



# JLPH: Journal of Law, Politic and Humanities

E-ISSN: 2962-2816  
P-ISSN: 2747-1985<https://dinastires.org/JLPH> ✉ [dinasti.info@gmail.com](mailto:dinasti.info@gmail.com) ☎ +62 811 7404 455DOI: <https://doi.org/10.38035/jlph.v6i4>  
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## Comparative Constitutional Law: A Literature Study on Systems of Government, Elections, and Parliament in the United Kingdom and America with Indonesia

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**Abstract:** Each country has a distinct constitutional legal system influenced by its history, culture, politics, and social conditions. Governance systems, elections, and parliaments play a role in shaping the stability and effectiveness of a country's government. This study aims to analyze and compare various aspects of constitutional law in several countries with systems different from Indonesia's. The research employs a qualitative literature study method. The findings indicate that constitutional legal systems across countries reflect diverse values, traditions, and political needs shaped by their respective social, cultural, and historical contexts. Indonesia's electoral system, parliamentary structure, and mechanisms of checks and balances provide an inclusive model but often result in complex decision-making processes. Efforts to strengthen the constitutional legal system are expected to ensure the sustainability of democracy and social justice for all Indonesian citizens.

**Keyword:** Constitutional Law, Governance Systems, Parliament, Elections

### INTRODUCTION

Constitutional law is one of the very important branches of legal science in regulating how a country functions, both in terms of its structure and the mechanism of its governance administration. In general, constitutional law provides a discussion on the organization of state power, relations between state institutions, as well as the rights and obligations of citizens in the context of state administration. Globally, each country has a distinct constitutional legal system, influenced by its history, culture, politics, and social conditions (Putra et al., 2024). A country with a presidential system like the United States, has an executive power structure that is strong and independent from the parliament. Meanwhile, a country with a parliamentary system like the United Kingdom, places executive power under the control of the parliament, where the head of government is usually an integral part of the legislature. There is also a mixed system such as in France, which combines elements of both systems. This difference is not only visible in the system of government, but also in the mechanisms of elections, parliamentary structures, as well as the ways those countries ensure the principles of checks and balances run well. Indonesia is a country that has a long history

in building its own identity and legal system. Based on Pancasila and the 1945 Constitution, Indonesia has implemented a presidential system adapted to its unique characteristics. As a developing democratic nation, Indonesia faces various challenges in the implementation of constitutional law, including in terms of strengthening the system of government, implementing elections, and forming the parliament. The presidential system implemented in Indonesia is often compared with the presidential system in other nations, especially the United States, which is considered the primary model. However, in its execution, the presidential system in Indonesia has several fundamental differences, such as the strong involvement of political parties in cabinet formation and the role of other state institutions in maintaining the balance of power (Putra et al., 2020). The system of government, elections, and parliament can influence the stability and effectiveness of a country's governance. Some countries use a proportional electoral system that allows for broader representation from various groups in society, while other countries use a district system which tends to produce a more stable government (Mutawalli, 2024). In the parliament, some countries have a unicameral parliament, such as New Zealand, which is considered more efficient in decision making, while other countries choose a bicameral system, such as the United States, to ensure a balance of representation between regions and populations (Hakim, 2020). This study aims to conduct an in-depth analysis as well as a comparison of various aspects of constitutional law in a number of countries that implement systems of government different from the system adhered to in Indonesia. The analysis conducted covers several important elements, such as the system of government used, the mechanism for executing general elections, as well as the parliamentary structure in each country that is the object of study. In addition, this study also seeks to understand further how the principle of checks and balances is carried out in the context of each respective system, both in maintaining the balance of power among the executive, legislative, and judicial branches, and in ensuring transparency and accountability in the administration of government. Through this comparison, the research is expected to provide a more comprehensive understanding regarding the strengths, weaknesses, as well as the relevance of these systems in the context of modern constitutional law.

## **METHOD**

This study uses the literature study method. According to Darmalaksana (2020), the qualitative literature study method is a research approach that utilizes library sources as the primary data to understand and analyze certain phenomena. This study collects primary library materials (books, scientific journals) and secondary materials (reports or reviews), then classifies them based on the formulation of the research. The stages include data collection, processing and quoting, as well as abstraction and interpretation to obtain conclusions. This method is suitable for the exploration of concepts or theories without involving field data collection. The goal is to generate new knowledge from an in-depth interpretation of library sources. The final result takes the form of conclusions based on a synthesis of findings from the critically analyzed literature.

## **RESULTS AND DISCUSSION**

Constitutional law is a branch of legal science that focuses on the study of rules regulating relations among various state institutions, both at the national and regional levels, as well as relations between the state and its citizens. This branch of law serves as a framework establishing how state power is designed, allocated, and implemented within the structure of government (Rafie & Merta, 2024). In conducting a comparative study of constitutional law, it is important to realize that each country has a unique legal system, formed based on its respective history, culture, and political dynamics. Thus, constitutional law cannot be viewed as something static or solely based on written regulations. On the

contrary, this law is dynamic, continuously developing and adapting in accordance with constitutional practices taking place in various parts of the world.

One of the key elements in constitutional law is the system of government, which refers to the way state power is organized to execute executive, legislative, and judicial functions effectively (Mukhlis et al., 2024). In the theory of constitutional law, there are three models of government systems most commonly implemented, namely presidential, parliamentary, and mixed systems. In a presidential system, the president acts as head of state as well as head of government, with a strict separation between executive and legislative powers. Conversely, a parliamentary system places the parliament as the main institution holding the authority to select the head of government, thereby creating a close relationship between the legislative and executive branches. Meanwhile, a mixed system combines elements of both systems, where governance responsibilities are shared between the president and the prime minister, creating a balance between the two positions in running the wheels of government (Ismail & Setiawan, 2022).

In addition to the system of government, the electoral system is also an important matter in constitutional law. Elections are a mechanism for choosing leaders and representatives of the people democratically, and each country has a different system for regulating the course of elections. There are three main types of electoral systems, namely the district system, the proportional system, and the mixed system. The district system divides the country's territory into several electoral districts, where each district is represented by a single candidate who obtains the most votes. The proportional system distributes seats in parliament based on the proportion of votes received by each party. Meanwhile, the mixed system combines elements from both systems (Mukhlis et al., 2024).

The structure of parliament is also a main topic that is important to discuss in constitutional law. A parliamentary system in general can take a unicameral (one chamber) or bicameral (two chambers) form. A unicameral system is considered more efficient because its legislative process is simpler. Conversely, a bicameral system provides an advantage in terms of broader representation, especially in countries with high regional or ethnic diversity. The choice between a unicameral and bicameral system usually reflects the political and geographical needs of each respective country (Kedang et al., 2024).

Within the theoretical framework of constitutional law, the principle of checks and balances plays a highly crucial role as a main pillar in preventing the concentration of power in a single institution or specific branch of government. This concept aims to create a balanced system of government by providing opportunities for each branch of power executive, legislative, and judicial to mutually supervise, counterbalance, and control one another's actions. Thus, this mechanism functions not only to ensure that no single institution becomes too powerful or dominant, but also to protect individual liberties and prevent the potential abuse of power by the government. Each branch of power has the authority to conduct examinations of the actions or policies taken by other branches, and can take certain steps to counter deviations or violations occurring within the system of government. Therefore, this principle becomes one of the very important foundations in guaranteeing accountability, transparency, and stability in the administration of a democratic and just state (Safi, 2022).

Indonesia establishes a presidential system of government, as regulated in the 1945 Constitution. This system places the president as head of state as well as head of government, with a clear separation of power between the executive and legislative branches (Febrianti, 2023). Despite using the presidential model, the implementation of this system has unique characteristics when compared to other countries, such as the United States, which is often used as the main reference for presidential systems. In addition, parliamentary systems of government like the one implemented in the United Kingdom and mixed systems like in

France also show fundamental differences in regulating power relations among state institutions (Marpaung et al., 2024).

In the Indonesian presidential system, the president is directly elected by the people through elections, as regulated in Article 6A of the 1945 Constitution. The president holds full executive power, including forming a cabinet that is directly responsible to him, not to the parliament. Furthermore, the president cannot be dismissed by the parliament except through mechanisms regulated in Articles 7A and 7B of the 1945 Constitution, which require constitutional grounds such as severe legal violations (Mukhlis et al., 2024). This system differs from the presidential model in the United States, where the president is also directly elected by the people through an electoral college system. One of the very visible differences is the stricter division of power in the United States. Based on the United States Constitution, the president does not have the authority to dissolve parliament, and likewise, the parliament cannot dismiss the president except through a rigorous impeachment process (Canaldhy et al., 2024).

The implementation of the presidential system in Indonesia often faces different challenges. One of the main factors is the complex multi-party system, where this system often forces the president to build coalitions with various political parties in order to gain support in parliament. This is what subsequently creates political dynamics resembling a parliamentary system, where government stability depends on the relationship between the executive and legislative branches (Panggabean & Harahap, 2024). This condition differs from the United States, which has only two main parties, so the president tends to have more stable legislative support.

In the United Kingdom, the parliamentary system of government has a different structure. Based on the British Constitution, which consists of various statutes, conventions, and precedents, executive power is under the control of parliament. The prime minister as head of government is selected from the political party that controls a majority of seats in the House of Commons. This allows parliament to have direct control over the formation and continuity of the cabinet. This system enables a closer relationship between the executive and legislative branches, which is often considered more efficient in the decision-making process. The weakness of this system is the potential for government instability if parliament fails to reach a consensus, which can lead to the dissolution of parliament and early elections (Alamsyah, 2023).

The presidential system implemented in Indonesia, when compared to the system used in other countries like the United States, tends to offer greater flexibility in governance management. This is due to a governance structure that allows the president to have broader control over executive policies without being overly hindered by political parties in the legislature. However, this flexibility comes with its own challenges, namely Indonesia's vulnerability to highly complex political dynamics, which are influenced by the presence of a multi-party system. This multi-party system requires the president to build coalitions with various parties to obtain legislative support, which can add complexity to the decision-making process. Meanwhile, a parliamentary system like the one implemented in the United Kingdom is more efficient when viewed from the perspective of the legislative process, because there is a closer relationship between the legislature and executive, allowing the legislature to make decisions more quickly.

However, this system can only run stably if there is a clear majority in parliament. If there is no firm majority, such as in fragile coalition situations, the government may face difficulties in making important decisions. Meanwhile, the mixed system used in France attempts to create a balance between the power of the president and the parliament, so that these two branches of power can work together without dominating one another. Nevertheless, this system is also vulnerable to conflicts of interest, especially in a situation

known as cohabitation, namely when the president comes from a political party different from the parliamentary majority. Under this condition, a clear division of power occurs between two parties with conflicting interests, which can hinder the smooth running of government.

When a comparison is made, the presidential system in Indonesia gives substantial autonomy to the president in running the government, but often faces challenges from a complicated multi-party system. Meanwhile, parliamentary systems like those in Japan and the United Kingdom tend to be faster in decision-making due to the close relationship between the legislature and executive, but are vulnerable to instability if parliament is fragmented. Mixed systems in Germany and France provide a balance between the power of the president and parliament, but these systems require high political compromise. Meanwhile, the collective system in Switzerland provides a unique model, yet is difficult to apply in a large country like Indonesia. There is also the centralized system in China which is highly efficient, but does not offer the democratic freedoms that constitute the main principle of Indonesia's constitutional law system.

The electoral system is one of the main aspects in constitutional law that determines how representatives of the people and leaders are chosen to run the government. In Indonesia, the electoral system is regulated in Law Number 7 of 2017 concerning General Elections, which uses a proportional system with an open list. In this system, citizens cast votes for political parties while simultaneously choosing legislative candidates directly. Seats in parliament are distributed based on the number of votes obtained by political parties, while legislative candidates who obtain the most votes within the party's open list are entitled to occupy those seats. This system aims to provide broader representation to the public from various political backgrounds, but it also gives rise to challenges such as parliamentary fragmentation and high political costs (Canalduy et al., 2023).

When compared to other countries, Indonesia's electoral system has different characteristics. In the United States, the electoral system used is the plurality district system or first-past-the-post. In this system, each district chooses only one representative, and the candidate who obtains the most votes wins the seat. This system is considered simple and effective in creating a stable government, because it usually produces two dominant parties. However, its weakness is the lack of representation for minority groups, because votes that do not support the winner in a district are considered lost. In contrast to Indonesia, the plurality district system in the United States does not provide room for small parties to grow (Permataningtyas, 2021).

In the United Kingdom, the electoral system implemented adopts the plurality district model, which is similar to the system used in the United States. However, the fundamental difference lies in the type of government system adhered to, namely a parliamentary system, which focuses general elections on the election of members of parliament. After that, the elected members of parliament will determine the head of government, namely the prime minister. This system, which grants substantial authority to parliament, produces a more stable government compared to the system implemented in Indonesia, where presidential elections tend to generate tension between the executive and legislative branches. Nevertheless, the parliamentary system in the United Kingdom has weaknesses, one of which is the tendency to ignore or pay less attention to the voices of small groups in society, who are often not adequately represented in parliament due to the dominance of large parties that control the majority of seats in parliament (Alamsyah, 2023).

Some countries implement a full proportional system, in which the distribution of seats in parliament is carried out directly based on the percentage of national votes obtained by each respective political party. This system offers very broad representation, where not only large parties can obtain seats, but even small parties have a fairly large opportunity to be

represented in parliament. This creates a political diversity that better reflects the spectrum of voters as a whole.

However, the main weakness of this system is the highly high level of political fragmentation. This is caused by the fact that parliament tends to consist of many political parties with small numbers of seats, which makes the formation of a coalition government more difficult and frequently unstable. This system often causes difficulties in achieving effective political consensus, because various parties with different interests must work together to create a functional government. A similar system is also implemented in Indonesia through the open proportional system, which allows many political parties to be represented in parliament, and thereby potentially gives rise to similar political fragmentation. Although this system provides opportunities for more parties to get seats, it can also lead to difficulties in forming solid coalitions and running a stable government (Erlina, 2023).

Based on the comparison above, Indonesia's electoral system provides advantages in terms of broad representation for the people, but gives rise to challenges in the form of parliamentary fragmentation and weak political stability. The district system in countries like the United States and the United Kingdom is simpler and more effective in creating stable government, but often ignores minority voices. Meanwhile, mixed systems in Germany and Japan offer a balance between stability and representation, which can serve as a lesson for Indonesia to reduce the weaknesses of the current electoral system. For the future, Indonesia could consider strengthening regulations related to the open proportional system so that political fragmentation can be minimized without sacrificing the principle of democratic representation.

The parliamentary system is an important component in constitutional law, which determines the structure, function, and role of the legislature in governance. In Indonesia, the parliament is represented by the House of Representatives (DPR) and the Regional Representative Council (DPD), which together form the People's Consultative Assembly (MPR). This system is basically unicameral in nature, because the DPD only has a consultative function in the legislative process, whereas the primary legislative power resides in the DPR (Muksalmina et al., 2023). This is regulated in the 1945 Constitution, specifically Articles 20 and 22D. The DPR is responsible for making laws, supervising the government, and approving the state budget, while the DPD functions to represent regional interests. This structure aims to create a balance between national and regional interests, but often faces challenges in legislative effectiveness and optimal representation.

In contrast to Indonesia, many other countries use a bicameral parliamentary system, where parliament consists of two chambers with different yet complementary functions. An example is the United States, which has the Senate and the House of Representatives. Based on the United States Constitution, the Senate plays an important role in representing states, with two senators from each state regardless of population size. The House of Representatives is based on population size, so states with large populations have more representatives. This system is designed to ensure a balance between population and regional representation (Al Jinan et al., 2024). The United States bicameral system is far stronger compared to Indonesia's, because both chambers possess equal legislative power, including in the deliberation of laws and executive oversight.

In the United Kingdom, a bicameral system is implemented through the House of Commons and the House of Lords, as regulated in various traditions and conventions that form part of the British Constitution. The House of Commons is the dominant chamber, with members directly elected by the people. The House of Lords functions as a revising chamber, where its members are not chosen through elections, but are instead appointed based on inheritance, titles, or specific achievements. This system allows for a deeper review of

legislation, but it also draws criticism because the House of Lords is considered less democratic. Compared to Indonesia, the British parliamentary system places greater emphasis on efficiency in legislation, because the dominance of the House of Commons ensures decisions can be taken quickly without much debate between chambers (Alamsyah, 2023).

Parliamentary systems implemented in various countries are designed to reflect highly differing needs in accordance with the political, social, and cultural contexts of each respective country. In Indonesia, which adopts a unicameral parliamentary system, there is a major challenge in ensuring the achievement of a fair balance between the legislative and executive branches. This becomes increasingly complex with the need to accommodate regional interests, which are represented by the Regional Representative Council (DPD). The DPD plays a role to ensure that voices and aspirations from various regions in Indonesia, which are highly diverse, can be represented in the policy-making process, even though this mechanism is not yet fully effective in counterbalancing central legislative dominance.

Conversely, countries adopting a bicameral system, such as the United States, have a parliamentary structure that is more divided into two chambers, each representing different interests: one chamber represents regions or states and the other chamber represents the population. This system tends to be more effective in providing a more balanced representation between regions and population numbers, although the legislative process in those countries is often far more complex and requires a longer time, because every draft law must pass through two chambers that have different functions and requirements. This creates challenges in terms of policy-making efficiency, but at the same time provides space for deeper debate and more careful thought in the legislative process.

The mechanism of checks and balances is a fundamental principle in constitutional law that aims to ensure that power in a country is not concentrated in just a single institution. This principle creates a relationship of mutual supervision and balance among branches of power such as the executive, legislative, and judicial to prevent the abuse of power. In Indonesia, checks and balances are regulated through the 1945 Constitution, which explicitly divides state power into three branches: executive (president), legislative (DPR and DPD), and judicial (Supreme Court and Constitutional Court) (Suparman, 2023). Each branch has different yet interconnected authorities to maintain the balance of power.

In the Indonesian presidential system, the president holds full executive power, including forming a cabinet without requiring the approval of the DPR. Despite this, the president remains supervised by the DPR through functions of oversight, budgeting, and legislation. One implementation is that the DPR has the right to reject or revise draft laws proposed by the government. The president can also be dismissed by the DPR on constitutional grounds, such as severe legal violations, as regulated in Article 7A of the 1945 Constitution. This process involves the Constitutional Court to test the truth of the accusations before the president is dismissed (Suparman, 2023). This mechanism shows the existence of a balance between executive and legislative power in Indonesia, although in practice tensions often occur, particularly due to the complex multi-party system.

If compared to the United States, checks and balances in its presidential system are more structured and strict. The United States Constitution ensures that each branch of power has the ability to supervise and restrict other branches. For example, the president has a veto right over laws passed by Congress, but Congress can override that veto with a two-thirds majority. Congress has the power to oversee executive policies, including through the mechanism of impeachment. The US House of Representatives acts as the initial investigator, while the Senate acts as the court (Juanda & Satria, 2024). The main difference with Indonesia is the higher level of independence of the legislative body in America, which makes checks and balances more effective in controlling presidential power.

In the United Kingdom, the mechanism of checks and balances operates in a different way because its system of government adheres to a parliamentary model. In this system, executive and legislative powers are integrated with one another, given that the prime minister is selected from the political party holding a majority of seats in parliament. As a result, checks and balances in the UK are more internal in nature, with the opposition in parliament acting as the primary supervisor of government policies. In addition, the UK Supreme Court plays an important role in reviewing and assessing government policies suspected of violating the law (Alamsyah, 2023). Compared to presidential systems like those implemented in Indonesia and the United States, checks and balances in the UK tend to be less strong, because executive power frequently obtains full support from the parliamentary majority, so oversight of the government is not as strict as in a presidential system.

The mechanism of checks and balances in Indonesia, although theoretically designed to be quite strong, often encounters various constraints in its execution. One of the main factors serving as a challenge is the significant influence of large political parties that dominate parliament, which can affect the independence as well as the effectiveness of inter-institutional supervision. When compared to countries like the United States or Germany, checks and balances in Indonesia still show weaknesses, particularly in maintaining the independence of the legislative and judicial branches. Nevertheless, Indonesia has a great opportunity to strengthen this mechanism through efforts to increase transparency, accountability, as well as more optimal supervision among state institutions. These steps become crucial to ensure the creation of a healthy balance of power and prevent dominance by any specific branch of power that could disrupt the stability of the governance system.

## CONCLUSION

The constitutional law system implemented in various countries reflects diverse values, traditions, and political needs that develop alongside the social, cultural, and historical contexts of each respective country. In Indonesia, the presidential system of government regulated by the 1945 Constitution is designed to create a balance among three main branches of power—executive, legislative, and judicial—while also trying to accommodate the social and cultural diversity existing in this country. Nonetheless, this system faces a number of challenges, such as political fragmentation resulting from the presence of a highly diverse multi-party system and the often complex dynamics of relationships between the central government and regional governments. In comparison, other countries like the United States have a clearer and stricter system of checks and balances, which ensures tighter oversight among branches of power. The United Kingdom, with its parliamentary system, is more efficient in decision-making due to the close relationship between the legislature and executive. Meanwhile, countries like Germany and France implement mixed systems that attempt to combine the advantages of two different systems, creating a balance between the president and parliament. Each of these government systems has advantages and weaknesses tailored to their national needs and contexts. In Indonesia, although the existing electoral system, parliament, and checks and balances mechanisms are designed to be inclusive and representative, this frequently leads to a decision-making process that is more complex and requires greater political compromise. Therefore, continuous changes and strengthening of the constitutional law system are expected to ensure the sustainability of a more stable democracy and social justice that can be felt by all Indonesian citizens.

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