformation became an important milestone in the nation's history, where demands for fundamental changes to the 1945 Constitution of the Republic of Indonesia (UUD 1945) emerged as a response to the authoritarian New Order regime. Before the amendment, the government system tended to be centralistic with the People's Consultative Assembly (MPR) as the holder of absolute people's sovereignty, as stipulated in Article 1 paragraph (2) of the original 1945 Constitution which stated that sovereignty was exercised entirely by the MPR. This allowed executive domination by the President without effective oversight which led to a deviation from the principle of people's sovereignty which should reflect the general will of the people (William & Silalahi, 2025).

The multidimensional crisis that occurred in the late 1990s, including human rights violations and systemic corruption, accelerated the reform movement by demanding democratization, including limiting presidential power and strengthening popular participation (Idris & Wardana, 2023). The urgency of this research lies in evaluating how the four amendments to the 1945 Constitution between 1999 and 2002 have changed this paradigm with the aim of strengthening the presidential system that maintains the essence of people's sovereignty as the foundation of a democratic state (Ichrom, 2022).

The rationale for this research is based on the fact that the constitutional amendments were intended to realize substantive democracy, but in practice, they still face various challenges, such as transactional politics and imbalances between state institutions. The main objectives of the research include identifying crucial issues in the implementation of popular sovereignty post-amendment, analyzing the contribution of these changes to the consolidation of the presidential system, and assessing the effectiveness of the new constitutional framework and its obstacles. This is expected to provide an in-depth understanding of the dynamics of contemporary Indonesian governance, with practical implications for policy reforms to enhance democratic stability.

The literature review shows that the concept of popular sovereignty by Jean-Jacques Rousseau's thoughts on the general will, has been adapted in the Indonesian context by the nation's founders such as Mohammad Hatta who emphasized representative democracy with direct elements (Syafwar et al., 2023). Post-amendment, literature such as Jimly Asshiddiqie's work highlights the shift from MPR supremacy to a more balanced separation of powers, although gaps remain in practice (Andryan, 2023). Then, there is analysis from Tim Lindsey, who argues that constitutional reforms have brought formal progress, but further institutional reforms are needed to overcome the authoritarian legacy (Dewi & Slam, 2025). Digital participation can strengthen people's sovereignty which is relevant for Indonesia in the e-democracy era to avoid fraud in people's participation (N. Nggilu et al., 2025). Therefore, the amendment to the 1945 Constitution has strengthened the presidential system through direct democratic mechanisms, but challenges such as weak checks and balances and the influence of political oligarchies can reduce the effectiveness of people's sovereignty in the long term (Salman & Ristawati, 2023).

Based on the above description, the problems in this research are: (1) how is the implementation of people's sovereignty after the amendment to the 1945 Constitution; and (2) to what extent does the strengthening of the presidential system reflect people's sovereignty substantively. Thus, this research has a novelty by placing people's

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sovereignty not only as a normative principle, but as an evaluative instrument for the effectiveness of the presidential system after the amendment to the 1945 Constitution, especially in the context of political oligarchy and weak checks and balances.

II. METHOD

This research uses a normative juridical approach, focusing on the analysis of legal norms in constitutional documents and related legislation. The research design is descriptive-analytical, aiming to outline and critique post-Reformasi constitutional changes. The scope or object of the research includes the original 1945 Constitution, its four amendments (1999-2002), and current Indonesian constitutional practices. The primary materials include the text of the 1945 Constitution, Constitutional Court decisions, and secondary literature such as books on Indonesian constitutional law. The primary tool is qualitative data processing software for text analysis, while the research location is virtual through access to digital documents from official government websites and academic institutions.

Data collection techniques are conducted through literature review, namely the collection of secondary data from primary legal sources (the 1945 Constitution and its amendments) and secondary sources (journals, books, and scholarly articles). The operational definitions of the research variables include: popular sovereignty as the principle that supreme power rests with the people and is exercised through state institutions; The presidential system is a form of government in which the president is both head of state and head of government, directly elected by the people; and the separation of powers is the distribution of authority between the executive, legislative, and judiciary with a mechanism of mutual oversight. The analysis technique uses systematic and historical legal interpretation methods, combined with critical analysis, to assess the implications of these changes for strengthening democracy.

III. RESULT AND DISCUSSION

The amendments to the 1945 Constitution after the 1998 Reformation brought fundamental structural changes in the embodiment of people's sovereignty, particularly in strengthening the presidential system. Prior to the amendments, the original 1945 Constitution placed the MPR as the holder of full people's sovereignty with Article 1 paragraph (2) stating "Sovereignty is in the hands of the people, and is exercised entirely by the People's Consultative Assembly." This arrangement created a system that tended towards a mixed parliamentary system, in which the President was responsible to the MPR, making executive power vulnerable to abuse, as occurred during the New Order under President Soeharto's leadership (Hatim et al., 2024).

The historical implications of this system were clearly visible during the New Order era, where presidential dominance reached its peak through a broad interpretation of Article 4 of the 1945 Constitution which granted effectively unlimited executive authority, thus giving rise to systemic corruption, collusion, nepotism (KKN) and restrictions on civil rights. This legacy continues to influence Indonesian democratic practices, with presidents often leveraging parliamentary coalitions to dominate the legislative agenda, as seen in the deliberations of controversial laws that have sparked mass protests due to the lack of substantive public participation. This demonstrates that, despite amendments, the transition to a purely presidential system has not fully addressed the

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root causes of centralization of power, which can weaken the expression of the people's will in national policymaking.

Following the Third Amendment in 2001, the article was revised to read, "Sovereignty rests with the people and is exercised in accordance with the Constitution," which removed the MPR's dominance and affirmed the principle of separation of powers and constitutional supremacy. This change strengthened the presidential system by making the President independent of the MPR, although an accountability mechanism through an impeachment process involving the House of Representatives (DPR) and the Constitutional Court (MK) remained (Arifin, 2024). Comparisons with countries like Colombia show that judicial review of constitutional amendments can prevent irregularities, which is a lesson for Indonesia to strengthen constitutional safeguards (N. M. Nggilu et al., 2025).

The amendment to the formulation of Article 1 paragraph (2) of the 1945 Constitution is not merely declarative in nature, but also carries legal implications for the shift in the locus of sovereignty from institutions to the constitution as the highest norm. By placing the Constitution as the medium for implementing popular sovereignty, all state institutions are directly bound by the principle of constitutionalism. Consequently, the legitimacy of the President's power in the post-amendment presidential system no longer depends solely on representative institutions, but rather on the conformity of his actions to constitutional limits that can be tested judicially (Indonesia, 2015).

In addition to impacting the shift in the locus of sovereignty, the amendment to Article 1 paragraph (2) of the 1945 Constitution also has implications for the concept of legitimacy of power in the presidential system. Legitimacy is no longer the result of general elections, but rather the conformity of the exercise of power with constitutional values that limit the actions of state organs. In this context, the President not only receives a political mandate from the people, but is also bound by a constitutional obligation to exercise power proportionally and responsibly. Thus, popular sovereignty functions as a controlling principle, not merely a source of initial legitimacy for government.

This comparison becomes even more relevant when considering the practice in Indonesia, where the Constitutional Court frequently handles judicial review cases related to the presidential threshold, with several decisions rejecting the lawsuits despite dissenting opinions that the threshold has the potential to limit popular sovereignty by reducing the variety of presidential candidates. This implies that while the amendment strengthens presidential independence, it also creates dependence on large political parties, often dominated by oligarchs, making popular sovereignty more formal than substantive. Countries like the United States implement a primary election system that allows for broader participation in candidate nominations, something Indonesia could adopt to reduce party dominance and enrich the expression of the people's will.

The First Amendment of 1999 revealed that this change limits the term of office of the President and Vice President to a maximum of two terms, each five years, as stipulated in Article 7. This step is crucial to prevent the concentration of power and ensure the rotation of leadership that reflects the sovereignty of the people (Suparto, 2021). Furthermore, the President's authority to propose laws was reduced, with legislative powers returned entirely to the House of Representatives (DPR), thus clarifying the separation of powers between the executive and legislative branches. However, in practice, this still raises issues, such as when the President uses a Government

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Regulation in Lieu of Law (Perppu) to resolve legislative deadlock, potentially weakening the DPR's role as representatives of the people (Asshiddiqie, 2023). These changes demonstrate an attempt to balance power, but also highlight the challenges in implementation, where multiparty political dynamics often hinder the decision-making process, necessitating parliamentary threshold reform to reduce fragmentation.

This term limit, inspired by constitutional practices in various democracies, has proven effective in preventing political dynasties in Indonesia, although attempts to extend it have resurfaced through amendments that have been rejected as contrary to the spirit of reform. Multipartyism leads to fragile coalitions that often produce compromised rather than aspirational policies, necessitating a higher threshold to strengthen presidential stability without sacrificing diverse popular representation (Mohamad, 2025).

Limiting presidential terms also has consequences for national policy planning patterns in a presidential system. Limited terms require a more measured and medium-term policy orientation, thereby reducing the tendency for personalization of power. However, without a clear mechanism for policy continuity, leadership changes have the potential to disrupt development direction. Therefore, popular sovereignty serves not only as a mechanism for leadership succession but also as a basis for establishing a sustainable national policy framework that is responsive to public needs.

The Second Amendment of 2000 focused on regional autonomy through Article 18, which allows for direct elections of regional heads by the people. This strengthened popular sovereignty at the local level, as previously elections were conducted by the Regional People's Representative Council (DPRD), which was vulnerable to central government intervention (Mau & Ditisrama, 2024). In addition, the separation of duties between the Indonesian National Armed Forces (TNI) and the Indonesian National Police (Polri) in Article 30 strengthens the independence of the judiciary, because the military is no longer involved in civil affairs, thus supporting the principle of a state based on law which is the foundation of democracy (Djufri, 2024). However, challenges arise in its implementation, where regional autonomy is often accompanied by local corruption and uneven development which reduces the effectiveness of people's sovereignty as a tool for controlling power (Prayitno & Prayugo, 2023). This emphasizes that strengthening autonomy must be accompanied by strict supervision to avoid deviations from the objectives of reform by integrating digital technology in monitoring public participation.

The implementation of post-amendment regional autonomy has resulted in direct regional elections in various regions, but these are often accompanied by cases of corruption at the regional level, indicating weak local accountability mechanisms. Indonesia needs to strengthen the role of election supervisors with transparency technology to mitigate the risk of corruption. Furthermore, digital integration, such as election monitoring apps, can increase youth participation but still face access challenges in remote areas. Article 18 is expected to include a clause on stricter sanctions for abuse of autonomy, which could strengthen people's sovereignty through empowering civil society in oversight (William & Silalahi, 2025).

The strengthening of regional autonomy following the amendments has also transformed the relationship between the central government and the regions within the framework of popular sovereignty. Decentralization opens up space for a more diverse articulation of local interests, while simultaneously shifting some representational functions from the national to the subnational level. However, without adequate

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institutional capacity, autonomy can actually create policy fragmentation that weakens the consistency of presidential governance. Therefore, strengthening popular sovereignty at the local level must be balanced with improvements in governance and coordination between levels of government to avoid eroding the effectiveness of the presidential system as a whole.

The Third Amendment of 2001 marked the culmination of this change, with the establishment of the Constitutional Court through Article 24C, tasked with reviewing laws against the 1945 Constitution. Although the Constitutional Court serves as the guardian of the constitution, its effectiveness in protecting popular sovereignty depends heavily on the independence and consistency of its decisions. In practice, a number of strategic decisions related to the design of the electoral system have shown a tendency towards excessive caution, which has actually benefited the status quo of power. This raises questions about the extent to which the Constitutional Court is capable of functioning as a corrective instrument against the democratic distortions arising from the post-amendment political configuration.

This innovation is crucial in strengthening checks and balances, as the Constitutional Court can overturn executive or legislative policies that conflict with the constitution, thus protecting the people's rights (1945 Constitution of the Republic of Indonesia, 2002). The abolition of the General Guidelines of State Policy (GBHN) also eliminated the MPR's obligation to bind the President, thus purifying the presidential system. In the context of popular sovereignty, this change enabled direct presidential elections starting in 2004, directly representing the will of the people without the intermediary of the MPR (Nurhayati, 2022). Direct presidential elections do strengthen electoral legitimacy, but do not necessarily guarantee the quality of representation of the will of the people.

The candidacy process, which is entirely controlled by political parties, leaves the public acting only as final voters without access to the candidate selection process. This situation creates a democratic paradox: popular participation is procedural but not substantive, potentially reducing popular sovereignty to formal legitimacy of the political elite's choices. There has been much criticism that direct elections are often influenced by political oligarchy, where presidential candidates depend on the support of large parties, so that people's sovereignty is reduced to limited choices (Idris & Wardana, 2023). In addition, the formation of the Regional Representative Council (DPD) as a regional representative enriches representation, but its limited authority to only provide consideration without veto rights creates an imbalance in the bicameral system that has the potential to discriminate against regional aspirations (William & Silalahi, 2025).

The Constitutional Court (MK) has overturned various controversial laws, including election-related revisions with positive implications for civil liberties. However, criticism has arisen regarding cases of political dynasties that contribute to the perception of a decline in government function. Indonesia needs to expand the Constitutional Court's authority to judicially review constitutional amendments to prevent abuses. Furthermore, the establishment of the Regional Representative Council (DPD), while enhancing bicameralism, only contributes limitedly to national legislation. Therefore, it is necessary to increase the DPD's authority to become a co-legislator on regional issues, which can strengthen people's sovereignty at the provincial level by reducing the dominance of the national party-based DPR.

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The Fourth Amendment of 2002 refined the structure by eliminating the Supreme Advisory Council (DPA) through the removal of Article 16, which previously provided advice to the President without clear accountability. This simplified the government structure and strengthened the President's independence in a presidential system (Dewi & Slam, 2025). Amendment procedures were also eased with a simple majority requirement, although the quorum remained at two-thirds, making it easier to adjust the constitution in the future to maintain its relevance to the will of the people (Hatim et al., 2024). In addition, the provisions on independent elections through the General Elections Commission (KPU) strengthen transparency, but in practice it is still faced with issues such as the presidential threshold which limits the participation of independent candidates, thus affecting the expression of people's sovereignty (Diarti & Zukriadi, 2024).

The elimination of the DPA has simplified bureaucracy, but its implications are evident in the president's increased use of Perppu (Government Regulation in Lieu of Law), which has the potential to weaken checks and balances due to the lack of independent consultation. Election transparency has improved with the use of digital technology, but remains affected by disinformation on social media. Indonesia could adopt an e-participation platform for future amendments, which could increase inclusivity and address inequitable access. A comprehensive redesign of the Constitution through an independent commission could also be a step forward, focusing on strengthening the anti-dynasty clause to safeguard people's sovereignty from the influence of political families.

These changes consolidate the presidential system by emphasizing popular sovereignty through direct democratic mechanisms. Popular sovereignty is exercised according to the Constitution through direct elections, the presidential term is limited to a maximum of two terms, checks and balances are strengthened by an independent Constitutional Court and the House of Representatives (DPR), the presidential election is conducted directly by the people, and regional autonomy is enhanced through regional elections. This study identified several challenges: first, the weakness of checks and balances in practice, where the President often dominates through party coalitions in the DPR, as seen in controversial legislation such as the revision of the Corruption Eradication Commission (KPK) Law. Second, the influence of multipartyism causes coalition instability, where no party obtains an absolute majority, requiring the President to build coalitions vulnerable to political bargaining, which can reduce the effectiveness of policies reflecting the will of the people. Third, unequal access to information and political education, particularly in rural areas, prevents the full realization of popular sovereignty. Although the amendments strengthen the role of the Regional Representative Council (DPD), their limited authority creates a bicameral imbalance that has the potential to discriminate against regional aspirations.

The fragmentation of the party system also impacts the transactional nature of the relationship between the president and parliament. The president's dependence on a supporting coalition in the House of Representatives (DPR) encourages cabinet formation based on political compromise, rather than competence. This situation weakens government accountability because public policy is more often influenced by power negotiations than by the objective needs of the people, thereby diminishing popular sovereignty over the direction of government.

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The transformation of presidential accountability after the amendment shifted the focus from accountability to the People's Consultative Assembly (MPR) to direct accountability to the people through elections. This strengthened democratic legitimacy, but the absence of a recall mechanism during the term of office created potential loopholes for abuse of power (Rinjani et al., 2025). In this context, the presidential threshold is a controversial solution to strengthen government stability, but it also limits people's choices, thus requiring re-evaluation to maintain a balance between stability and inclusiveness (Salman & Ristawati, 2023).

This transformation has increased legitimacy, but it poses risks without a direct correction mechanism. The threshold evaluation that limits independent candidates contradicts the spirit of sovereignty if not reformed, which could increase candidate diversity and voter participation. Long-term implications include the potential for hyperdemocracy if a recall is adopted, but without it, Indonesian democracy is at risk.

Overall, the amendments to the 1945 Constitution have significantly strengthened the presidential system by strengthening the principles of popular sovereignty and separation of powers. However, their effectiveness depends on the commitment of state institutions to consistently implement these norms while addressing structural obstacles such as oligarchic politics and weak law enforcement. Further reforms, including strengthening the role of the Constitutional Court and ensuring electoral transparency, are needed to ensure that popular sovereignty is not only normative but also substantive in Indonesian constitutional practice, with implications for preventing political oligarchy.

Advances in information technology provide new opportunities to expand public participation in the state process as a manifestation of popular sovereignty. Utilizing digital public consultation mechanisms, legislative transparency, and technology-based policy oversight can be a means of correcting the limitations of representative democracy. However, without regulations that guarantee inclusivity and data protection, digitalization has the potential to create unequal participation. Therefore, the integration of technology into the presidential system needs to be constitutionally designed to truly strengthen the people's position as the holders of supreme sovereignty.

IV. CONCLUSION

The amendments to the 1945 Constitution following the 1998 Reformation brought fundamental changes to popular sovereignty and the presidential system through a shift from institutional supremacy to constitutional supremacy, marked by direct presidential elections, term limits, the elimination of the hierarchical relationship between the President and the People's Consultative Assembly (MPR), and the strengthening of the separation of powers. However, this strengthening has not fully realized popular sovereignty in a substantive manner due to the persistence of party oligarchy, the transactional relationship between the President and the House of Representatives (DPR) due to the multiparty system, and the presidential threshold that limits people's political choices. Although the Constitutional Court plays a role in maintaining checks and balances, the limited authority of the Regional Representative Council (DPD) and political fragmentation weaken government accountability. Therefore, further reforms are needed through an evaluation of the presidential threshold, strengthening the representative oversight function, and optimizing the role of the Constitutional Court so that Indonesian presidentialism is not only institutionally strong, but also legitimate and

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accountable as a manifestation of popular sovereignty in a democratic state based on law.

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