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# Rule of law and legal pluralism in Indonesia: Constitutional transformation, regulatory governance, and rights protection in a decentralized state

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## ABSTRACT

Indonesia's legal system is often described through apparently contradictory images: a civil-law jurisdiction that relies heavily on statutes, a constitutional democracy with an assertive Constitutional Court, a decentralized state with thousands of local regulations, and a plural society in which adat, Islamic norms, administrative practice, and national legislation operate simultaneously. This paper examines Indonesian law as a site of constitutional transformation, regulatory governance, and rights contestation after Reformasi. Using a qualitative doctrinal and socio-legal literature review, it synthesizes peer-reviewed research and key legal materials on constitutional review, decentralization, anti-corruption, legal pluralism, the Job Creation regime, the 2023 Criminal Code, and digital defamation law. The central argument is that Indonesia's rule-of-law challenge is not primarily the absence of law, but the interaction of institutional fragmentation, uneven legal reasoning, politicized rulemaking, and unresolved tensions between legal pluralism and constitutional rights. The paper finds that Indonesia has built important legal institutions since 1998, particularly constitutional review and specialized courts, but these institutions operate within a regulatory environment marked by overlapping jurisdictions, weak harmonization, and contested public participation. Legal reform should therefore shift from episodic statutory change to a systemic agenda: integrated judicial review of subordinate regulations, rights-sensitive recognition of living law and adat, more transparent judicial reasoning, strengthened anti-corruption safeguards, participatory regulatory impact assessment, and narrow interpretation of speech and morality offenses. These reforms would improve legal certainty for citizens and businesses while preserving Indonesia's plural constitutional identity.

**Keywords:** rule of law; legal pluralism; constitutional review; decentralization; regulatory governance; criminal law

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## 1. INTRODUCTION

Indonesia is one of the most important laboratories for studying law in a plural, democratic, and decentralized society. Its legal order combines Dutch colonial legal legacies, the 1945 Constitution, post-1998 constitutional amendments, Islamic and adat influences, and a rapidly expanding body of statutes and regulations. These layers have produced a system that is not reducible to a single legal tradition. Rather, Indonesian law operates as an overlapping field of national legislation, constitutional adjudication, regional rulemaking, religious jurisdiction, customary norms, and administrative practice. For scholars of comparative law, business regulation, and governance, Indonesia therefore presents a distinctive case: it is a country where legal reform is central to democracy, economic development, and social cohesion, yet where reform often generates new complexity.

The post-Reformasi era created a powerful expectation that law would discipline executive authority and make democratic accountability real. Constitutional amendments between 1999 and 2002 reconfigured state power, created or strengthened rights guarantees, and supported institutional innovations such as the Constitutional Court. Decentralization transferred significant authority to provinces and districts, making regional autonomy a core feature of governance. Anti-corruption reform produced the Corruption Eradication Commission and specialized anti-corruption courts. More recently, the Job Creation Law, the new Criminal Code, and Constitutional Court litigation on digital defamation have shown that Indonesian law remains a central arena in which state capacity, rights, business certainty, and democratic participation are negotiated.

Despite these achievements, the literature emphasizes persistent problems. [Bedner \(2013\)](#) argues that Indonesian legal scholarship and jurisprudence often struggle to support coherent legal transplantation because doctrine, judicial reasoning, and institutional practice remain fragmented. [Butt \(2010\)](#) links regional autonomy to the proliferation of local regulations and legal disorder. [Roux \(2018\)](#) identifies structural difficulties in Indonesia's judicial review regime, while [Lindsey \(2018\)](#) argues that split jurisdiction leaves a constitutional gap in the review of regulations below statute level. Studies of democracy also warn that legal instruments may be used to narrow civic space, manage political competition, or entrench illiberal tendencies ([Aspinall et al., 2020](#); [Mietzner, 2021](#); [Power, 2018](#); [Satrio, 2018](#)).

This paper addresses three research questions. First, how has Indonesia's post-Reformasi legal transformation reshaped the rule of law? Second, how does legal pluralism affect constitutional rights and regulatory certainty? Third, what legal reforms can strengthen accountability, participation, and coherence without erasing Indonesia's plural normative foundations? The paper contributes by connecting legal pluralism, constitutional review, anti-corruption, business regulation, and criminal-law reform in one integrated analysis. Its main claim is that Indonesia's legal challenge is not simply weak legality; it is a complex governance problem generated by the interaction of plural normative sources, fragmented judicial authority, variable legal reasoning, and high-stakes political and economic reform.

The argument is developed in eight parts. After explaining the method and conceptual framework, the paper outlines the historical evolution of Indonesian law. It then examines legal pluralism and rights, constitutional review and judicial governance, anti-corruption institutions, regulatory governance and business law, and criminal law in the digital era. The conclusion proposes a reform agenda designed to support democratic constitutionalism and legal certainty while recognizing Indonesia's social diversity.

## 2. METHODOLOGY

This study uses a qualitative doctrinal and socio-legal literature review. Doctrinal analysis is appropriate because the paper examines constitutional structure, statutory reform, judicial review, and legal principles. Socio-legal analysis is also necessary because Indonesian law cannot be understood only as written doctrine;

it must be studied in relation to institutions, political incentives, legal culture, plural social norms, and enforcement practices. The method therefore combines analysis of legal texts with synthesis of peer-reviewed scholarship on how law functions in practice.

The primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law No. 1 of 2023 concerning the Criminal Code, Law No. 6 of 2023 concerning Job Creation, and Constitutional Court decisions related to formal legislative review and digital defamation. The secondary literature is drawn mainly from peer-reviewed journals and scholarly outlets that are commonly indexed in Scopus and/or Web of Science, including *Asian Journal of Comparative Law*, *Asian Journal of Law and Society*, *Bulletin of Indonesian Economic Studies*, *Democratization*, *Hague Journal on the Rule of Law*, *Journal of Legal Pluralism and Unofficial Law*, *Journal of Energy & Natural Resources Law*, *New Criminal Law Review*, *Pacific Affairs*, *Sydney Law Review*, and *Constitutional Review*. This source strategy responds to the need for internationally recognized scholarship while retaining Indonesia-focused legal analysis.

The review is interpretive rather than statistical. It does not claim to measure legal performance quantitatively or to provide a complete history of Indonesian law. Instead, it synthesizes recurring themes across the literature: legal fragmentation, judicial review, rights protection, legal pluralism, anti-corruption reform, and regulatory governance. The selection of sources prioritizes scholarship that has shaped debates on Indonesian constitutionalism, decentralization, criminal justice, and business regulation. A limitation is that the paper does not include original interviews, court observation, or survey data. Future research could test the arguments through empirical study of judicial behavior, local regulation implementation, or business compliance experiences in specific provinces.

### **3. CONCEPTUAL FRAMEWORK**

The rule of law in Indonesia should be understood in both formal and substantive terms. Formally, the rule of law requires that state action be authorized by law, that rules be public and prospective, that legal institutions apply rules consistently, and that courts be capable of reviewing official action. Substantively, the rule of law requires rights protection, equality before the law, meaningful access to justice, and safeguards against arbitrary or politicized authority. Indonesia's constitutional system contains both dimensions: it emphasizes legality and state authority, but also incorporates rights guarantees and judicial review. The central problem is that these dimensions do not always reinforce one another. Statutes may be enacted rapidly without meaningful participation, regulations may conflict across governmental levels, and judicial review may be limited by institutional boundaries.

Legal pluralism is the second concept. Indonesia's legal order includes national statutes, administrative regulations, judicial decisions, Islamic legal institutions in certain fields, and adat or customary law. Pluralism is not an anomaly; it reflects Indonesia's social diversity and constitutional identity. However, pluralism can also produce uncertainty when different normative orders make competing claims. [Crouch \(2012\)](#) shows how law and religion can become contested in blasphemy disputes, while [Butt \(2018\)](#) illustrates how Islamic criminal-law issues can vary across courts. [Utama et al. \(2024\)](#) demonstrate that teaching adat law remains a live challenge for Indonesian legal education, suggesting that pluralism is not merely historical but also pedagogical and institutional.

Regulatory governance is the third concept. In a decentralized and investment-sensitive economy, law must not only express political values; it must also generate predictable rules, fair procedures, and institutional coordination. The Job Creation Law demonstrates the difficulty of pursuing economic reform through highly centralized statutory redesign. [Mahy \(2022\)](#) argues that the omnibus approach altered legal hierarchy and labor regulation in ways that triggered constitutional litigation and political controversy. From a governance perspective, the problem is not simply whether regulation should be pro-investment or pro-labor. It is whether rulemaking is transparent, participatory, coherent, and subject to effective review. Regulatory governance therefore links business management concerns with constitutional legality and administrative accountability.

These three concepts are mutually dependent. Rule of law without attention to pluralism may impose uniformity that ignores social realities. Pluralism without constitutional rights may legitimate discrimination or arbitrary local authority. Regulatory reform without meaningful participation may produce formal legality but weak legitimacy. The analytical framework used in this paper therefore evaluates Indonesian law according to four criteria: institutional coherence, rights compatibility, participatory legitimacy, and practical enforceability.

### **3.1. Historical Evolution of the Indonesian Legal System**

Indonesia's legal system emerged from a layered history of colonial codification, nationalist constitutionalism, authoritarian state-building, and democratic reform. Dutch colonial rule introduced civil-law forms, codes, bureaucratic legality, and legal pluralism structured by racial and status categories. After independence, the 1945 Constitution provided the formal constitutional foundation, but legal development was shaped by political struggle, guided democracy, and the centralized New Order. During the New Order, law often served as an instrument of executive control rather than an independent constraint. Courts were formally present but institutionally weak, and legal certainty frequently depended on bureaucratic and political power rather than judicial enforcement.

The fall of the New Order in 1998 transformed legal reform into a central democratic project. Constitutional amendments introduced a stronger separation of powers, rights guarantees, direct presidential elections, a reconfigured legislature, and a new Constitutional Court. Decentralization redistributed authority to regional governments, reflecting both democratic demands and the need to manage a diverse archipelagic state. These changes moved Indonesia away from highly centralized authoritarian legality and toward a more plural institutional order. Yet the shift also created new legal problems: overlapping authority, uneven local capacity, inconsistent regulation, and uncertainty over the hierarchy of rules.

Legal transplantation has been a recurring feature of reform. Indonesia has borrowed institutional models and legal ideas from many sources, including civil-law systems, constitutional courts, administrative reforms, anti-corruption models, and economic regulatory frameworks. However, [Bedner \(2013\)](#) cautions that transplantation is difficult where legal scholarship, judicial reasoning, and doctrinal method do not provide stable foundations for reception. Imported institutions may exist formally but operate differently in practice because of local legal culture, political incentives, and administrative capacity. This insight is crucial for evaluating Indonesian reforms: success depends not only on enacting statutes or creating institutions, but also on how judges, lawyers, officials, and citizens interpret and use them.

The Constitutional Court became one of the most important products of Reformasi. It has reviewed statutes, resolved constitutional disputes, adjudicated election matters, and influenced major policy areas. At the same time, the Supreme Court retained authority over subordinate regulations and ordinary judicial administration. This division created a distinctive judicial review regime that has generated both innovation and gaps. [Roux \(2018\)](#) situates this regime in comparative perspective, emphasizing the need for a coherent account of constitutional authority. [Lindsey \(2018\)](#) argues that the separation between constitutional review of statutes and review of subordinate regulations creates a hole in the constitutional system because unconstitutional policies can be implemented through regulations that are not effectively integrated into constitutional review.

Decentralization further complicated legal hierarchy. Local governments gained authority to enact regulations, raise revenues, and manage local affairs. This increased democratic responsiveness but also produced regulatory proliferation. [Butt \(2010\)](#) describes regional autonomy as producing legal disorder when local rules conflict with national laws, burden investment, or exceed local authority. [Butt and Parsons \(2012\)](#) show how local tax regulation can affect investment in decentralized Indonesia. Thus, post-Reformasi law has been shaped by a paradox: democratization created more legal institutions and more sites of lawmaking, but also multiplied the points at which legal uncertainty could arise.

### **3.2. Legal Pluralism, Religion, Adat, and Rights**

Legal pluralism is central to Indonesia's constitutional and social identity. National ideology recognizes unity within diversity, while the legal system continues to accommodate adat, Islamic law in certain domains, regional autonomy, and special arrangements such as Aceh. Pluralism can support local legitimacy and cultural recognition. It can also create difficult questions about equality, due process, gender justice, minority rights, and legal certainty. The normative challenge is therefore not whether Indonesia should be plural; it is how pluralism should be governed within a constitutional democracy.

Adat law is especially important because it connects law to local communities, land, inheritance, dispute resolution, and identity. However, adat is not a fixed body of rules. It is interpreted by local actors, state officials, courts, academics, and political elites. [Bedner and Vel \(2021\)](#) show that legal education plays a major role in shaping how Indonesian lawyers understand legal categories and plural sources of law. [Utama et al. \(2024\)](#) argue that adat law teaching must be renewed so that students understand both the social embeddedness of customary law and its interaction with national law. This educational dimension matters because judges and lawyers often translate living norms into state legal categories, and that translation can either protect communities or distort them.

Religious law and religiously inflected regulation raise equally complex issues. [Crouch \(2012\)](#) examines the Constitutional Court and the blasphemy law, showing how constitutional adjudication can become a forum for conflicts over religion, minority protection, and state neutrality. [Butt \(2018\)](#) analyzes religious conservatism and Islamic criminal law through the experience of three courts, revealing that judicial responses are not uniform and that religiously framed claims may be mediated differently depending on jurisdiction, doctrine, and institutional context. These studies demonstrate that religious pluralism is not simply a cultural matter; it is embedded in court structure, statutory interpretation, and constitutional rights.

The new Criminal Code adds another layer to the pluralism debate because it recognizes living law in certain circumstances while also codifying morality and public-order offenses. [Butt \(2023\)](#) asks whether the new code indigenizes and democratizes Indonesian criminal law. The answer is ambivalent. On one hand, replacing colonial criminal law and acknowledging Indonesian social norms can be understood as postcolonial legal development. On the other hand, broad or vague recognition of living law may create unequal criminal liability, particularly if local norms are not filtered through constitutional rights, legality, and proportionality. A democratic legal system cannot treat all social norms as automatically enforceable simply because they are locally recognized.

Rights-sensitive pluralism should therefore be the guiding principle. Under this approach, adat and religious norms may be recognized when they support community identity, restorative justice, or local legitimacy, but they must be limited when they violate constitutional rights, discriminate against women or minorities, undermine due process, or create unpredictable criminal liability. This approach does not reject pluralism; it constitutionalizes it. It allows Indonesia to maintain its plural legal identity while ensuring that plural sources of law remain compatible with equality, legal certainty, and human dignity.

### **3.3. Constitutional Review and Judicial Governance**

Constitutional review is one of the strongest symbols of Indonesia's post-Reformasi transformation. The Constitutional Court has reviewed statutes, shaped election law, addressed major economic and social disputes, and influenced the balance between central and regional authority. The Court's existence signals that statutes are no longer immune from constitutional scrutiny. Yet the effectiveness of constitutional review depends on jurisdiction, judicial reasoning, compliance, and the relationship between constitutional adjudication and ordinary courts.

Indonesia's bifurcated review structure creates a recurring problem. The Constitutional Court reviews statutes against the Constitution, while the Supreme Court reviews regulations below statutes against higher regulations. [Roux \(2018\)](#) argues that Indonesia's judicial review regime requires a clearer theoretical account because the authority to invalidate laws is divided in ways that can affect constitutional supremacy. [Lindsey](#)

(2018) goes further, arguing that the split leaves a gap when unconstitutional policies are embedded in subordinate regulations. If a statute is constitutional on its face but implemented through rights-violating regulations, constitutional protection can become indirect or incomplete. This problem is especially important in a decentralized state where regional and ministerial rules can have major practical effects.

The Constitutional Court has also reshaped decentralization. Butt (2019b) shows that the Court's decentralization jurisprudence may reconfigure regional autonomy, sometimes improving coherence but also potentially centralizing authority. This illustrates a broader tension: courts can correct legal disorder, but they can also shift policy choices from elected institutions to judicial forums. Constitutional review is therefore both a legal safeguard and a political institution. Its legitimacy depends on transparent reasoning, stable doctrine, and public trust.

Judicial reasoning is a persistent concern. Butt (2019a) examines reasoning and review in the Supreme Court, while Butt (2021b) explores Indonesian perspectives on what makes a good judge. These studies show that legal quality is not only a matter of formal independence. It also requires well-reasoned judgments, consistent doctrine, professional ethics, and institutional capacity. Bedner (2013) similarly emphasizes that weak jurisprudential method can obstruct legal development. In civil-law systems, statutes are central, but judicial interpretation still matters because statutes are often broad, contested, or implemented through complex regulations. The more Indonesia relies on constitutional review, administrative litigation, and specialized courts, the more important judicial reasoning becomes.

Specialized courts are another major component of judicial governance. Indonesia has created specialized forums for anti-corruption, commercial disputes, human rights, labor, and other matters. Crouch (2021) argues that specialized courts may address expertise and independence problems, but they cannot substitute for deeper reform of judicial culture. Specialized institutions may be useful when general courts lack technical competence or credibility, yet specialization can also fragment jurisdiction, create inconsistent standards, or isolate reform rather than transform the broader judiciary. This observation is relevant to anti-corruption courts and business-related dispute resolution, where expertise and trust are both essential.

The reform implication is that Indonesia needs a more integrated system of judicial review and judicial governance. One option is to create a referral mechanism that allows ordinary courts or the Supreme Court to refer constitutional questions about subordinate regulations to the Constitutional Court. Another is to strengthen doctrinal coordination between the two high courts through published guidelines, joint jurisprudential mapping, and a unified digital database of decisions. A third is to improve the transparency of judicial appointments, ethics enforcement, and judgment publication. Constitutional supremacy cannot depend only on the existence of a constitutional court; it requires an ecosystem in which judges reason openly, decisions are accessible, and regulatory conflicts can be resolved efficiently.

### **3.4. Anti-Corruption Reform and Institutional Accountability**

Corruption is one of the most important tests of the rule of law in Indonesia. Reformasi produced strong anti-corruption expectations because authoritarian legal institutions had often been associated with patronage, rent-seeking, and weak accountability. The Corruption Eradication Commission became a symbol of post-authoritarian legal reform, while specialized anti-corruption courts were designed to improve credibility in corruption cases. Yet the anti-corruption agenda has faced repeated political and institutional resistance.

Butt (2011) described anti-corruption reform in Indonesia as potentially facing an obituary, reflecting concern that early reform gains were vulnerable to political pushback and institutional weakening. The problem is not simply whether anti-corruption laws exist; Indonesia has extensive legal instruments. The deeper issue is whether enforcement bodies are independent, adequately resourced, protected from retaliation, and supported by courts that decide cases consistently. Crouch (2021) adds that specialized courts must be assessed in relation to judicial culture. If corruption is embedded in the broader legal system, specialized forums may improve some cases while leaving structural incentives intact.

Anti-corruption reform is closely connected to business regulation. Investors, public agencies, and citizens all depend on predictable licensing, procurement, taxation, and dispute resolution. Where corruption shapes administrative decisions, legal certainty decreases and compliance costs increase. Conversely, where anti-corruption enforcement is politicized or selective, legal predictability also suffers. A rule-of-law approach therefore requires both strong enforcement against corruption and procedural safeguards that prevent anti-corruption law from becoming an instrument of political competition.

The policy agenda should focus on institutional resilience. Anti-corruption agencies need appointment processes that reduce political capture, clear investigative authority, transparent case selection, and accountability mechanisms that protect due process without disabling enforcement. Courts need adequate resources and ethical safeguards, but also high-quality reasoning so that corruption judgments produce legal guidance rather than isolated outcomes. Public procurement and licensing should be digitized in ways that reduce discretionary bottlenecks while maintaining audit trails. In this sense, anti-corruption reform is not separate from administrative law or business governance; it is a foundation for regulatory credibility.

### **3.5. Regulatory Governance, Business Law, and Democratic Participation**

Indonesia's legal system is deeply connected to economic governance. Laws on investment, labor, natural resources, taxation, licensing, and decentralization shape business decisions and public welfare. The challenge is to build a regulatory environment that is coherent enough for investment and entrepreneurship, but democratic enough to protect workers, communities, and constitutional rights. The tension is visible in debates over Article 33 of the Constitution, natural resource control, regional taxes, and the Job Creation framework.

Butt and Lindsey (2008) show that economic reform in Indonesia is affected by constitutional interpretation, particularly Article 33, which concerns state control over natural resources and economic sectors important to the public. Siregar and Butt (2013) analyze the Oil and Natural Gas Law case and show that Constitutional Court decisions can have significant implications for resource governance. These cases demonstrate that business law in Indonesia is not merely technical commercial law. It is shaped by constitutional ideology, public welfare claims, state ownership debates, and the Court's understanding of economic democracy.

Decentralization has also affected business regulation. Regional autonomy allowed local governments to respond to local conditions, but it also created overlapping permits, local taxes, and regulatory burdens. Butt and Parsons (2012) examine local taxes and investment, while Butt (2010) describes the broader proliferation of local laws. For business actors, such fragmentation increases transaction costs and compliance uncertainty. For citizens, it can mean uneven protection and inconsistent public services. Regulatory harmonization is therefore essential, but harmonization should not simply mean recentralization. It should mean clearer allocation of authority, accessible rule databases, conflict-resolution mechanisms, and transparent standards for evaluating local regulations.

The Job Creation Law illustrates the stakes of national regulatory redesign. Mahy (2022) argues that the Omnibus Law changed legal hierarchy and labor regulation while generating judicial review and political controversy. Mochtar et al. (2024) frame the participation problem as a shift from meaningful to meaningless participation, emphasizing that large-scale legislation can lose legitimacy when public involvement is procedural rather than substantive. The Constitutional Court's formal review of the Job Creation Law showed that legislative procedure is not a minor technicality. In a constitutional democracy, procedure is part of legality because it determines whether affected groups can understand, contest, and influence legal change.

For business management and public policy, the lesson is that regulatory efficiency cannot be achieved by bypassing participation. Fast legislation may reduce short-term transaction costs for government, but it can increase long-term legal uncertainty if courts, workers, regional governments, civil society, or investors question the law's legitimacy. A more sustainable approach would institutionalize regulatory impact assessment, public consultation, transparent drafting, and post-enactment review. Regulatory impact

assessment should include not only economic cost-benefit analysis but also constitutional rights, gender, labor, environmental, and regional autonomy impacts. Open consultation should be designed to generate evidence, not merely to satisfy formal procedure.

The Indonesian state has strong incentives to simplify licensing and attract investment, particularly in infrastructure, digital commerce, manufacturing, and natural resources. However, legal certainty for investors and rights protection for citizens are not opposites. Both require predictable rules, transparent administration, and credible review. A governance approach to business law therefore treats legality, participation, and economic development as mutually reinforcing.

### **3.6. Criminal Law, Digital Rights, and Civil Liberties**

Criminal law reform is a major test of Indonesia's constitutional identity. The new Criminal Code replaces the colonial criminal code and represents a long-term effort to nationalize criminal law. Butt (2023) explains the code as an attempt to indigenize and democratize Indonesian criminal law, but also highlights concerns about the breadth of some provisions. The code recognizes living law and includes provisions related to morality, public order, and insult. These provisions raise questions about legality, proportionality, selective enforcement, and the protection of speech and private life.

A rights-based critique does not require rejecting criminal law reform. Replacing colonial law is a legitimate legal-development objective. The question is how criminal law should be drafted and applied in a constitutional democracy. Criminal offenses must be clear enough that citizens can understand prohibited conduct, narrow enough to prevent arbitrary enforcement, and proportionate to legitimate public aims. Where offenses depend on vague concepts such as public morality, insult, or living law, courts and prosecutors need strong interpretive safeguards. Otherwise, criminal law may become a tool for local pressure, political retaliation, or social control.

Digital law compounds these issues. Indonesia's Electronic Information and Transactions framework has been controversial because online defamation and insult provisions may chill speech. Constitutional Court litigation on digital defamation has narrowed parts of this landscape by emphasizing that defamation complaints should be tied to the person allegedly defamed. This development is significant because digital expression is now central to political participation, consumer criticism, academic debate, and business reputation. Overbroad cyber-defamation law can suppress whistleblowing, journalism, and public complaints about services or government performance. At the same time, the state has legitimate interests in addressing fraud, harassment, and harmful online conduct. The legal challenge is to distinguish genuine harm from criticism and democratic accountability.

Criminal procedure is equally important. Butt (2021a), through analysis of the Jessica Wongso case, shows how criminal justice can become a public spectacle and a test of evidentiary reasoning, media influence, and institutional trust. Criminal justice reform must therefore include not only substantive code revision but also evidence standards, prosecutorial discretion, judicial training, access to counsel, and public communication. A modern Indonesian criminal-law system should protect victims and public order while maintaining legality, presumption of innocence, and fair trial rights.

The reform agenda should include a human-rights audit of criminal and digital offenses, prosecutorial guidelines for speech-related cases, constitutional interpretation that narrows vague offenses, and public reporting on enforcement patterns. Such measures would not prevent Indonesia from enforcing criminal law; they would make enforcement more predictable, rights-compatible, and legitimate.

### **3.7. Policy Recommendations**

The analysis suggests six interrelated reforms. First, Indonesia should address the split jurisdiction of judicial review. The country needs a mechanism through which constitutional questions about subordinate regulations can be heard coherently. This could involve referral from the Supreme Court to the Constitutional Court, expanded constitutional interpretation, or a specialized procedure for regulations that directly affect

constitutional rights. The aim is not to weaken the Supreme Court but to prevent constitutional protection from being fragmented across institutional boundaries.

Second, legal pluralism should be governed through explicit constitutional filters. Recognition of adat, living law, and religiously influenced norms should be conditioned on legality, equality, due process, and proportionality. Courts should require evidence of the relevant norm, community acceptance, and compatibility with constitutional rights. This approach would preserve pluralism while preventing local or moral norms from overriding fundamental protections.

Third, Indonesia should strengthen judicial reasoning and legal education. Judgment publication, structured reasoning, citation practice, and doctrinal consistency are essential for legal certainty. Law schools should teach statutory interpretation, constitutional reasoning, socio-legal method, and plural legal analysis in integrated ways. This recommendation responds to the concerns raised by [Bedner \(2013\)](#), [Bedner and Vel \(2021\)](#), and [Utama et al. \(2024\)](#) about the relationship between legal education and legal-system performance.

Fourth, regulatory governance should be redesigned around meaningful participation. Major legislation should be preceded by accessible drafts, explanatory memoranda, consultation records, and regulatory impact assessments. Participation should be evaluated by whether affected groups can influence policy, not merely by whether meetings occurred. This is especially important for labor, environmental, land, natural-resource, and investment legislation.

Fifth, anti-corruption institutions should be protected as part of the rule-of-law infrastructure. Independence, transparent appointments, procedural accountability, and court capacity are all necessary. Anti-corruption reform should be linked to procurement, licensing, digital administration, and public audit systems because corruption often occurs at the intersection of public authority and economic opportunity.

Sixth, criminal and digital law should be interpreted narrowly to protect civil liberties. Speech-related offenses should require clear harm, personal standing, and proportional sanctions. Living-law offenses should be applied only when they satisfy constitutional rights and legality requirements. Prosecutors and courts should publish enforcement data so that the public can assess whether criminal law is being applied equally or selectively.

#### **4. CONCLUSION**

Indonesian law is best understood as a dynamic and plural constitutional project. Since Reformasi, Indonesia has built significant legal institutions: a Constitutional Court, specialized courts, decentralization mechanisms, anti-corruption bodies, and new statutory frameworks in business, labor, criminal law, and digital regulation. These developments demonstrate that law has become central to democratic governance. Yet the same developments also reveal structural weaknesses: fragmented judicial review, uneven legal reasoning, regulatory proliferation, contested participation, anti-corruption vulnerability, and unresolved tensions between plural norms and constitutional rights.

The paper's central argument is that Indonesia's rule-of-law problem is not the absence of law. Indonesia has many laws, many courts, and many reform programs. The problem is coherence, legitimacy, and rights-compatible implementation. Legal pluralism can enrich constitutional identity, but it requires rights filters. Decentralization can improve responsiveness, but it requires harmonized regulation. Economic reform can support development, but it requires meaningful participation and constitutional accountability. Criminal law can express national sovereignty, but it requires legality and proportionality. Anti-corruption law can strengthen public trust, but only if enforcement institutions remain independent and courts are credible.

For researchers, Indonesia offers a rich case for studying how law mediates democracy, business regulation, pluralism, and state capacity. For policymakers, the lesson is that legal reform should move beyond episodic statutory overhaul. Reform must focus on institutional design, legal reasoning, participatory rulemaking, and enforcement culture. A rights-sensitive, coherent, and participatory legal system would not

eliminate Indonesia's complexity; it would make that complexity governable. This is the central task for Indonesian law in the coming decade.

### **Ethical Approval**

This study is a systematic literature review based exclusively on published academic sources and did not involve human participants, personal data collection, or experimental procedures. Therefore, formal ethical approval was not required.

### **Informed Consent Statement**

Not applicable because this study did not involve human participants.

### **Authors' Contributions**

Not applicable

### **Disclosure Statement**

The author declares no potential conflict of interest.

### **Data Availability Statement**

No primary dataset was generated for this study. All materials analyzed are available in the published sources cited in the reference list.

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### **Notes on Contributor**

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