



The Role of Parliament in Emergency Powers: A Comparative Study of Indonesia and the United Kingdom

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Abstract

Abstract: This research examines parliament's role in supervising executive emergency powers, comparing Indonesia's presidential system with the United Kingdom's parliamentary model. Grounded in debates on emergency constitutional law and parliamentary sovereignty, this normative legal research uses a comparative approach to analyse constitutional frameworks and legislative structures. Data were collected through a comprehensive literature review of secondary materials, including relevant emergency statutes. The findings show that Indonesia relies on a codified model in which the President has unilateral authority to issue Perpu based on subjective urgency, delaying DPR scrutiny to a retrospective stage. Conversely, the UK operates under parliamentary supremacy, utilising the Civil Contingencies Act 2004 and fast-track legislation to enforce immediate ex-ante oversight. In conclusion, the structural differences show that a presidential system with a dominant executive coalition carries a higher risk of turning legislative oversight into a symbolic rubber stamp during crises.

Keywords: Parliament, Executive. Emergency Power

A. Introduction

Comparative Constitutional Law is a field of study known as *vergelijkendestaatswetenschap* or comparative government, while M. Nasroen calls it "the science of comparative government"¹. The purpose of studying comparative constitutional law is not merely to understand the structure of foreign legal systems, nor is it merely to describe the differences, similarities, and issues encountered. Rather, the

¹ Eriton, M. (2021). Perbandingan hukum tata Negara. Universitas Jambi. <http://eriton.staff.unja.ac.id/2021/02/16/perbandingan-hukum-tata-negara/>

goal is to broaden one's perspective and gain a deeper understanding – both conceptual and normative – of domestic law in relation to foreign law.

The legal systems of Indonesia and the United Kingdom differ, yet they share similarities. In Indonesia, the legal system is based on Pancasila and is often described as hybrid². Meanwhile, the United Kingdom's legal system is Common Law, rooted in customs and societal values. This contrasts with Indonesia, which emphasises legal pluralism comprising various types of legal systems adapted to the ideology of Pancasila.

In terms of state structure, both Indonesia and the United Kingdom are unitary states, but their systems and forms of government differ. Indonesia is divided into 38 provinces, comprising 5 special provinces and 33 regular provinces, whereas the United Kingdom comprises four constituent countries. In addition, the two nations have different systems of government: Indonesia is a republic, while the United Kingdom is a constitutional monarchy. A republic is a form of government in which the course of the nation is heavily influenced by the people—including the principle that sovereignty resides with the people—which is the defining characteristic of a republic. In contrast, a constitutional monarchy is a form of government in which a select group of people, primarily the royal family and the nobility, still influences the nation's course. However, the constitution now limits this influence.

Indonesia adopts a presidential system, where the president serves as both head of state and head of government. At the same time, the United Kingdom follows a parliamentary system, with the prime minister leading the government and the monarch serving as head of state. Indonesia's constitution is written, whereas the United Kingdom's constitution is unwritten. In the United Kingdom, "unwritten" does not mean it lacks a written constitution; it has one, but it is not contained in a single official document. Indonesia and the United Kingdom both have bicameral (two-chamber) legislative structures. In Indonesia, this bicameral system consists of the DPR and the DPD. The DPR provides political representation, while the DPD represents the regions³. In the United Kingdom, the bicameral system consists of the House of Commons and the House of Lords. The House of Commons is the centre of parliamentary power. Its members are directly accountable to the people who elect them. The House of Lords is not elected by the people but is composed of individuals considered senior and distinguished in British society; generally, it consists of members of the nobility whose lineages date back to the ancient British aristocracy.

² Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara* (Jakarta: Rajawali Pers, 2019), hlm. 72.

³ Saldi Isra, *Pergeseran Fungsi Legislasi: Pasca-Amendemen UUD 1945* (Jakarta: Rajawali Pers, 2021), hlm. 210.

After examining comparisons regarding the form of the state, the state's foundation, the system of government, and the state's structure—particularly in the context of Indonesia's Emergency Constitutional Law—the country grants extensive emergency powers to the President through the issuance of Government Regulations instead of Law (Perpu) pursuant to Article 22 of the 1945 Constitution.³ Although the President's discretionary authority in assessing "compelling emergency circumstances" is absolute at the outset, the People's Representative Council (DPR) acts as a supervisory safeguard at the subsequent stage to grant or deny approval of such a Perpu during the next legislative session. In contrast to the United Kingdom, which operates under a parliamentary system, the handling of emergency conditions in the UK is governed by specific legislation such as the Civil Contingencies Act 2004, which grants the executive branch (the Prime Minister and the Cabinet) the authority to issue emergency regulations; however, Parliamentary oversight in the United Kingdom—comprising the House of Commons and the House of Lords—is strictly enforced through periodic review requirements, whereby any emergency regulation automatically lapses if it does not receive parliamentary approval within seven days of being submitted. These fundamental differences in constitutional structure, form of government, and models of emergency legislation make a comparative study between Indonesia and the United Kingdom important for identifying an ideal formula for legislative oversight that minimises the risk of abuse of power during times of crisis⁴. This study's problem formulation is: How do the juridical constructions and Parliamentary oversight mechanisms compare with executive emergency powers under emergency constitutional law in Indonesia and the UK, and how do the differences in the systems of government (presidential and parliamentary) in Indonesia and the United Kingdom affect the effectiveness of parliamentary oversight in preventing abuse of power by the executive during a state of emergency?

B. Method

The researcher used a normative legal approach, employing a comparative law approach. This method was selected because it helps identify legal relationships and status, assess whether an event complies with the law, and determine appropriate solutions. The comparative law approach examines differences between Indonesia and the United Kingdom in legal foundations, legislation, state and government systems, constitutional arrangements, and legislative structures⁵.

⁴ Susi Dwi Harijanti, "Konstitusionalisme dalam Situasi Kedaruratan: Perspektif Perbandingan," *Jurnal Hukum Tata Negara*, Vol. 8, No. 1 (2024): 18.

⁵ Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Perss, 2020).

Data collection involved a literature review, including systematically collecting, reading, and analysing written materials related to the topic. The study relies on secondary data sources, including primary legal materials such as legislation and secondary legal materials such as books, journals, articles, and previous research. Using a comparative approach, it examines the differing roles of the legislatures in Indonesia and the United Kingdom in responding to emergencies within their respective systems of government. It also uses a legal approach to examine how relevant laws have evolved and what they cover. In contrast, a conceptual approach helps explain the theoretical foundations of parliament's role during emergencies. This study presents its findings descriptively and analytically, aiming to clearly explain the regulations currently in force, evaluate the extent to which these regulations are complied with and how effective they are, and compare them to provide useful insights for improving policies in both countries.

C. Result & Discussion

The comparison between the legal construction and parliamentary oversight mechanisms of executive emergency powers in Indonesia and the United Kingdom reflects the fundamental differences between a presidential system with a written constitution and a parliamentary system based on parliamentary supremacy (parliamentary sovereignty) without a single codified constitution.

1. Comparison of the juridical construction and Parliamentary oversight mechanisms of executive emergency powers based on emergency constitutional law in Indonesia and the UK

The legal construction of executive emergency powers in Indonesia is based on written constitutional provisions that are regulated in a dualistic manner in the 1945 Constitution of the Republic of Indonesia. The first legitimacy stems from Article 12 of the 1945 Constitution (state of emergency), in which the President has full authority to declare a "state of danger" whose level of emergency (civil, military, or war) is further regulated through derivative regulations such as Law Number 23/Prp/1959.⁶ The second legitimacy is contained in Article 22 of the 1945 Constitution, which grants the President the subjective right to issue a Government Regulation instead of a Law (Perppu) in the event of "compelling emergencies." In this construction, the President acts as a temporary legislator to save the country without requiring initial approval from

⁶Asshiddiqie, J. (2007). *Emergency Constitutional Law*. PT RajaGrafindo Persada.

parliament, with the objectivity of the emergency condition tested only later.⁷ The characteristics of emergency constitutional law in Indonesia rely heavily on subjective executive interpretation at the start of a crisis, before formal legislative institutions become involved.⁸

In contrast, the United Kingdom does not recognise a codified emergency constitution in a single document, instead relying on parliamentary sovereignty as the basis for its legal construction. The legitimacy of executive emergency measures in the UK primarily stems from formal legislative instruments established by Parliament, such as the Civil Contingencies Act (CCA) 2004, which authorises the Cabinet to create Emergency Regulations to address serious threats to public welfare or national security.⁹ In addition to using these statutory emergency regulations, the UK often addresses crises by expediting the process of creating regular legislation through the Fast-Track Legislation (FTL) mechanism, as implemented in the Coronavirus Act 2020.¹⁰ Through this FTL construction, the executive does not issue unilateral regulations like a Government Regulation instead of Law (Perppu) in Indonesia, but rather asks parliament to shorten the normal legislative procedure to just a few days, so that the government's emergency measures remain based on the legitimacy of parliament-made laws from the onset of the crisis.

2. The Implications of Differences in Governance Systems (Presidential and Parliamentary) in Indonesia and the United Kingdom on the Effectiveness of Parliamentary Oversight in Preventing Abuse of Power During Emergencies

2.1. Executive-Legislative Relations and the Position of Parliament in Emergency Power Structures

Fundamental differences between Indonesia's presidential system and the United Kingdom's parliamentary system significantly shape how emergency powers are exercised and monitored¹¹. In Indonesia's presidential system, executive authority is

⁷ Ayuni, Q., Arinanto, S., Arsil, F., & Indrati, M. F. (2022). *Concept and implementation on the state of emergency in Indonesia: Outlook to strengthen checks and balances during crisis*. *Revista de Investigações Constitucionais*, 9(1), 11-34.

⁸ Suhariyanto, D. (2021). *Problems of establishing a Government Regulation in Lieu of Law (Perppu) regarding a state of emergency in the Indonesian legal system*. *USM Law Review Journal*, 4(1), 190-205.

⁹ Aryanto, B. (2024). *Fast-track legislation in a state of emergency: A comparative study of Indonesia and the United Kingdom*. *Journal of Constitutional Governance Studies*, 3(1), 45-62.

¹⁰ Kaharuddin, K. (2024). *Fast track legislation without a legal track: A comparative critique of accelerated law-making*. *Diponegoro Law Review*, 9(2), 112-130.

¹¹ A. V. Dicey, *Introduction to the Study of the Law of the Constitution*, 8th ed. (London: Macmillan, 1915), 37-39.

institutionally concentrated in the Presidency, where Article 12 of the 1945 Constitution empowers the President to declare a "state of danger"¹² without detailed substantive thresholds, temporal limits, or mandatory institutional mechanisms for control¹³. Conversely, the United Kingdom operates under the principle of Parliamentary Supremacy¹⁴, where the executive (the Prime Minister and Cabinet) is part of Parliament and directly accountable to it¹⁵. The absence of a single written constitution in the UK makes the balance of power more flexible through convention. Yet, it maintains the legislature as the supreme authority that can make or unmake any law¹⁶.

The primary implication of this difference lies in the source of legitimacy for emergency actions. In the United Kingdom, executive emergency actions almost always require Parliament's legal support through expedited legislative mechanisms¹⁷ to maintain democratic accountability. In Indonesia, the constitutional structure allows the President to act unilaterally by first issuing Government Regulations instead of Law based on a subjective assessment of "compelling urgency." At the same time, Parliament becomes involved only later, during the approval or rejection stage (*ex-post*). This creates a structural risk where executive power tends to expand during crises due to a lack of objective parameters and strict institutional controls from the early stages of an emergency declaration¹⁸.

2.2. Emergency Law-Making Mechanisms: Perppu vs Fast-Track Legislation

The emergency legal instruments utilised by both countries reflect varying levels of oversight effectiveness in preventing the abuse of power. Indonesia employs the Perppu instrument under Article 22 of the 1945 Constitution¹⁹, which essentially reflects executive power to resolve emergencies through regulations equivalent to law without

¹² (The 1945 Constitution of the Republic of Indonesia, art. 12)

¹³ Ahmad Ainun Najib. "Constitutional Control of Emergency Powers in Indonesia's Presidential System." Volume 5, Number 1, March 2026.

¹⁴ Dicey, *Introduction to the Study of the Law of the Constitution*, 38.

¹⁵ Syauiyid Alamsyah dan Nurdin, "Lembaga Representatif Publik: Relasi Kekuasaan dalam Perspektif Perbandingan Sistem Presidensial vs Sistem Parlementer Studi Kasus Indonesia dengan Inggris," *Jurnal Adhikari* 2, no. 3 (2023)

¹⁶ McGiverin, B. (2008). *In the face of danger: A comparative analysis of the use of emergency powers in the United States and the United Kingdom in the 20th century*. *Indiana International & Comparative Law Review*, 18(1)

¹⁷ House of Lords Constitution Committee, *Fast-track Legislation: Constitutional Implications and Safeguards*, 15th Report of Session 2008–09 (London: The Stationery Office, 2009)

¹⁸ Najib, A. A. (2026). *Constitutional control of emergency powers in Indonesia's presidential system*. Volume 5(1)

¹⁹ Constitution of the Republic of Indonesia 1945, Article 22

initial involvement of the House of Representatives (DPR)²⁰. A major issue with this mechanism is the President's subjective interpretation of the phrase "compelling urgency," which is often multifaceted and lacks an objective measure. Parliamentary oversight of a Perppu is retrospective, meaning the DPR can only accept or reject the Perppu in its entirety in the following session, without the ability to amend its substance²¹ partially.

In contrast, the United Kingdom applies the Fast-Track Legislation (FTL) method, which allows emergency bills to be passed quickly while still undergoing the normal legislative stages in both houses of Parliament. The FTL mechanism requires the government to provide oral and written statements explaining why the fast track is necessary, justifying every element of the bill, and maximising the time available for parliamentary scrutiny. This procedure ensures oversight functions are preserved even during crises, as it requires the legislature to assess the urgency and proportionality of proposed policies before they become binding law²².

2.3. Effectiveness of Parliamentary Oversight in Times of Crisis: Coalition and Participation Challenges

The effectiveness of parliamentary oversight relies heavily on its ability to limit executive discretion to prevent it from devolving into a "constitutional dictatorship"²³. In the United Kingdom, oversight is considered more effective because of the tradition of sunset clauses, which ensure that extraordinary executive powers expire automatically within a set period unless Parliament explicitly extends them. This prevents the normalisation of prolonged states of emergency. The British Parliament also maintains deliberative quality through constitutional committees that continuously review the implementation of emergency powers to ensure citizens' rights are not sacrificed without careful planning²⁴.

²⁰ Aryanto, B. (2024). *Fast-track legislation in a state of emergency: A comparative study of Indonesia and the United Kingdom*. *Journal of Constitutional and Governance Studies*, 1(2), 172–204. <https://doi.org/10.20885/JCGS.vol1.iss2.art4>

²¹ Mawuntu, R. (2011). *Eksistensi peraturan pemerintah pengganti undang-undang dalam sistem norma hukum Indonesia*. *Jurnal Hukum Unsrat*, 19(5)

²² Aryanto, B. (2024). *Fast-track legislation in a state of emergency: A comparative study of Indonesia and the United Kingdom*. *Journal of Constitutional and Governance Studies*, 1(2), 172–204. <https://doi.org/10.20885/JCGS.vol1.iss2.art4>

²³ Arsil, F., & Ayuni, Q. (2020). Model pengaturan kedaruratan dan pilihan kedaruratan Indonesia dalam menghadapi pandemi COVID-19. *Jurnal Hukum & Pembangunan*, 50(2), 423–446. <https://doi.org/10.21143/jhp.vol50.no2.2588>

²⁴ Bayu Aryanto, "Fast-Track Legislation in A State of Emergency: A Comparative Study of Indonesia and The United Kingdom," *Journal of Constitutional and Governance Studies* 1, no. 2 (2024): 172–204, <https://doi.org/10.20885/JCGS.vol1.iss2.art4>

In Indonesia, parliamentary oversight during emergencies, such as the COVID-19 pandemic, has tended to weaken because large partisan coalitions dominate the DPR. When the parliamentary majority supports the government, oversight functions risk becoming merely symbolic or serving as a "rubber stamp" for the executive's agenda. This was evident in how quickly the DPR approved Perppu No. 1 of 2020²⁵ into permanent law within days, with little debate, despite the regulation significantly reducing the DPR's budgetary authority and limiting citizens' right to sue officials in the Administrative Court (PTUN). This shows that in a presidential system with absolute majority support, the separation of powers often fails to prevent executive overreach because the executive has co-opted legislative control over the policy agenda²⁵.

2.4. Implications for the Rule of Law and Human Rights Protection

Ineffective parliamentary oversight carries serious implications for the protection of Human Rights (HAM) and the principles of the Rule of Law. An ideal emergency governance system must balance state flexibility in facing crises with legal boundaries that remain judicially reviewable²⁶. In the UK, while Parliament is supreme, emergency policies must still respect proportionality and international commitments like the European Convention on Human Rights. If UK courts deem an emergency law incompatible with fundamental rights, they can declare that incompatibility, signalling Parliament to revise it²⁷.

In Indonesia, using emergency instruments without clear time limits and objective criteria risks creating a "legal grey zone". Legislative practices during the COVID-19 pandemic showed that emergency instruments were used to pass policy agendas not directly related to crisis management, such as the Omnibus Law on Job Creation²⁸, through simplified procedures that minimised public participation. The disregard for democratic procedures and for the protection of rights through administrative courts in implementing emergency policies reflects weaknesses in Indonesia's emergency legal framework, which still relies on the centralistic security paradigm inherited from Law

²⁵ Arsil, F., Ayuni, Q., & Mauleny, A. T. (2024). The disappearance of the legislative model: Indonesian parliament's experience in response to Covid-19. *Journal of Legislative Studies*, 30(3), 265–287. <https://doi.org/10.1080/13572334.2022.2067948>

²⁶ Ahmad Ainun Najib, "Constitutional Control of Emergency Powers in Indonesia's Presidential System," *Volume 5, No. 1* (March 2026): 154.

²⁷ Fitra Arsil & Qurrata Ayuni, "Model Pengaturan Kedaruratan dan Pilihan Kedaruratan Indonesia dalam Menghadapi Pandemi Covid-19", *Jurnal Hukum & Pembangunan*, Vol. 50 No. 2 (2020),

²⁸ Tim Lindsey, "Indonesia's COVID-19 Emergency Laws: Constitutional and Democratic Implications," *Journal of Indonesian Legal Studies* 5, no. 2 (2020)

No. 23 of 1959²⁹. Without reforms that strengthen the DPR's role from the declaration stage and mandate periodic evaluations, the risk of executive abuse of power will continue to haunt the stability of constitutional democracy in Indonesia³⁰

D. Conclusion

This comparative study provides a clear legal and institutional contrast between Indonesia's and the United Kingdom's emergency power frameworks, showing how their governance structures shape the effectiveness of parliamentary oversight in preventing executive overreach.

Regarding the juridical construction and oversight mechanisms, Indonesia relies on a codified, dualistic constitutional model under Articles 12 and 22 of the 1945 Constitution. Indonesia grants the President broad authority to declare emergencies and issue Government Regulations instead of Law (Perppu), with the House of Representatives (DPR) reviewing it afterwards. In contrast, the United Kingdom relies on parliamentary sovereignty, where emergency powers are exercised through laws such as the Civil Contingencies Act 2004 or Fast-Track Legislation and are subject to immediate parliamentary oversight by both the House of Commons and the House of Lords.

The structural differences between Indonesia's presidential system and the UK's parliamentary system profoundly impact the prevention of executive abuse of power during crises. In Indonesia, the institutional concentration of power in the presidency, combined with the dominance of large executive-backed partisan coalitions in the DPR, poses a significant risk of turning retrospective oversight into a symbolic "rubber stamp" exercise. This vulnerability can weaken checks and balances, potentially compromising human rights protections and creating "legal grey zones," as seen in the fast-tracked conversion of emergency regulations into permanent laws. In contrast, the UK's parliamentary model maintains a more resilient system of accountability. This resilience is supported by the executive's direct integration within Parliament, the mandatory inclusion of sunset clauses that prevent the normalisation of emergency states, and active committee evaluations that uphold the principle of proportionality.

²⁹ Law No. 23 Prp of 1959 concerning State of Emergency

³⁰ Ahmad Ainun Najib, "Constitutional Control of Emergency Powers in Indonesia's Presidential System," *Volume 5, No. 1* (March 2026)

Based on the research findings and comparative analysis, the following recommendations are proposed to enhance the accountability, proportionality, and democratic legitimacy of emergency governance:

1. Establishing Objective Thresholds and Temporal Limits: Perppu Indonesia should introduce clear constitutional or legislative amendments that set strict, objective parameters and precise time limits for any Perppu issued under Article 22 of the 1945 Constitution. Mandatory sunset clauses are vital to ensure that extraordinary executive powers expire automatically unless parliament explicitly extends them, preventing the prolonged expansion of executive authority.
2. Reforming Interim Parliamentary Evaluation Mechanisms. The Indonesian House of Representatives (DPR) should reform its internal procedural laws (*Tata Tertib*) to enable the formation of a specialised interim legislative committee. This committee should have the legal authority to continuously review and partially amend the substance of a Perppu during an active crisis, moving away from the restrictive, binary "all-or-nothing" retrospective approval mechanism currently practised.
3. Adopting Fast-Track Legislation Guardrails for Complex Crises. For future multi-sectoral crises, the Indonesian government and legislature should transition away from unilateral executive decrees and toward a structured, fast-track legislative model inspired by the United Kingdom's FTL framework. This mechanism would require the executive branch to submit comprehensive, detailed justifications to parliament before enactment, preserving the quality of democratic deliberation, safeguarding public participation, and protecting citizens' rights to judicial review through administrative courts even during national emergencies.

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