



**SUPERVISION OF THE PEOPLE'S REPRESENTATIVE
COUNCIL OVER THE PRESIDENT'S POLICY IN DECLARING A
STATE OF EMERGENCY**

***PENGAWASAN DEWAN PERWAKILAN RAKYAT TERHADAP
KEBIJAKAN PRESIDEN DALAM PENETAPAN STATUS
DARURAT NEGARA***

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Volume 5, Number 1, March 2026

Received: March 2, 2026 Accepted: March 3, 2026 Online Published: March 20, 2026

ABSTRACT

This research is motivated by the increasing use of emergency powers by the President in responding to national crises which has the potential to expand executive power and impact the protection of citizens' rights. This research aims to analyze the regulation and effectiveness of the DPR RI's supervision of the President's policy in determining state emergency status based on Article 12 of the 1945 Constitution of the Republic of Indonesia. The method used is normative juridical research with a qualitative descriptive analytical approach through literature study and analysis of statutory regulations. The research results show that normatively the DPR RI's oversight mechanism has been regulated through legislative, budget and oversight functions, including approval of Government Regulations in Lieu of Laws. However, empirically, this supervision still tends to be formal and does not fully guarantee accountability and protection of citizens' rights. Therefore, the DPR RI's supervisory function needs to be strengthened so that the principles of the supremacy of law and constitutional democracy are maintained in emergency conditions.

Keywords : Supervision of the House of Representatives, State Emergency Status, Presidential Policy, Constitutional Accountability.

ABSTRAK

Penelitian ini dilatarbelakangi oleh meningkatnya penggunaan kewenangan darurat oleh Presiden dalam merespons krisis nasional yang berpotensi memperluas kekuasaan eksekutif dan memengaruhi perlindungan hak warga negara. Penelitian ini bertujuan untuk menganalisis pengaturan serta efektivitas pengawasan Dewan Perwakilan Rakyat terhadap kebijakan Presiden dalam penetapan status darurat negara berdasarkan Pasal 12 Undang Undang Dasar Negara Republik Indonesia 1945. Metode yang digunakan adalah penelitian yuridis normatif dengan pendekatan kualitatif deskriptif analitis melalui studi kepustakaan dan analisis peraturan perundang-undangan. Hasil penelitian menunjukkan bahwa secara normatif mekanisme pengawasan Dewan Perwakilan Rakyat telah diatur melalui fungsi legislasi, anggaran, dan pengawasan, termasuk persetujuan terhadap Peraturan Pemerintah Pengganti Undang-Undang. Namun, secara empiris, pengawasan tersebut masih cenderung formal dan belum sepenuhnya menjamin akuntabilitas serta perlindungan hak warga negara. Oleh karena itu, diperlukan penguatan fungsi pengawasan Dewan Perwakilan Rakyat agar prinsip negara hukum dan demokrasi konstitusional tetap terjaga dalam kondisi darurat.

Kata Kunci : Pengawasan Dewan Perwakilan Rakyat, Status Darurat Negara, Kebijakan Presiden, Akuntabilitas Konstitusional.

I. INTRODUCTION

The declaration of a state of emergency is a constitutional instrument used by the government to respond quickly and effectively to crisis situations, such as health crises, major disasters, or threats to national security. However, this instrument has the potential to significantly expand executive powers, thereby prompting debate on the limitations of presidential power and the importance of *checks and balances* in a constitutional state. In many presidential systems, including Indonesia, the role of the legislature in overseeing emergency policies is the main reference for preventing the abuse of such authority. This global phenomenon highlights the structural challenge

between the need for rapid response and the principle of democratic accountability.¹

In the global context, the issue of declaring a state of emergency has become an important concern in modern governance. Various countries face a dilemma between the need to respond to extraordinary circumstances such as pandemics, natural disasters, or national security threats and the obligation to uphold the principles of democracy and accountability. According to a 2022 report by *the United Nations Human Rights Council*, more than 90 countries declared a state of emergency during the COVID-19 pandemic, and most faced criticism over the potential for abuse of executive power that weakened the legislative function.² This global phenomenon shows that mechanisms for overseeing the power of the president or head of state are crucial to balancing policy efficiency and the protection of civil rights.

Normatively, a state of emergency is designed to allow the government to act quickly. However, practices in various countries often show an extreme shift of power to the executive branch. This raises serious questions about legal limits, policy transparency, and the involvement of the legislature in the oversight process, especially in countries with a presidential system such as Indonesia.³

In the Indonesian context, provisions regarding states of emergency are regulated in Articles 12 and 22 of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). Article 22 of the 1945 Constitution grants the President the authority to declare a state of emergency and issue a Government Regulation in Lieu of Law (Perppu) in cases of compelling urgency, but also assigns the House of Representatives (DPR RI) as the legislative body responsible for overseeing and approving such actions to ensure they remain within the constitutional framework. *Normative analyses* show that this provision does not explicitly describe the operational mechanism of legislative oversight of the President's emergency policy decisions, so that the DPR RI's oversight practices are often only formal and retrospective. Indonesia also has a legal framework that allows the President to declare a state of emergency in the context of a state of emergency based on Article 12 of the 1945 Constitution of the Republic of Indonesia, which has not undergone any textual changes since the amendments. However, the implementation of this regulation often causes controversy due to the lack of participation and control by the DPR RI. The process of overseeing the

¹ Didik Suhariyanto, "Problematika Penetapan PERPU Kondisi Negara dalam Keadaan Darurat dalam Sistem Hukum di Indonesia," *JURNAL USM LAW REVIEW* 4, no. 1 (2021): 190–207, <https://doi.org/10.26623/julr.v4i1.3371>.

² Tom Ginsburg dkk., hosts, *State of Emergency in the Contemporary World*, aired 19 Agustus 2022.

³ Fitra Arsil dan Qurrata Ayuni, "Model Pengaturan Kedaruratan dan Pilihan Kedaruratan Indonesia dalam Menghadapi Pandemi COVID-19," *Jurnal Hukum & Pembangunan* 50, no. 2 (2020): 423, <https://doi.org/10.21143/jhp.vol50.no2.2585>.

President's policies in emergency situations still lacks consistent and transparent mechanisms. Regulatory changes after the reform did not necessarily strengthen the DPR RI's oversight function because there is still a tendency for power to be centralized in the executive branch.⁴

During the COVID-19 pandemic, the Indonesian President enacted various national emergency policies, such as Government Regulations in Lieu of Laws (Perppu) and Presidential Decrees on Public Health Emergencies. However, many of these policies were issued without optimal oversight by the DPR RI, raising questions about policy accountability and the protection of constitutional principles in times of crisis.⁵

This phenomenon also has broad social implications. At the community level, emergency policies often result in restrictions on the economic and social activities of citizens. These impacts not only affect economic welfare but also public trust in the legitimacy of the government. In the case of Indonesia, Large-Scale Social Restrictions (PSBB) and the Enforcement of Restrictions on Community Activities (PPKM) policies show a gap between policy objectives and reality on the ground, especially for vulnerable groups.

Psychologically, the public experiences stress due to changing and uncommunicative policies. In this context, the role of the Indonesian House of Representatives as a representative body of the people is important in bridging the President's policies with public aspirations. The supervisory function of the Indonesian House of Representatives should not only be oriented towards legal aspects, but also towards the moral and social aspects of the policies implemented by the executive.⁶

This situation reveals an asymmetry of power between the DPR RI and the President, which has weakened the practice of *checks and balances* in the presidential system. This phenomenon is a form of "overlapping authority" that blurs the boundaries between legislative and executive functions. In many cases, the DPR RI is trapped in a position of mere formality, without strong political bargaining power against the President's policies.⁷

Meanwhile, previous studies have highlighted that after the amendment of the 1945 Constitution, the DPR RI has a greater role in the legislative and supervisory functions. However, in reality, this role has not been optimal in the context of declaring a state of emergency. When a state of emergency is

⁴ Fitri Atur Arum dan Erika Maya Oktavia, "Implementasi keadaan darurat Indonesia: inkonsisten penerapan keadaan darurat," *El-Wasathiya: Jurnal Studi Agama* 11, no. 2 (2023): 66–82, <https://doi.org/10.35888/el-wasathiya.v11i2.5543>.

⁵ Muhammad Habibi, "Konstitusionalisme Penanganan Kondisi Indonesia Darurat COVID-19 Oleh Presiden," *Monograf: Dimensi Hukum di Masa Pandemi*, 2021, 67–78.

⁶ Putu Eva Ditayani Antari, "Implementasi Fungsi Pengawasan Dewan Perwakilan Rakyat dalam Upaya Memperkuat Sistem Presidensial di Indonesia," *Refleksi Hukum: Jurnal Ilmu Hukum* 4, no. 2 (2020): 217–38, <https://doi.org/10.24246/jrh.2020.v4.i2.p217-238>.

⁷ Elva Imeldatur Rohmah, "Dinamika Overlapping Kewenangan DPR dan Presiden dalam Pembentukan Kebijakan Negara," *Jurnal Magister Ilmu Hukum* 13, no. 1 (2023): 48–68, <https://doi.org/10.56943/dekrit.v13n1.137>.

interpreted unilaterally by the President, the DPR RI often has no room to intervene or evaluate the decision.⁸

There are also previous studies that discuss the role of the DPR RI in approving Perppu (Government Regulations in Lieu of Laws) resulting from emergency policies, which are often only retrospective in nature or can be said to retrace past data or events to find causes and effects, rather than being preventive or preemptive measures. This means that oversight is only carried out after policies are implemented, rather than during the process of formulation and decision-making. This results in the DPR RI losing its strategic function in preventing potential abuse of power.⁹

A similar phenomenon also occurs at the local level. In several regions, the implementation of national emergency policies has caused conflicts of interest between the central and regional governments. The DPR RI, as a national institution, has been unable to effectively channel regional aspirations, giving the impression that emergency policies are *top-down* in nature. This condition reinforces the argument that the DPR RI's oversight mechanism has not taken root substantively in the Indonesian political system.

In his opinion, Carl Smith stated that a leader may become a dictator when the country is under threat, giving rise to an urgent need to save the sovereignty of a country.¹⁰ However, this must be limited by other state institutions, as stated by Herman Sihombing, that the state of emergency is only temporary until it is no longer considered dangerous.¹¹

Several previous studies have discussed the functional relationship between the DPR RI and the President. For example, some studies have examined the structuring of the DPR RI's supervisory function in order to strengthen the presidential system¹², while others have examined the functional relationship between the two institutions in the context of national policy-making. However, these studies still focus on the normative and institutional levels, with few examining the DPR RI's oversight of the President's emergency policies empirically and qualitatively.¹³

⁸ Sugiman, "Fungsi Legislasi DPR Pasca Amandemen UUD NKRI 1945," *Jurnal Ilmiah Hukum Dirgantara* 10, no. 2 (2020), <https://doi.org/10.35968/jh.v10i2.468>.

⁹ Didik Suhariyanto, "Problematika Penetapan PERPU Kondisi Negara dalam Keadaan Darurat dalam Sistem Hukum di Indonesia," *JURNAL USM LAW REVIEW* 4, no. 1 (2021): 190–207, <https://doi.org/10.26623/julr.v4i1.3371>.

¹⁰ Jimly Asshiddiqie, *Hukum Tata Negara Darurat* (Jakarta: Rajawali Pers, 2007).

¹¹ Herman Sihombing, *Hukum Tata Negara Darurat di Indonesia* (Jakarta: Djambatan, 1996).

¹² Januari Sihotang dkk., "Penataan Pengawasan DPR Terhadap Presiden dalam Rangka Penguatan Sistem Presidensial Indonesia," *Fundamental: Jurnal Ilmiah Hukum* 13, no. 1 (2024): 124–44, <https://doi.org/10.34304/jf.v13i1.241>.

¹³ Satria Budi Kusuma dkk., "Hubungan Fungsional antara Dewan Perwakilan Rakyat (DPR) dan Presiden dalam Bidang Pengawasan di Indonesia menurut UUD 1945," *Jurnal Diskresi* 3, no. 1 (2024), <https://doi.org/10.29303/diskresi.v3i1.5085>.

From a methodological perspective, previous studies tend to use a normative juridical approach with secondary sources, without exploring the perceptions of political actors and the public regarding the effectiveness of the DPR RI's oversight in emergency situations. In fact, the social and political dynamics in the context of emergencies are complex and multidimensional, making a qualitative approach important for a more in-depth understanding of social and political phenomena.¹⁴

This research gap opens up opportunities for qualitative studies that examine how the DPR RI carries out its supervisory function over the President's policies in determining a state of emergency, both in terms of the political process, public communication, and its influence on public perception. Thus, this study is expected to contribute new insights to the study of constitutional law and political science in Indonesia.

The urgency of this research lies in the effort to strengthen democratic oversight mechanisms amid the increasing tendency for executive power consolidation in times of crisis. The main objective of this research is to analyze in depth how the DPR RI exercises its supervisory function over the President's policies in determining the state of emergency, as well as to identify the social, political, and institutional factors that influence the effectiveness of this supervision. Therefore, on this occasion, the author is interested in discussing "The supervision of the people's representative council over the president's policies in determining the state of emergency."

II. METHOD

The methodology used in this study is normative or doctrinal jurisprudence. Normative jurisprudence examines the internal aspects of positive law, or in other words, it is based on the view that law is an autonomous institution that does not depend on other social institutions. The object of this study is the supervision of the House of Representatives over the President's policy in declaring a state of emergency, focusing on the institutional relationship between the executive and legislative powers in the Indonesian constitutional system, which focuses on the interaction between legal policy born out of a state of emergency and the legislative accountability mechanism to ensure that the policy remains within the corridor of the rule of law.¹⁵ This study uses this approach to resolve problems within the legal system itself, rather than the behavior of humans who apply the law. The research used in this study employs a descriptive analytical qualitative

¹⁴ Wicipto Setiadi dkk., *Mekanisme Pengawasan DPR Terhadap Penerbitan PERPPU Oleh Presiden: Upaya Menjaga Prinsip Check and Balances dalam Hukum Tata NEGARA Darurat*, 07 (2025).

¹⁵ Blucer Welington Rajagukguk, *Evaluasi Kebijakan Politik Hukum Pengelolaan dan Pemeriksaan Keuangan Negara dalam Keadaan Darurat* (Universitas Kristen Indonesia, 2023), <http://repository.uki.ac.id/id/eprint/12785>.

approach, as it is able to provide a detailed, systematic, and comprehensive picture of all matters related to the House of Representatives' oversight of the President's policies in declaring a state of emergency.

III. ANALYSIS AND DISCUSSION

a. Regulations on the House of Representatives' Oversight of Presidential Policies Related to the State of Emergency

The regulation of the Indonesian House of Representatives' oversight of the President's policies in declaring a state of emergency is an integral part of the Indonesian constitutional system, which is based on the principles of the rule of law and constitutional democracy. In the context of constitutional law, a state of emergency grants *extraordinary powers* to the President to take swift action to address situations that threaten the safety of the state. However, these powers are not absolute, but remain within the framework of legislative oversight as a form of *checks and balances*. This is important to ensure that the emergency policies issued by the President remain in line with the constitution and are not misused for purposes other than the actual handling of the crisis.¹⁶ The House of Representatives exercises this oversight through mechanisms such as inquiry rights, which allow oversight of executive actions during a state of emergency to prevent excessive reach and uphold democratic principles.¹⁷

Constitutionally, the legal basis for declaring a state of emergency is found in Article 12 of the 1945 Constitution of the Republic of Indonesia, which states that the President shall declare a state of emergency, with the conditions and consequences to be determined by law. This provision is reinforced by Article 22 of the 1945 Constitution, which gives the President the authority to issue a Government Regulation in Lieu of Law (Perppu) in cases of compelling urgency. However, the Perppu must be submitted to the DPR RI during the next session for approval. If it is not approved, the Perppu must be revoked. This provision shows that the DPR RI has a central role in overseeing and evaluating the President's emergency policies.¹⁸

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¹⁶ Qurrata Ayuni dkk., "Concept and Implementation on the State of Emergency in Indonesia: Outlook to Strengthen Checks and Balances during Crisis," *Revista de Investigações Constitucionais* 9, no. 1 (2022): 20, <https://doi.org/10.5380/rinc.v9i1.83557>.

¹⁷ Alfania Zefanya Tumewu dkk., "Tentang Kedudukan Hak Angket dalam Sistem Ketatanegaraan Republik Indonesia," *Khatulistiwa: Jurnal Pendidikan dan Sosial Humaniora* 5, no. 2 (2025): 382–89, <https://doi.org/10.55606/khatulistiwa.v5i2.5866>.

¹⁸ Beny Yunianto dan Tomy Michael, "Keberlakuan Asas Equality Before The Law Bagi Pejabat Pelaksana Kebijakan Penanganan Covid-19," *Mimbar Keadilan* 14, no. 1 (2021): 7, <https://doi.org/10.30996/mk.v14i1.4334>.

reinforced by Article 22 of the 1945 Constitution, which gives the President the authority to issue a Government Regulation in Lieu of Law (Perppu) in cases of compelling urgency. However, the Perppu must be submitted to the DPR RI during the next session for approval. If it is not approved, the Perppu must be revoked. This provision shows that the DPR RI has a central role in overseeing and evaluating the President's emergency policies.¹⁹ In the same vein, Mahfud MD emphasized that although a Perppu is an extraordinary legal product, it is still subject to democratic control mechanisms through the approval of the Indonesian House of Representatives. This shows that a Perppu is a form of temporary legislative authority that is within the corridor of the rule of law, not a manifestation of absolute power in a state of security emergency.²⁰

In practice, there are a number of Perppu that were clearly not issued in the context of a state of national security emergency. For example, Government Regulation in Lieu of Law Number 1 of 2020 concerning state financial policy and financial system stability for handling the COVID-19 pandemic. Although the pandemic is a national crisis, the government did not declare a state of emergency based on Article 12 of the 1945 Constitution of the Republic of Indonesia. Another example is Government Regulation in Lieu of Law Number 2 of 2017 concerning amendments to the Law on Mass Organizations, which was issued due to reasons of legal urgency and social stability, not because of a declaration of a national state of emergency.

Based on this description, it can be confirmed that not all Perppu enactments are caused by a state of emergency within the meaning of Article 12 of the 1945 Constitution of the Republic of Indonesia. Perppu can arise due to a compelling urgency in the sense of an urgent legal need as referred to in Article 22 of the 1945 Constitution of the Republic of Indonesia. Thus, constitutionally, there is a fundamental difference between the "state of emergency" regime and the "compelling urgency" regime. This difference is important to maintain a balance between the effectiveness of government in a crisis situation and the principle of the rule of law, which requires restrictions and oversight on the use of extraordinary powers.

At the legislative level, further regulations regarding emergencies are stipulated in Law No. 23 of 1959 on Emergency Situations. This law classifies emergencies into civil emergencies, military emergencies, and states of war. Although the President has the authority to declare such a status, its implementation must still take into account the political control of the Indonesian House of Representatives as the representative of the people. In

¹⁹ Rian Saputra dkk., "Executability of the Constitutional Court's formal testing decision: Indonesia's Omnibus Law review," *Journal of Law, Environmental and Justice* 1, no. 3 (2023): 244–58, <https://doi.org/10.62264/jlej.v1i3.18>.

²⁰ Zainal Arifin Mochtar, "A Notion of Regulatory Reform," *Fiat Justisia: Jurnal Ilmu Hukum* 16, no. 1 (2022): 65–82, <https://doi.org/10.25041/fiatjustisia.v16no1.2431>.

addition, in the context of non-security emergencies such as disasters and pandemics, Law No. 24 of 2007 on Disaster Management and Law No. 6 of 2018 on Health Quarantine also serve as relevant legal bases. However, the interpretation of the phrase "compelling urgency" in Article 22 of the 1945 Constitution of the Republic of Indonesia still raises legal debate, as noted in several studies.²¹ Constitutional law experts, such as Jimly Asshiddiqie, argue that the phrase is subjective, so that only the President can assess it, which has the potential to limit legislative oversight of the reasons for enacting a Perppu.²²

The regulations regarding emergencies in Indonesia are normatively regulated in Government Regulation in Lieu of Law Number 23 of 1959 concerning Dangerous Situations. This regulation is a legal instrument that provides a constitutional basis for the state to take extraordinary measures when there is a threat to security and law and order. Substantively, the Perppu divides states of emergency into three categories, namely civil emergencies, military emergencies, and states of war.

Normatively, Article 1 of Perppu No. 23 of 1959 stipulates that the President has the authority to declare all or part of the country in a state of emergency if security or law and order is threatened by rebellion, riots, natural disasters, or other circumstances that endanger the life of the state and ordinary means are inadequate to overcome them.

The document explains that a civil emergency is declared when threats to security and order can still be controlled through expanded civil mechanisms, a military emergency is declared when the security situation deteriorates to the point that it requires significant military involvement, and a state of war is declared when the state faces war or a real threat of war against its sovereignty.

Jimly Asshiddiqie explained that a state of emergency is a constitutional mechanism that allows for temporary deviations from normal procedures in order to save the country. However, according to him, these deviations must remain within the framework of the law and be temporary.²³

In addition, Mahfud MD stated that the rule of law still applies in a state of emergency, so *that extraordinary powers* cannot override basic

²¹ Septiana, "Analisis Kewenangan Presiden Dalam Mengeluarkan Perppu: Antara Diskresi Eksekutif dan Kontrol Konstitusional," *Jurnal Legalitas* 2, no. 2 (2024): 73–82, <https://doi.org/10.58819/jle.v2i2.167>.

²² Yafet Yosafet W. Rissy, "Pendekatan Negara Hukum Krisis Ekonomi: Upaya Mendamaikan Pertentangan Antara Pembatasan Dan Pelonggaran Hukum Dan Diskresi Bagi Presiden (Eksekutif)," *Refleksi Hukum: Jurnal Ilmu Hukum* 7, no. 1 (2022): 103–22, <https://doi.org/10.24246/jrh.2022.v7.i1.p103-122>.

²³ Asshiddiqie, *Hukum Tata Negara Darurat*.

constitutional principles such as the limitation of power and the protection of human rights.²⁴

From an international theory perspective, Carl Schmitt, in his work *Political Theology* (1922), argued that "*the sovereign is he who decides on the exception*," meaning that state sovereignty is most evident in decisions regarding states of emergency.²⁵

Based on Perppu No. 23 of 1959 and the views of these experts, it can be concluded that the category of emergency in Indonesia reflects a *graduated emergency model*. Each level has different legal consequences for the distribution of authority between civil and military authorities. However, the principle of the rule of law (*rechtsstaat*) remains a normative limit so that emergency powers do not turn into authoritarianism.

Thus, a country can be said to be in a state of emergency according to Perppu No. 23 of 1959 if three main elements are met: First, there is a serious threat to security or law and order; Second, ordinary legal and institutional instruments are inadequate; and Third, the President officially declares a state of emergency according to its level.

Empirical experience during the COVID-19 pandemic provides a concrete picture of the dynamics of the DPR RI's oversight of the President's emergency policies. The President issued Perppu No. 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the COVID-19 Pandemic, which was later passed into Law No. 2 of 2020. This Perppu sparked public debate because it contained clauses that limited the responsibility of state officials in budget management. The DPR RI finally approved the Perppu, despite criticism from academics and civil society. According to Suhariyanto, a lecturer at the University of Indonesia (), the DPR RI's approval of the Perppu shows that the legislative oversight function is more procedural than substantive, as there was no in-depth evaluation of the constitutionality and social impact of the policy.²⁶

From an institutional relations perspective, the DPR RI's oversight is carried out through several constitutional instruments, namely the right of interpellation, the right of inquiry, and the right to express opinions as regulated in Law Number 17 of 2014 concerning the MPR, DPR RI, DPD, and DPR RI (MD3 Law). The right of interpellation allows the DPR RI to request information from the President regarding important and strategic policies that have a broad impact on society. However, we can also see empirically that during the pandemic, the DPR has used working meetings more often than

²⁴ Mahfud MD, *Perdebatan Hukum Tata Negara Pasca Amandemen Konstitusi* (Rajawali Pers, 2010), <https://www.mahfudmd.com/>.

²⁵ Carl Schmitt, *Politische Theologie: Vier Kapitel zur Lehre von der Souveränität* (Duncker & Humblot, 1922).

²⁶ Suhariyanto, "Problematika Penetapan PERPU Kondisi Negara dalam Keadaan Darurat dalam Sistem Hukum di Indonesia," 2021.

the right of inquiry. This shows a pattern of oversight that is more coordinative than investigative. The right of inquiry should be used to investigate government policies that are suspected of violating laws and regulations. Meanwhile, the right to express opinions can be used as a follow-up to the exercise of the right of interpellation or inquiry.

However, the effectiveness of the use of these rights in the context of emergency policies is still debatable. Rohma's research shows that there is a tendency for the executive to dominate the process of forming emergency policies, so that the DPR RI is often in a reactive position. This condition is exacerbated by the political configuration in parliament, which is dominated by a coalition supporting the government, so that the control function is less than optimal.²⁷

From the perspective of the theory of the rule of law, the DPR RI's oversight of the President's emergency policies is a manifestation of the principle *of the rule of law* and the limitation of power. In a presidential system, strengthening the legislative oversight function is important to prevent *abuse of power*.²⁸ Antari emphasizes that the DPR RI's oversight is not only political in nature, but also has ethical and constitutional dimensions in maintaining the balance of state power.

Under Indonesia's emergency legal regime, the legal products that are created are not limited to Government Regulations in Lieu of Laws (Perppu). In addition to Perppu, there are a number of other legal instruments that can be issued based on constitutional authority or attributive authority in legislation. Constitutionally, Article 12 of the 1945 Constitution of the Republic of Indonesia grants the President the authority to declare a state of emergency, the implementation of which is further regulated in Government Regulation in Lieu of Law Number 23 of 1959. In practice, the declaration of a state of emergency is usually issued in the form of a Presidential Decree (Keppres). An example is Presidential Decree No. 28 of 2003 concerning the Declaration of a State of Military Emergency in the Province of Nanggroe Aceh Darussalam. This Presidential Decree is a declarative and operational legal product that activates a state of emergency legal regime in a specific region.

In addition to Presidential Decrees, in emergency situations the government may also issue Government Regulations (PP) as technical implementing regulations of the laws that form the basis for handling extraordinary circumstances. For example, in the context of the health emergency caused by the COVID-19 pandemic, Government Regulation Number 21 of 2020 on Large-Scale Social Restrictions (PSBB) was issued as an implementation of Law Number 6 of 2018. In this case, the PP serves as a

²⁷ Rohmah, "Dinamika Overlapping Kewenangan DPR dan Presiden dalam Pembentukan Kebijakan Negara."

²⁸ Antari, "Implementasi Fungsi Pengawasan Dewan Perwakilan Rakyat dalam Upaya Memperkuat Sistem Presidensial di Indonesia."

normative instrument to regulate restrictions on community activities without having to declare a state of emergency based on Article 12 of the 1945 Constitution of the Republic of Indonesia.

Furthermore, under the regime regulated by Perppu 23 of 1959, officials appointed as Civil Emergency Authorities or Military Authorities also have the authority to issue Emergency Authority Regulations and Announcements. These legal products are administrative-normative in nature and apply only to areas declared to be in a state of emergency. This authority shows that in extraordinary situations, the structure of governmental authority can be expanded while still being based on positive law.

In addition, in modern constitutional practice, Presidential Instructions (Inpres) and Ministerial Regulations are also often issued to coordinate emergency policies at the administrative level. These instruments are operational and technical in nature, but still have binding force within the scope of authority of each official. Thus, it can be concluded that a state of emergency in the Indonesian legal system gives rise to various forms of legal products other than Perppu, including Presidential Decrees, Government Regulations, Regulations or Announcements of the Emergency Authority, and other administrative regulations. All of these legal products remain within the framework of the rule of law and are subject to the principles of oversight and limitation of power as affirmed in the 1945 Constitution of the Republic of Indonesia.

Therefore, in addition to the normative aspect, the DPR RI's oversight also has a human rights protection dimension. Emergency policies often have an impact on the restriction of civil rights, such as freedom of movement and freedom of enterprise. Therefore, the DPR RI has a responsibility to ensure that these policies are proportional, temporary, and non-discriminatory. Fitri Atur Arum & Enika Maya Oktavia note that in practice, the implementation of emergency policies in Indonesia still shows inconsistencies in guaranteeing the protection of citizens' basic rights.²⁹

Thus, the DPR RI's oversight of the President's policy in declaring a state of emergency has a clear legal basis, both constitutionally and legislatively. However, in practice, there are still institutional and political challenges that affect the effectiveness of this oversight. Strengthening the capacity of legislators, transparency in the decision-making process, and increasing public participation are important factors in ensuring that the state of emergency does not become an instrument for the consolidation of executive power without adequate control.

Overall, the relationship between the Indonesian House of Representatives and the President in the context of a state of emergency reflects the dynamics of Indonesia's presidential system. Effective oversight

²⁹ Fitri Atur Arum dan Enika Maya Oktavia, "Implementasi keadaan darurat Indonesia."

depends not only on legal norms, but also on political commitment and institutional integrity. Therefore, regulatory updates and oversight reform are important agenda items for strengthening government accountability in crisis situations.

b. The Effectiveness of DPR RI Oversight in Ensuring Accountability and Protecting Citizens' Rights, in Relation to Article 12 of the 1945 Constitution of the Republic of Indonesia

*Salus Populi Suprema Lex Esto, which means "the safety of the people is the highest law," is a fundamental principle in state theory and emergency law. This expression originates from the thoughts of Marcus Tullius Cicero in his work De Legibus, which places public safety as the main objective of the formation and implementation of law. This principle later developed in modern constitutional law doctrine as a normative justification for granting extraordinary powers to authorities in crisis situations, as long as such actions are directed at protecting the public interest.*³⁰

Article 12 of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) grants the President the authority to declare a state of emergency. This norm is a form of constitutional recognition of the doctrine of *constitutional emergency power*, namely the granting of extraordinary powers to the executive in crisis situations. However, in a democratic legal system, this authority must remain subject to oversight mechanisms to prevent it from developing into excessive power. Therefore, the effectiveness of oversight by the House of Representatives (DPR RI) is key to ensuring that the implementation of Article 12 of the 1945 Constitution remains accountable and respects the rights of citizens. This is important considering that the phrase "state of emergency" in Article 12 of the 1945 Constitution of the Republic of Indonesia has the potential to give enormous power to the emergency authorities, even allowing for deviations from democratic procedures and human rights, except for *non-derogable* rights.³¹ However, the 1945 Constitution does not comprehensively regulate the rights of communities affected by disasters or the principles governing the restriction of constitutional rights by the government during a state of emergency.³² The absence of clear regulations on the limits of presidential authority in

³⁰ Marcus Tullius Cicero, *De Legibus (On the Laws)* (The National Endowment for the Humanities, 1959).

³¹ Suhariyanto, "Problematika Penetapan PERPU Kondisi Negara dalam Keadaan Darurat dalam Sistem Hukum di Indonesia," 2021.

³² Nanik Prasetyoningsih dan Muchammad Ichsan, "Kajian Yuridis atas Ketentuan Darurat Bencana dalam Konstitusi Sebagai Jaminan Hak Asasi Manusia Korban Bencana," *Jurnal Hukum Ius Quia Iustum* 31, no. 1 (2024): 49–75, <https://doi.org/10.20885/iustum.vol31.iss1.art3>.

emergency situations creates a constitutional deficit that has the potential for abuse of power.³³

Systematically, Article 12 of the 1945 Constitution of the Republic of Indonesia cannot be separated from Article 20A paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which affirms the function of the Indonesian House of Representatives in the areas of legislation, budgeting, and oversight. In addition, Article 22 of the 1945 Constitution grants the President the authority to issue Government Regulations in Lieu of Laws (Perppu) in cases of compelling urgency, with the obligation to obtain the approval of the DPR RI at the next session. This mechanism shows that the constitution has designed legislative control as an instrument of horizontal accountability. Jimly Asshiddiqie, in his Introduction to Constitutional Law, emphasizes that in a modern constitutional state, emergency powers remain subject to the principles of *limited government* and parliamentary oversight as the representation of the people. The interaction between these articles underlines the critical tension within the Indonesian constitutional framework, where the president's broad emergency powers are seemingly balanced by legislative oversight, but practical limitations can render this scrutiny less effective.³⁴

In constitutional practice, the effectiveness of the DPR RI's oversight of emergency policies can be analyzed through a case study of the COVID-19 pandemic response policy. The president declared a public health emergency through Presidential Decree No. 11 of 2020 and issued Perppu No. 1 of 2020. Based on the 2021 Report of the Supreme Audit Agency (BPK), the reallocation and refocusing of the pandemic response budget reached more than IDR 695 trillion in the first year of the pandemic. The size of this budget requires the DPR RI to perform oversight that is not only formal but also substantive.³⁵ In *The Shift in Legislative Functions in Indonesia's Presidential System*, it is explained that executive dominance in crisis situations often causes parliament to be in a reactive position, resulting in less than optimal oversight.³⁶

³³ Jayus dan Muhammad Bahrul Ulum, "Presidential Power's Limitation to Emergency Provisions in Indonesia," *Jurnal Cita Hukum* 8, no. 2 (2020), <https://doi.org/10.15408/jch.v8i2.12473>.

³⁴ Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara* (Rajawali Pers, 2020), <https://rajagrafindo.co.id/produk/pergeseran-fungsi-legislasi-dalam-sistem-presidensial-indonesia/>.

³⁵ Moh. Eddy D. Soeparno, "Political Budgeting Dynamics: Executive-Legislative Interaction for COVID-19 Budget Policy in Indonesia and Singapore [Dinamika Politik Anggaran: Interaksi Eksekutif-Legislatif dalam Kebijakan Anggaran Penanganan COVID-19 di Indonesia dan Singapura]," *Jurnal Politica Dinamika Masalah Politik Dalam Negeri dan Hubungan Internasional* 13, no. 1 (2022): 21–42, <https://doi.org/10.22212/jp.v13i1.2824>.

³⁶ Saldi Isra, *Pergeseran Fungsi Legislasi dalam Sistem Presidensial Indonesia* (Rajawali Pers, 2022), <https://rajagrafindo.co.id/produk/pengantar-ilmu-hukum-tata-negara/>.

From an accountability perspective, the Indonesian House of Representatives has constitutional instruments in the form of the right of interpellation, the right of inquiry, and the right to express opinions as stipulated in Law Number 17 of 2014 concerning MD3 (as last amended by Law Number 13 of 2019). However, the use of these instruments in the context of emergency policies is relatively limited. Data from the Secretariat General of the DPR RI shows that during the 2020-2022 period, oversight of pandemic policies was carried out more through commission and working committee meetings than through inquiry or interpellation right.³⁷ This shows that oversight emphasizes coordination rather than investigation.

In the context of protecting citizens' rights, emergency policies have the potential to restrict constitutional rights, such as freedom of movement, the right to work, and the right to education. The Constitution, through Article 28J of the 1945 Constitution of the Republic of Indonesia, does allow for the restriction of rights on the condition that it is stipulated by law and for a legitimate purpose. However, such restrictions must comply with the principles of proportionality and non-discrimination. According to Mahfud MD in *Politik Hukum di Indonesia* (Political Law in Indonesia), emergency policies must be tested constitutionally in both material and formal terms, and the DPR RI has a political responsibility to ensure that restrictions on rights do not exceed the objective needs of the emergency situation.³⁸

The effectiveness of the DPR RI's oversight can also be seen in the relationship between the DPR RI and the Constitutional Court (MK). In Constitutional Court Decision Number 138/PUU-VII/2009, the Court emphasized the parameter of "compelling urgency" as a condition for issuing a Perppu. This parameter should be a reference for the DPR RI in evaluating the President's emergency policies. However, in practice, discussions of Perppu often focus more on political aspects than on in-depth constitutionality testing. This shows that the effectiveness of DPR RI oversight still faces challenges in terms of the quality of deliberation.

From the perspective of the theory of checks and balances, the DPR RI's oversight in the context of Article 12 of the 1945 Constitution of the Republic of Indonesia is not only aimed at controlling power but also at ensuring the continuity of democratic legitimacy. According to Tom Ginsburg et al., in a study on *constitutional resilience*, democratic countries that are able to maintain a balance of power in times of crisis tend to be more stable and avoid *democratic backsliding*.³⁹ Thus, the DPR's oversight RI acts as a

³⁷ Rini Kustiasih, *Kerja Legislasi Dikritik, tetapi Pengawasan DPR terhadap Penanganan Pandemi Diapresiasi*, Oktober 2021, <https://www.kompas.id/artikel/kerja-legislasi-dikritisi-tetapi-pengawasan-ada-apresiasi>.

³⁸ Mahfud MD, *Politik Hukum di Indonesia* (Rajawali Pers, 2020), <https://rajagrafindo.co.id/produk/politik-hukum-di-indonesia/>.

³⁹ Tom Ginsburg dkk., *State of Emergency in the Contemporary World*.

mechanism to protect against the potential concentration of power in the hands of the executive.

However, there are a number of structural obstacles that affect the effectiveness of this oversight. First, the political configuration of the parliament, which is dominated by the government coalition party, can reduce the independence of control. Second, limited access to information in emergency situations often hinders the evaluative function of the DPR RI. Third, a culture of political compromise can lead to the weak use of inquiry rights as an investigative instrument. In this context, strengthening the institutional capacity of the DPR RI, policy data transparency, and civil society participation are important factors in improving the quality of oversight.

Based on this explanation, the effectiveness of the DPR RI's oversight of the implementation of Article 12 of the 1945 Constitution of the Republic of Indonesia is still relative. Why is it said to be relative? Because, normatively, the legal framework for oversight is adequate and reflects the principles of the rule of law. However, empirically, this oversight is not yet fully optimal in ensuring accountability and protecting the rights of citizens. To strengthen its effectiveness, stronger political commitment, improved quality of legislators in analyzing emergency policies, and evaluation mechanisms based on constitutional principles and human rights are needed.

Therefore, the DPR RI's oversight of the President's policy in declaring a state of emergency is an important instrument in maintaining the balance of power and guaranteeing the rights of citizens. Article 12 of the 1945 Constitution of the Republic of Indonesia must be understood not as a legitimization of unlimited power, but as a constitutional norm that is subject to the principle of democratic accountability. The effectiveness of the DPR RI's oversight is a key indicator in ensuring that emergency policies remain within the corridor of law and respect constitutional values.

IV. CONCLUSION

Based on the discussion, it can be concluded that the regulation of the DPR RI's oversight of the President's policy in determining a state of emergency has a clear constitutional basis through Articles 12, 20A, and 22 of the 1945 Constitution of the Republic of Indonesia and related laws and regulations. However, in practice, this oversight tends to be formal and retrospective, especially in the approval of Perppu and the evaluation of emergency policies, such as during the COVID-19 pandemic. This condition shows that the effectiveness of the DPR RI's oversight in ensuring accountability and protecting citizens' rights is still relative, as it is influenced by political factors, executive dominance, and the limitations of substantive oversight mechanisms.

Thus, even though normatively a checks and balances framework is available, empirically the supervisory function of the DPR RI is not yet fully optimal in ensuring that emergency policies remain within the corridors of the rule of law and the principles of protecting human rights due to the asymmetry of power and the dominance of the government-supporting party coalition in parliament. This causes supervision over the determination of emergency status and the issuance of Perppu to often become mere political formalities without in-depth substantive testing. And the constitutional accountability carried out by the DPR RI is still retrospective and procedural in nature. The DPR RI tends to use a coordinative approach through commission working meetings rather than using investigative constitutional rights such as the right to inquiry or the right to interpellation. As a result, emergency policy accountability has not been fully able to consistently guarantee the protection of citizens' constitutional rights, especially in crisis situations that require transparency and firm limits on power. So, strengthening the institutional capacity of the DPR RI, policy transparency, and political commitment to accountability are important prerequisites for increasing the effectiveness of supervision in state emergency situations.

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