

# Rule of Law and Judicial Accountability in Democratic States

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## ABSTRACT

The principle of the rule of law places judicial institutions as one of the main pillars in ensuring legal supremacy and maintaining democratic governance. This study aims to analyze the effectiveness of regulations concerning judicial independence and accountability based on the 1945 Constitution of the Republic of Indonesia, Law Number 48 of 2009 concerning Judicial Power, and Law Number 14 of 1985 concerning the Supreme Court as lastly amended by Law Number 3 of 2009. In addition, this study examines the urgency of discussing judicial accountability in supporting the implementation of the rule of law in democratic states. This study employed a juridical normative method by examining legal materials, including statutory regulations, legal doctrines, and relevant scholarly literature. The analysis was conducted using secondary legal materials published within the last five years and indexed in Google Scholar to ensure the relevance and currency of the discussion. The analysis is conducted using conceptual and statutory approaches. The findings indicate that the existing regulatory framework has provided an adequate foundation for an independent and accountable judiciary. Furthermore, strengthening judicial accountability plays an important role in enhancing institutional legitimacy, reinforcing checks and balances mechanisms, and building public trust in the judicial system. Therefore, maintaining a balance between independence and accountability is essential to support the realization of a democratic state governed by law and justice.

**Keywords:** *Accountability, Democracy, Judicial Institutions, Rule of Law, Supremacy of Law.*

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## 1. | INTRODUCTION

The rule of law is one of the main foundations of a democratic state that places the law as an instrument of controlling power as well as a means of protection of the rights of citizens. In a democratic country, the existence of the judiciary has a central position because it functions to ensure the upholding of the rule of law, provide legal certainty, and ensure that the exercise of state power continues to run in accordance with the principles of constitutionalism. The relationship between democracy and the rule of law shows that the independence of the judiciary is not only necessary to maintain the neutrality of law enforcement, but also to maintain the legitimacy of the constitutional system as a whole (Berggren & Gutmann, 2020). Therefore, strengthening the judiciary is one of the important prerequisites for the sustainability of a democratic state of law (Yudkivska, 2021).

From a constitutional perspective, the principle of the rule of law is based on Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which affirms that Indonesia is a state of law. Furthermore, Article 24 of the 1945 Constitution of the Republic of Indonesia stipulates that judicial power is an independent power to administer the judiciary to uphold law and justice. This provision was then implemented through Law Number 48 of 2009 concerning Judicial Power which affirms that judicial power is exercised independently and free from interference by any party. In addition, Law Number 14 of 1985 concerning the Supreme Court as last amended by Law Number 3 of 2009 provides a normative basis regarding the supervisory and coaching function of the judiciary in order to ensure the quality of judicial administration. The existence of this normative framework shows that judicial independence is an important element in realizing the rule of law while maintaining a balance between state power and the protection of people's rights (Hecht et al., 2021).

Nevertheless, the development of the modern democratic system shows that the independence of the judiciary cannot be separated from the principle of accountability. Independence without adequate accountability mechanisms has the potential to create a gap between the judiciary and the public's need for transparency and justice. On the other hand, excessive accountability can also threaten the independence of judges as a key element in the administration of judicial power. Therefore, the balance between independence and accountability is one of the important issues in the development of democratic judicial governance (Moliterno & Čuroš, 2021). Geyh (2021) emphasized that the challenge to judicial independence in the modern era does not only come from external factors, but also from the need to build an accountability system that still respects the freedom of judges in carrying out their judicial functions.

A number of studies show that the effectiveness of judicial institutions is greatly influenced by the ability of the legal system to establish a balance between independence and institutional accountability. Hayo and Voigt (2021) argue that there is a difference between normative judicial independence and its implementation in institutional practice. These findings show that the mere existence of regulations does

not necessarily guarantee the achievement of optimal quality of judicial administration. In addition, Rumadhan (2021) explained that strengthening institutional independence, including aspects of governance and resource management, has an important role in supporting the implementation of accountable judicial functions. Meanwhile, Durbach et al. (2021) emphasized that the existence of checks and balances mechanisms in democratic countries can only run effectively if the judiciary has legitimacy built on the principles of transparency and accountability. Thus, accountability is no longer seen as a threat to independence, but rather as an instrument to increase public trust in the judiciary (Yudkivska, 2021).

On the other hand, the dynamics of contemporary democracy show that the existence of judicial institutions is not only required to be able to maintain the rule of law, but also required to have good governance in order to ensure the effectiveness of the implementation of judicial functions. Landau and Dixon (2020) explained that the democratic system requires a proportionate supervision mechanism so that the judiciary is still able to carry out its role as a guardian of constitutionalism and a protector of democratic values. Therefore, the discussion of the relationship between the rule of law and the accountability of judicial institutions is important to assess the extent to which the existing regulatory framework has provided an adequate basis for the creation of an effective and responsive judiciary administration to the demands of a democratic state.

Based on this description, this study asked two research questions. First, how effective is the regulation regarding the independence and accountability of the judiciary based on the 1945 Constitution of the Republic of Indonesia, Law Number 48 of 2009 concerning Judicial Power, and Law Number 14 of 1985 concerning the Supreme Court as last amended by Law Number 3 of 2009 in supporting the implementation of the principle of rule of law in a democratic country? Second, why is the discussion of the relationship between the rule of law and the accountability of the judiciary important in efforts to strengthen the legitimacy and governance of the judiciary in a democratic country?

## **2. | RESEARCH METHOD**

This study uses the Juridical Normative method to identify, analyze, and synthesize various studies related to the rule of law and accountability of judicial institutions in democratic countries. The SLR approach was chosen because it allows researchers to gain a comprehensive understanding of the development of concepts, the effectiveness of regulation, and the urgency of strengthening the accountability of judicial institutions based on various published research results. This method also provides a systematic framework in reducing the subjectivity of researchers through the process of identification, selection, evaluation, and synthesis of literature in a structured manner. In the context In normative juridical research, the normative juridical method is employed to analyze statutory regulations, legal principles, and relevant legal doctrines, thereby providing a comprehensive and in-depth analysis of the legal issues being

studied. The research stage begins with the determination of a research topic that focuses on the relationship between the principle of the rule of law and the accountability of judicial institutions in a democratic country. Furthermore, literature searches were carried out through the Google Scholar database using keywords related to judicial accountability, judicial independence, rule of law, democratic governance, and judicial institutions. The inclusion criteria in this study include scientific articles and academic publications published in the last five years, have relevance to the research theme, and discuss judicial independence, accountability of judicial institutions, judicial governance, and the relationship between democracy and the rule of law. Based on the selection process, fifteen main references were obtained consisting of international journal articles, national journal articles, and other scientific publications indexed by Google Scholar.

In addition to using secondary sources in the form of scientific articles, this study also utilizes primary legal materials consisting of the Constitution of the Republic of Indonesia of 1945, especially Article 1 paragraph (3) and Articles 24 to 24C, Law Number 48 of 2009 concerning Judicial Power, and Law Number 14 of 1985 concerning the Supreme Court as last amended by Law Number 3 of 2009. The three regulations are used as a normative basis to examine the regulation of the independence and accountability of judicial institutions. All data obtained were then analyzed qualitatively with a conceptual approach and a legislative approach. The analysis process is carried out through the grouping of main themes, identification of the relationships between concepts, and synthesis of various views that develop in the literature to produce a more comprehensive understanding of the effectiveness of regulations and the urgency of strengthening the accountability of judicial institutions in supporting the implementation of the principle of rule of law in a democratic country. This approach allows for a systematic overview of the development of legal thinking related to judicial independence and accountability within the framework of a democratic state of law (Rumadhan, 2021).

### **3. | RESULTS AND DISCUSSION**

#### **Effectiveness of Judicial Regulations in Ensuring Judicial Independence and Accountability**

The principle of the rule of law in a democratic country places the judiciary as the main instrument in ensuring the upholding of the rule of law and the protection of people's rights. Within the framework of the rule of law, the effectiveness of the exercise of judicial power is largely determined by the existence of regulations that are able to maintain a balance between the independence and accountability of the judiciary. Normatively, Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia has affirmed that Indonesia is a state of law, while Article 24 of the 1945 Constitution of the Republic of Indonesia provides a guarantee that judicial power is an independent power to administer justice to uphold law and justice. The constitutional

arrangement was then affirmed through Law Number 48 of 2009 concerning Judicial Power which provides a legal basis for the exercise of judicial power independently and free from interference from other parties. In addition, Law Number 14 of 1985 concerning the Supreme Court as last amended by Law Number 3 of 2009 provides regulations regarding the function of coaching and supervising the judiciary as part of efforts to maintain the quality of judicial administration.

From a theoretical perspective, the effectiveness of regulations is not only measured by the existence of legal norms, but also by their ability to ensure the substantive implementation of the principles of the rule of law. Berggren and Gutmann (2020) explain that the existence of democracy and judicial independence is closely related to the protection of individual freedoms and the sustainability of a healthy legal system. Therefore, the independence of the judiciary guaranteed by regulations is one of the important requirements for the creation of a democratic state based on the law. In line with this, Hecht et al. (2021) emphasized that judicial independence is a prerequisite for the creation of the legitimacy of the judiciary and the maintenance of public trust in the legal system.

However, the effectiveness of regulations is also influenced by the ability of legal norms to create a balanced accountability mechanism. Yudkivska (2021) stated that independence and accountability cannot be seen as two conflicting concepts, but rather as two elements that complement each other in realizing good judicial governance. This view is reinforced by Moliterno and Čuroš (2021) who explain that the challenge to judicial independence in the modern era does not only stem from external interventions, but also from the need to build an accountability system capable of improving the integrity of the judiciary. Thus, the regulations governing judicial power are not only aimed at guaranteeing the independence of judges, but also to ensure that the implementation of judicial functions takes place in a transparent and responsible manner.

The effectiveness of these regulations is also reflected in the existence of supervision and coaching mechanisms regulated in the Supreme Court Law. Rumadhan (2021) explained that strengthening institutional governance is an important factor in realizing true judicial independence. Good institutional management will provide a guarantee that judicial independence does not develop into freedom without accountability. In a broader context, Hayo and Voigt (2021) found that there is a difference between normative judicial independence and its implementation in practice, so the effectiveness of regulations requires the support of institutional mechanisms that are able to bridge the gap between legal provisions and their implementation. These findings are reaffirmed by Voigt and Hayo (2023) who state that the quality of the rule of law is greatly influenced by the level of judicial independence that can really be realized in the institutional system.

In addition, the existence of a checks and balances mechanism is also an important indicator in assessing the effectiveness of regulations that regulate judicial institutions.

Durbach et al. (2021) explained that a healthy democratic system requires an independent and accountable judiciary in order to carry out the function of supervising the effective administration of state power. This opinion is strengthened by Landau and Dixon (2020) who emphasize that the judiciary has an important role in maintaining constitutionalism and preventing deviations from democratic values. Meanwhile, Nurudin (2020) emphasized that the impartiality of judges is one of the indicators of the success of the implementation of judicial power based on the principles of independence and professionalism.

Based on various normative provisions and the development of these thoughts, it can be understood that the regulations on judicial power contained in the 1945 Constitution of the Republic of Indonesia, Law Number 48 of 2009, and Law Number 14 of 1985 as last amended by Law Number 3 of 2009 have basically provided an adequate legal basis to support the implementation of the principle of rule of law in a democratic country. The existence of a guarantee of independence, supervisory mechanisms, and institutional development functions shows that existing regulations have accommodated the need for a balance between the independence of the judiciary and the accountability of the judiciary. Thus, the effectiveness of these regulations is not only determined by the existence of legal norms alone, but also by the ability of the institutional system to implement the principles of independence and accountability in a proportionate manner to support the realization of a democratic state of law.

### **The Urgency of Judicial Accountability in Upholding the Rule of Law**

The discussion of the relationship between the rule of law and the accountability of judicial institutions has increasing urgency in the development of modern democratic countries. This is due to the position of the judiciary which not only functions as the executor of judicial power, but also as the guardian of the rule of law, the protector of citizens' rights, and the guardian of constitutionalism. From the perspective of the state of law, Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia emphasizes that the administration of state life must be based on law. Furthermore, Article 24 of the 1945 Constitution of the Republic of Indonesia mandates that judicial power is an independent power to uphold law and justice. These provisions are strengthened by Law Number 48 of 2009 concerning Judicial Power and Law Number 14 of 1985 concerning the Supreme Court as amended last by Law Number 3 of 2009 which provides a normative basis regarding the independence, guidance, and supervision of the judiciary. Thus, the discussion of the accountability of the judiciary cannot be separated from efforts to maintain the continuity of the principle of the rule of law in a democratic country.

The urgency of discussing judicial accountability also arises because the independence of the judiciary cannot be understood as absolute freedom. Geyh (2021) explained that the challenge to judicial independence in the modern era does not only stem from external factors, but also from the need to maintain the legitimacy of the judiciary through adequate accountability mechanisms. In this context, Yudkivska

(2021) emphasized that independence and accountability are two concepts that complement each other in realizing a judicial system that is able to gain public trust. Therefore, the discussion of accountability is important to ensure that the independence granted to the judiciary remains within the corridor of the principles of the rule of law and good governance.

In addition, the development of contemporary democracy shows that the quality of judicial institutions has a significant influence on the level of public trust in the legal system as a whole. Hecht et al. (2021) explain that judicial independence accompanied by transparency and institutional integrity will increase the legitimacy of judicial institutions in the eyes of the public. This opinion is reinforced by Moliterno and Čuroš (2021) who state that threats to judicial independence are not always in the form of direct intervention, but can also arise due to a weak accountability system that leads to a decline in public trust in the judiciary. Therefore, the discussion of judicial accountability is relevant as part of efforts to maintain the credibility of the judiciary in a democratic system.

Another urgency is related to the role of judicial institutions in maintaining the checks and balances mechanism. Durbach et al. (2021) explained that an independent and accountable judiciary is an important element in maintaining the balance of power in a democratic country. A judiciary that has legitimacy and public trust will be more effective in carrying out the supervisory function of the implementation of state power. In line with this, Landau and Dixon (2020) emphasized that the judiciary has a strategic position in maintaining constitutionalism and preventing the development of practices that are contrary to democratic values. Thus, strengthening judicial accountability is not only related to institutional aspects, but also related to the sustainability of a democratic system based on law.

The discussion of the accountability of the judiciary is also important because the quality of the rule of law is not only determined by the existence of regulations, but also by the ability of the judiciary to implement legal principles effectively. Hayo and Voigt (2021) found that there is a difference between normative judicial independence and independence that is actually manifested in institutional practice. These findings were then strengthened by Voigt and Hayo (2023) who stated that the quality of the rule of law is greatly influenced by the effectiveness of judicial institutions in carrying out judicial functions independently and responsibly. In this context, Rumadhan (2021) explained that strengthening institutional and governance aspects is an important part of creating effective judicial independence. Therefore, the discussion of judicial accountability has urgency to ensure that the exercise of judicial power is not only free from interference, but also able to produce transparent and professional governance.

Furthermore, Nurudin (2020) explained that the impartiality of judges is one of the important indicators in realizing a judicial system with integrity. Meanwhile, Berggren and Gutmann (2020) emphasized that the existence of an independent judiciary has a significant contribution to the protection of individual freedoms and the quality of

democracy. Based on these various developments, the discussion of the rule of law and accountability of the judiciary has high urgency because it is related to efforts to maintain the legitimacy of the judiciary, strengthen the mechanism of checks and balances, increase public trust, and ensure that the exercise of judicial power remains in line with the principles of the rule of law and democracy. Thus, strengthening the accountability of judicial institutions is not only an administrative need, but an inseparable part of efforts to realize a judicial system with integrity and support the sustainability of a democratic state of law.

#### **4. | CONCLUSION**

The principle of the rule of law places the judiciary as one of the main pillars in ensuring the upholding of the rule of law and the sustainability of a democratic state. Based on the provisions contained in the Constitution of the Republic of Indonesia of 1945, Law Number 48 of 2009 concerning Judicial Power, and Law Number 14 of 1985 concerning the Supreme Court as last amended by Law Number 3 of 2009, it can be understood that the existing regulatory framework has basically provided an adequate basis for the implementation of independent and accountable judicial power. The constitutional guarantee of the independence of the judiciary, accompanied by mechanisms for institutional guidance and supervision, indicates that there are efforts to maintain a balance between judicial independence and accountability in the implementation of judicial functions.

In addition, the discussion of the relationship between the rule of law and the accountability of the judiciary has high urgency in the development of modern democratic countries. Accountability cannot be seen as a barrier to judicial independence, but rather as an instrument to strengthen the legitimacy of the judiciary, increase public trust, and support the creation of transparent and integrity judicial governance. The existence of an independent and accountable judicial institution is also an important part of maintaining the checks and balances mechanism and ensuring that the administration of state power continues to run in accordance with the principles of the rule of law.

Thus, the effectiveness of the implementation of the principle of the rule of law in a democratic country does not only depend on the existence of regulations that guarantee the independence of judicial power, but is also determined by the ability of the institutional system to implement the principle of proportional accountability. The balance between independence and accountability is an important prerequisite in realizing a judicial system that has integrity, has strong legitimacy, and is able to support the achievement of a democratic and just state of law.

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***Data Disclosure Statement***

The data that support the findings of this study are available from the corresponding author upon reasonable request.

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