

THE ROLE OF THE CONSTITUTION IN THE FORMATION OF A DEMOCRATIC STATE

Gokma Toni Parlindungan S¹, Miasiratni²

Fakultas Hukum, Universitas Sumatera Barat

Jln. Kolonel Anas Malik By Pass, Pariaman City

¹e-mail: gokmatoniparlindungan@gmail.com

²e-mail: miasiratnii01@gmail.com

Abstrak

The constitution is the primary foundation for establishing a democratic state. As the highest legal norm, the constitution regulates the division of power, guarantees human rights, and limits government authority to prevent abuse of power. This study aims to analyse the role of the constitution in (1) establishing a democratic system of government and (2) maintaining the sustainability of democracy in state administration. This study uses a normative legal research method with a comparative approach. Research data are sourced from secondary legal materials, including constitutional documents, laws and regulations, legal literature, and relevant scientific publications. The analysis is conducted descriptively and analytically to explain how constitutional mechanisms support democracy. The results show that the constitution plays a crucial role in establishing a democratic government through the principles of popular sovereignty, separation of powers, checks and balances, and protection of citizens' basic rights. In addition, the constitution helps maintain democracy by promoting political stability, legal certainty, the protection of minority groups, and adaptive constitutional reform in the face of social dynamics and global challenges. Thus, strengthening the implementation of the constitution and its adaptability are key factors in maintaining democracy.

Keywords: Constitution; Law; Government.

INTRODUCTION

The constitution is the primary foundation for establishing a democratic state. As the supreme law, the constitution not only guides state administration but also guarantees the protection of human rights, the division of powers, and the principle of popular sovereignty. In a democratic state, the constitution plays a crucial role in ensuring just, transparent, and accountable governance. (Febra Anjar Kusuma et al., 2024a; Wau et al., 2023) . The constitution not only provides direction for government but also serves as a tool to protect citizens from potential abuse of power by authorities. (Muhtar et al., 2023; S, 2024; Tarigan, 2024) . As a manifestation of the people's aspirations, the constitution aims to regulate the

relationships among the state, its citizens, and its institutions. Therefore, the constitution serves as a primary instrument to ensure that power is not abused and that the government acts in accordance with the will of the people. Therefore, the constitution contains fundamental principles such as the rule of law, equality before the law, and mechanisms for oversight of power. It is hoped that these principles can maintain political stability, protect citizens' rights, and strengthen public trust in state institutions.

Normatively (das sollen), the constitution should serve as the primary guideline for establishing a democratic system of government, grounded in the principles of popular sovereignty, the rule



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of law, and checks and balances. The constitution must also guarantee human rights and protect minority groups so that democracy is not merely procedural but also substantive.

However, in practice (*das sein*), many countries, including Indonesia, face challenges in implementing democratic principles as stipulated in their constitutions. Reality shows that abuse of power, weak law enforcement, and the dominance of certain political interests remain major obstacles to realising an ideal democracy. In fact, the constitution is often used merely for formal legitimacy, while the democratic values it should guarantee are distorted in governance practice.

In Indonesia, the 1945 Constitution of the Republic of Indonesia (UUD 1945) has undergone various historical developments, demonstrating the importance of adapting to the needs of modern democracy. Amendments to the 1945 Constitution during the reform era became a significant milestone in strengthening democracy in Indonesia. (Saragih et al., 2025) . The amendments made to the Constitution included various important elements, such as decentralisation of power, strengthening the system of *checks and balances*, guaranteeing freedom of expression, and recognising civil and political rights. (Alemanno & Spina, 2014) . This demonstrates that the constitution does not merely function as a static legal document, but is also dynamic, in accordance with the times and the needs of society. Furthermore, it is important to emphasise that the constitution must be understood as a primary guide that

provides solutions, not a source of problems. (Hippy et al., 2024) .

The success of a constitution in establishing a democratic state depends heavily on public participation. (Roza & S, 2019) . A healthy democracy requires not only an accountable government but also a public aware of their rights and obligations as citizens. The constitution provides space for such participation, both through elections. (Farikiansyah et al., 2024) , oversight mechanisms (Satria & Rahman, 2023) , and the freedom to express aspirations (Satria & Rahman, 2023) . Therefore, the public's political literacy must be improved so they can exercise their rights effectively and help sustain democracy.

World history shows that successful democracies are always based on strong constitutions that are upheld by all elements of society. (Rosmawan, 2015) . The United States, for example, with its constitution that has endured for more than two centuries, has succeeded in creating a stable and adaptive system of government. (Sunny, 2017) . Similarly, in Western European countries, the constitution is a primary instrument for maintaining a balance between state power and individual freedom. This experience provides an important lesson: the success of democracy is determined not only by the content of the constitution but also by the sincerity of all components of the nation in upholding it. (Purwoto et al., 2025) .

On the other hand, there are also countries where constitutions are merely formalities, with no real implementation. Countries with weak democracies often have good constitutions on paper, but their implementation fails due to weak

law enforcement, rampant corruption, or interference from certain interest groups. This situation demonstrates that a constitution alone is not enough; a strong commitment from the government, civil society, and law enforcement agencies is needed to ensure that democracy operates in accordance with the principles enshrined in the constitution.

Indonesia, as a developing democracy, also faces similar challenges. Socioeconomic inequality, conflicts of political interest, and oligarchic influence hinder the translation of democratic principles into practical practice. While the constitution often serves as a formal tool of legitimacy, it is less effective in guiding policies that favour the interests of the people (Fajri, 2023). Therefore, regular evaluation of the implementation of the 1945 Constitution, both in policy and in law enforcement, is essential to ensure that the democratic ideals enshrined in it are realised.

Furthermore, the constitution plays a crucial role in ensuring that democratic values are passed on to future generations. (Harief et al., 2025) . Constitutional and democratic education needs to be an integral part of the national education system so that the public, especially the younger generation, has a deep understanding of the importance of the constitution in national and state life. (Alvira et al., 2021) . This way, they understand not only their rights but also their responsibilities in maintaining and strengthening democracy.

Amid the complexities of globalisation and technological developments, the constitution's role in safeguarding democracy is increasingly being tested. The influence of information

technology, particularly social media, brings both new opportunities and challenges for democracy. (Elizamiharti & Nelfira, 2023) . On the one hand, social media can expand public participation in the democratic process by providing a space for every individual to voice their opinions. However, the spread of inaccurate information, hate speech, and manipulation of public opinion on social media can also undermine the essence of democracy. (Muhtar et al., 2023; Susanto & Irwansyah, 2021) .

The constitution also plays a role in ensuring that democracy remains inclusive and just. (Setiawan, 2024) . This is especially important in a country with cultural, religious, and ethnic diversity like Indonesia. The democratic principles enshrined in the constitution must create a fair space for all groups in society, including minority groups, so that no party feels marginalised in the decision-making process. In this context, the existence of independent state institutions such as the Constitutional Court and the General Elections Commission is crucial to ensure that the implementation of democracy is in accordance with the constitutional mandate. The constitution, with all its principles and norms, must serve as a bridge connecting the diversity of society with the common goal of realising a democratic, just, and prosperous nation. (Abustan, 2023) .

This research is novel because it not only explains the constitution's role in the formation of a democratic state but also systematically analyses its two main functions: its role in shaping a democratic system of government and its role in maintaining the stability and sustainability of democracy. Furthermore, this research

strengthens the analysis through a comparative approach, thus providing a broader perspective on how the constitution works in various systems of government.

Based on this description, this study aims to analyse in depth how the constitution plays a role in shaping a democratic government and in maintaining the sustainability of democracy, so that it can provide conceptual and practical contributions to strengthening constitutionalism in democratic countries.

RESEARCH METHODS

This study employs a normative legal research method grounded in the study of laws and regulations. (Efendi & Ibrahim, 2018; Rizkia, 2023) , constitutional documents, and legal theories related to the role of the constitution in the formation of a democratic state. The normative approach was chosen because this article focuses on analysing the content and principles of the constitution as they relate to the concept of democracy in legal theory and practice in various countries. The research data are sourced from secondary legal materials, namely primary legal materials such in constitutions, laws, and regulations, as well as secondary legal materials in the form of journals, books, and scientific literature related to democracy and the constitution. Data are collected through library studies. Data are analysed qualitatively using descriptive-analytical methods to explain the role of the constitution in the formation and maintenance of a democratic government system.

RESULTS AND DISCUSSION

The constitution plays a role in forming a democratic system of government

The constitution plays a central role in the formation of a democratic state. (Nuna & Moonti, 2019) It serves as the legal basis for governance, the rights and obligations of citizens, and the division of power within the state. In a democratic state, the constitution serves as a guide to ensure that democratic principles, such as popular sovereignty, the protection of human rights, and social justice, are consistently upheld. A sound constitution establishes a system of checks and balances among the executive, legislative, and judicial branches, thereby preventing abuse of power by any single party or individual. (S, 2024) . In addition, the constitution protects citizens' basic rights and guarantees public participation in the political process. (S, 2021) , and enables transparency and accountability in government. Therefore, the constitution is not only a legal norm but also an instrument that embodies the democratic principles that underpin a just and civilised state. Thus, the formation of a democratic state depends heavily on the existence of an adequate constitution and its implementation in accordance with the spirit of democracy.

Furthermore, the constitution also serves as a reference for establishing public policies that promote the welfare of the people. In a democratic state, government policies must reflect the aspirations of the wider community and support the achievement of social justice. (Irmanto, 2019) .

In a democratic system, the legitimacy of government power often

depends on the conformity of government actions with the provisions written in the constitution. A clear and firm constitution provides guidelines for the government to act in accordance with the basic principles agreed upon by the people. When the government implements policies or makes decisions in accordance with the constitution, it strengthens public trust in that government. In line with research by Hidayat (2020), which explains that the constitution also functions as a source of legitimacy in running a just and transparent government. Furthermore, a valid and widely accepted constitution serves as a symbol of national unity, binding all elements of the nation to a common goal of achieving shared prosperity.

The constitution is a key pillar in establishing and strengthening a democratic system of government. As the supreme legal document, the constitution not only serves as the foundation for state governance but also as an instrument that regulates and limits power, ensuring that government operates in accordance with democratic principles. Within this framework, the constitution establishes fundamental mechanisms and principles to protect popular sovereignty, prevent abuses of power, and guarantee human rights. The following are five key roles of the constitution in establishing a democratic government. (Noviati, 2016) :

1. **Establishing the Principle of Popular Sovereignty:** The Constitution affirms that sovereignty rests with the people, ensuring that government power derives from the will of the people. For example, Article 1, paragraph (2) of the 1945 Constitution states, "Sovereignty

rests with the people and is exercised in accordance with the Constitution."

2. **Division of Government Powers:** The Constitution provides for the division of powers between the executive, legislative, and judicial branches to prevent the accumulation of power in one party, which could lead to authoritarianism. This division creates a system of checks and balances that is essential in a democracy.
3. **Guaranteeing Human Rights:** The Constitution guarantees basic rights for citizens, such as freedom of speech, assembly, and religion, which are fundamental elements of a democratic system. Thus, the Constitution serves as a safeguard against potential abuse of power by the government.
4. **Providing a Mechanism for Amendment:** The Constitution provides a procedure for amendment, allowing for adaptation to social, political, and economic changes. This flexibility ensures that the Constitution remains relevant and adaptable to changing times.
5. **Upholding the Rule of Law:** The Constitution affirms that all actions of the government and citizens must be subject to applicable law, ensuring that no individual or institution is above the law. This principle of the rule of law is the foundation of a democratic and just government.

Based on this description, it can be concluded that the constitution not only regulates the formal structure of government but also shapes the state's political design. Democracy will not function if the constitution does not

provide a means of controlling power. The principle of popular sovereignty, without a separation of powers, will lead to the domination of the majority group. In contrast, separation of powers without guarantees of human rights can result in a legalistic but repressive government. Therefore, the role of the constitution in shaping democracy must be understood as an effort to balance the legitimacy of power with its limitations. In the Indonesian context, amendments to the 1945 Constitution demonstrate that the formation of a democratic system cannot be separated from reforms to the state structure. The establishment of the Constitutional Court, the strengthening of the House of Representatives (DPR), direct presidential elections, and broader recognition of human rights are evidence that democracy is built through strengthening constitutional norms. Thus, democracy is not determined solely by elections but also by the state system established by constitutional norms.

As the highest legal basis, the constitution plays an essential role in establishing and maintaining a democratic system of government. (Febra Anjar Kusuma et al., 2024b) . By establishing the principle of popular sovereignty, dividing governmental powers, guaranteeing human rights, providing mechanisms for change, and upholding the rule of law, the constitution ensures that government operates in accordance with democratic principles. (Sundariwati, 2024) . These roles not only prevent abuses of power but also ensure active citizen participation in the political process, thereby promoting stability and justice in government. The constitution establishes basic principles that form the

foundation of the state system, such as popular sovereignty, division of powers, and human rights, which help maintain the stability and resilience of the state system despite changing times. (Batul & Nst, 2024; Sulistyo & Samudra, 2020) .

The constitution plays a role in maintaining a democratic system of government

In a democratic state, political and social stability depends heavily on public acceptance of the constitution as a source of government legitimacy. (Vernando et al., 2023) . A constitution that reflects the people's aspirations and guarantees their rights will strengthen the relationship between government and society.

Indonesia, a pluralistic nation, is acutely aware of the importance of its constitution, which unites various ethnic, religious, and cultural groups within a single democratic framework. (Ari et al., 2023) . By establishing the principles of equality before the law and respecting diversity, the constitution provides a basis for regulating relations between groups and preventing discrimination and social tension. In this context, the constitution serves not only as a legal instrument but also as a symbol of mutual agreement that emphasises the importance of unity in diversity, a hallmark of a democratic state. (Firmansyah, 2021) . Therefore, the constitution must clearly define the limits of state institutions' powers and ensure effective mechanisms to oversee the government's operations.

Through policies regulated by the constitution, the government can guarantee equal access to education, health care, employment, and other economic rights. (Gunawan, 2020) . Thus,

the constitution serves not only as a legal instrument but also as an instrument that encourages the creation of public policies that favour the people and ensure that the government acts with high accountability and transparency.

The role of the constitution is also important in providing direction for sustainable national development. (Anggun Islamadinah et al., 2024) . In a democratic state, the constitution not only regulates political aspects but also economic, social, and cultural ones, which are the foundation of national progress. (Muhtamar & Rani Saputra, 2020; Panjaitan, 2016) . By incorporating the principles of social justice and sustainable development, the constitution guides the government in designing development policies that serve the interests of the people.

The constitution can stipulate the state's obligation to create employment opportunities, reduce poverty, and advance the general welfare, thereby creating economic and social stability that supports the country's long-term growth. (Elviandri, 2019) . The application of these sustainable development principles also indicates that the state focuses not only on material aspects but also on balanced social and environmental welfare.

In a democratic state, the constitution serves as an instrument that protects minority groups from potential discrimination and marginalisation. (Zul Fadhli, 2016) . By granting equal rights to every citizen, the constitution creates an inclusive and just society in which every individual has equal opportunities to participate in political, economic, and social life. This is crucial to ensure that

democracy is not only formal but also substantive, creating justice that is felt by all elements of society. (Muhammad et al., 2023) . Thus, the constitution not only serves as a legal basis but also guarantees the deep and comprehensive protection of human rights within a democratic system of government.

Along with social dynamics and global developments, the need to protect human rights and individual freedoms is increasingly pressing. Therefore, the constitution needs to be updated or amended to adapt to new challenges, without neglecting existing fundamental principles. A democratic amendment process allows updates to the legal system that can provide greater protection of citizens' rights, such as the right to privacy, freedom of expression, and the right to participate in the political process. A constitution that is responsive to current developments is an effective tool in maintaining the relevance and sustainability of a democratic system of government.

According to Rafina & Yamani (2016) The constitution can also strengthen a country's relationship with the international community. In an increasingly globally connected world, democratic countries must adapt to international norms and principles, particularly those concerning human rights and international peace. This not only enhances a country's reputation in the eyes of the world but also ensures that the country is committed to fair and sustainable global governance.

In creating a recovery mechanism for emergencies or crises, the constitution provides clear boundaries on the actions the government can take to protect the

state's safety without violating individual rights. (Rahmadhona, 2024) . With provisions in the constitution that regulate states of emergency, the state can implement effective policies in address crises while maintaining the principles of democracy and the rule of law that underpin the state. (Fitri Atur Arum & Enika Maya Oktavia, 2023) .

In a democratic nation, understanding the constitution is crucial to ensuring that every citizen can actively participate in the political process, whether through elections, public policy oversight, or conveying their aspirations to the government. Constitutional education helps the public better understand the importance of the rule of law, human rights, and the protection of individual freedoms. (Hutama & Sabijanto, 2023) .

Through the basic principles contained in the constitution, the state can ensure that every government decision not only considers political or economic benefits but also its impact on the lives of society as a whole, making the constitution the foundation for a just and prosperous society. (Sa'adah, 2019) .

In a democratic country, cultural, ethnic, and religious diversity often poses a challenge to creating national unity. Therefore, an inclusive constitution can serve as a pillar that regulates and recognises the rights of minority groups and ensures they are protected. (Raisa Qolbina Ibrizzahra et al., 2024; Risdianto, 2017) . By embodying the principles of pluralism and tolerance, a constitution can foster harmonious social integration in which every individual is valued and given equal opportunities in community life. A democratic country that adheres to a constitution that prioritises diversity can

avoid social conflicts arising from inequality or discrimination against certain groups and instead strengthen national solidarity. (Nurmandi et al., 2021) .

In a law-based government system, political, social, or legal disputes must be resolved through fair and transparent procedures. (Syafriande, Aldho, Aidinil Zetra, 2019) . This implies that the constitution also plays a crucial role in strengthening dispute resolution mechanisms in a democratic state. The constitution provides guidelines on how state institutions should resolve these disputes, including the role of an independent and objective judiciary. (Shalihah & Huroiroh, 2022) .

The constitution also serves to safeguard democracy from *democratic backsliding*. In practice, democracy is often threatened not only by coups or open conflict, but also by the abuse of legal authority through government policies that contradict the spirit of the constitution. Therefore, the constitution's role as a control instrument is crucial to ensuring that the government operates within the law and democratic principles.

Furthermore, the constitution plays a role in safeguarding democracy by protecting minority rights. Democracy that relies solely on majority rule has the potential to give rise to majority tyranny, so the constitution must act as a safeguard to ensure that minority groups receive equal protection. This is where the role of judicial institutions, particularly the Constitutional Court, becomes vital as guardians of the constitution.

Furthermore, in the face of developments in information technology, the constitution must be able to limit the

use of state power in digital surveillance and protect privacy rights and freedom of expression. Thus, the constitution not only safeguards democracy in its traditional form but also serves as an adaptive instrument for safeguarding democracy in the modern context.

CONCLUSION

Based on the results and discussion, it can be concluded that:

1. The constitution plays a role in establishing a democratic system of government by affirming the principle of popular sovereignty, the division of power among state institutions, establishing *checks and balances*, and guaranteeing the protection of human rights. In this way, the constitution serves as a basis for legitimacy and limits power to prevent authoritarianism.
2. The constitution also plays a role in maintaining the sustainability of democracy by creating political and social stability, protecting minority groups, upholding the rule of law, and providing a mechanism for amendment that allows the constitution to remain relevant in the face of social and political dynamics and global challenges. Therefore, the effectiveness of democracy is largely determined by the consistent implementation of the constitution and the commitment of all state institutions to uphold it.

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