

## **The Structure of State Ministries in Indonesia's Presidential System: Prohibition of Dual Positions for Deputy Ministers**

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### **ABSTRACT**

This research aims to find out the extent of the effectiveness of the implementation of the ban on dual positions for Deputy Ministers in Indonesia. Deputy Ministers (*Wamen*) in the Indonesian government system were formed to assist the Minister to improve the effectiveness of state administration. This is in line with the provisions of Article 23 of Law Number 39 of 2008 concerning State Ministries, that Ministers and Deputy Ministers are prohibited from holding concurrent positions. However, in practice, this shows that there is several Deputy Ministers who are still holding dual positions. This research uses a normative research method with a legislative approach. The legal materials used in this study include primary legal materials consisting of relevant laws and regulations and legal documents, as well as secondary legal materials in the form of books, journals, and print and online media that are directly related to the research object. All these legal materials are collected through literature study techniques. Furthermore, the collected data is analyzed using a descriptive method to provide an in-depth and systematic explanation. The results of this study show that there are still many Deputy Ministers who hold dual positions in the SOE sector. The non-compliance of the Deputy Ministers shows arrogance and abuse of power in exercising their authority. Of course, this is contrary to existing regulations and mandates from the Constitution.

**Keywords:** *Ministry; Deputy Minister; Dual Positions.*

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### **INTRODUCTION**

After the amendment of the 1945 Constitution, the Indonesian government agreed to maintain the presidential system of government, as well as to improve the presidential system in Indonesia (Budiardjo, 2009, pp. 301, 303). In principle, the presidential system places executive power in the hands of the president as the head of state as well as the head of government. In this system, the president has the prerogative to appoint Ministers and Deputy Ministers who will be called Deputy Ministers. This appointment is contained in Law Number 39 of 2008 concerning State Ministries, which states that when there is a workload that requires special handling, the President can appoint a Deputy Minister to a specific Ministry (Rahmah et al. 2024; Saifulloh et al. 2025; Taflaga et al. 2020; Tanjung et al. 2026; Tiruneh 2015).

The position of Deputy Minister in the Indonesian government system was established to assist the Minister to improve the effectiveness of state administration, furthermore the position of Deputy Minister is regulated in Presidential Regulation Number 60 of 2012 concerning Deputy Ministers. In Article 2 paragraph (1) of Presidential Regulation Number 60 of 2012 which states that "The Deputy Minister has the duty to assist the Minister in leading the implementation of the Ministry's duties". The position of Deputy Minister in the Indonesian government system was established to assist the Minister to improve the effectiveness of state administration. However, the position and limits of the Deputy Minister's professional ethics had become a sharp spotlight, especially related to the practice of dual positions carried out by a number of officials (Amorim Neto et al. 2022; Astuti et al. 2024; Hänggi 2017; Juweh 2021; Pion-Berlin 2020).

The issue of dual positions began to arise when the Constitutional Court, hereinafter referred to as the Constitutional Court, issued a decision Number 80/PUU-XVII/2019 concerning judicial review Article 10 of Law No. 39 of 2008 concerning State Ministries which essentially discusses the legality of the position of Deputy Minister which is considered unclear and considered unnecessary for the applicant, thus contradicting article 28 D paragraph 1 of the 1945 Constitution of the Republic of Indonesia which postulates that everyone has the right to obtain legal certainty. The Constitutional Court in this decision rejected the application and gave a statement in legal consideration that the position of Deputy Minister is prohibited from holding dual positions. However, the Constitutional Court's consideration is considered by the government to not have binding legal force so that the dual positions carried out by the Deputy Minister cannot be violated (Abebe 2019; Dube 2022; Rishan 2022; Steytler 2017; Zaini et al. 2023).

As a result, questions arise for the public regarding the legitimacy of the Deputy Minister in carrying out his duties and obligations as part of the ministry. This is the basis for the application to the Constitutional Court to state that article 23 of the Law a quo unconstitutional. The Constitutional Court issued decision No. 128/PUU-XXIII/2025 concerning judicial review Article 23 of Law No. 39 of 2008 concerning State Ministries, which expressly states in its decision that the Minister and Deputy Minister are prohibited from holding dual positions as contained in article a quo. However, at this time there are still a number of Vice Ministers who hold dual positions and are reluctant to relinquish these positions.

Launching from Kompas.com that it was found that at least thirty-one Vice Ministers who held dual positions, including Deputy Minister of Finance Suahasil Nazara who concurrently served as Commissioner of PT PLN, Deputy Minister of SOEs Aminuddin Ma'ruf also concurrently served as Commissioner of PT PLN, Deputy Minister of SOEs Kartika Wirjoatmodjo who concurrently served as President Commissioner of PT Bank Rakyat Indonesia, and many more Vice Ministers who held dual positions (Chaterine & Akbar, 2025). The dual positions carried out by the two Deputy Ministers of SOEs and the Deputy Minister of Finance are contrary to Law No. 19 of 2003 concerning SOEs (Article 25 and Article 33). The essence of the regulation is an absolute prohibition for members of the board of directors and commissioners of SOEs to hold other positions, including in private companies, BUMDs, or structural/functional positions in the government, in order to avoid conflicts of interest. This problem certainly dealt a severe blow to the integrity of this public office.

The prohibition of dual positions must apply equally to Ministers and Deputy Ministers, considering that both are state officials who carry out the main duties of government and have the potential for similar conflicts of interest, the lack of focus and full dedication of the Deputy Minister in carrying out ministerial duties, and violating the basic principles of professionalism in the implementation of clean government. This is seen as injurious to the mandate of the constitution and the general principles of good governance (AUPB). The Constitutional Court's decision produced in this material test has fundamental legal implications, because it not only fills the void in the norms, but also strengthens the legal basis regarding the integrity and professionalism of state officials, ensuring that all leadership elements in ministries must be singlely dedicated (one position) in devoting themselves to the state. In line with this, Ronald Dworkin related to "law as integrity" illustrates that the law must be consistent with the moral principles it is based on, not just as a technical instrument (Dworkin, 1986, p. 112).

The integrity of the law in this case will be reflected through the prohibition on dual positions, because the prohibition on dual positions ensures that public officials in carrying out their duties and functions in accordance with the mandate of the constitution and do not use "privilege" in his office for other interests (Rizal, 2025, p. 3).

This study aims to find out the extent of the effectiveness of the implementation of the ban on dual positions for Deputy Ministers in Indonesia. The benefits of this research are to contribute theoretically to the development of constitutional law, particularly regarding the position of Deputy Ministers in the presidential system, to provide practical input for policy makers in formulating regulations related to the prohibition of dual positions, and to enrich academic legal literature regarding the interpretation of Constitutional Court decisions and their implications for state administration.

## **METHOD**

This study used normative research methods. This research utilized primary legal materials that include regulations related to the formation of legislation and relevant court decisions. In addition, secondary legal materials in the form of legal literature and scientific papers were used to strengthen the analysis. Data were collected through literature studies to dissect existing legal issues. Furthermore, legal materials were processed qualitatively and conclusions were drawn using the deductive thinking method, which is to deduce from general phenomena in a more specific direction, then presented systematically in the form of a descriptive description.

## **RESULTS AND DISCUSSION**

### **Legal Implications for Deputy Ministers Who Practice Dual Duties as Commissioners in SOEs**

The position of Deputy Minister is appointed by the President with his prerogative. The President's prerogative in Indonesia is often understood as the absolute power he has and cannot be interfered with or challenged by other state institutions. In theory, this privilege is an independent and absolute power that is owned by a particular institution (in this case, the President) and cannot be challenged by the institutions of another state (Aidin, 2014, p. 243).

Based on Article 17 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that the Minister is appointed and dismissed by the President, the appointment of the Minister is the full authority of the President. This also applies equally to the Deputy Minister, so that the appointment of the Deputy Minister is also considered part of the President's absolute authority. Although both are appointed by the President, the legal basis for the appointment and dismissal of Ministers and Deputy Ministers differs in the hierarchy of Laws and Regulations. The matter of the appointment and dismissal of Ministers is regulated in the Law on State Ministries, in this case Law No. 39 of 2008, precisely in Articles 22 and 24, while the matter of dismissal and appointment of Deputy Ministers is specifically regulated in Presidential Regulation No. 60 of 2012 precisely in article 4.

Basically, the Deputy Minister was appointed in order to improve the performance of the ministry in order to reduce the workload in the ministry in certain fields to be more efficient in achieving the target (Putusan MK No. 79/PUU-IX/2011, p. 41). The growing era is also followed by the growth of various sectors in the lives of existing people, be it an increase in

the number of population, economic problems, education problems, health problems, and so on become a portrait of the picture, that the government has a great responsibility in realizing the welfare of the people with extra handling (Putusan MK No. 79/PUU-IX/2011, p. 76). These various needs that arise are the main considerations why the position of Deputy Minister is needed. This position is intended to assist ministers in exercising executive power and organizing the government.

The ministry has the task of taking care of certain government affairs and is under and responsible to the President, considering the position of the ministers who are assistants to the president, in this case they are also appointed and dismissed by the President. One of the President's authorities as the head of government is to appoint a Deputy Minister, as this is regulated in Law Number 39 of 2008 concerning State Ministries, that the Deputy Minister is a political position appointed by the President to improve the effectiveness of the ministry's performance by assisting ministers who have a heavy workload (UU No. 39 Tahun 2008, Bab 10). However, the position of Deputy Minister is a non-strategic position when viewed from its authority.

The Deputy Minister only acts as a representative of the Minister and does not have voting rights and decision-making rights in cabinet sessions. The main authority is owned by the Minister, therefore the Deputy Minister is only subordinate to the Minister himself (Perpres No. 60 Tahun 2012, Bab 3). The authority of the Deputy Minister as stipulated in Presidential Regulation No. 60 of 2012 concerning the Deputy Minister states that the authority of the Deputy Minister is the authority delegated by one government organ with the other government organ, namely the President to the Deputy Minister himself (Perpres No. 60 Tahun 2012, Pasal 2).

On the other hand, in SOEs there is a position that has the duty to supervise, both in general and/or specifically by adjusting the bylaws and can provide advice to the Board of Directors. The position is the position of the Board of Commissioners as contained in Law No. 40 of 2007 concerning Limited Liability Companies (PT) (UU No. 40 Tahun 2007, Pasal 1 angka 6). The Board of Commissioners, acting as a collective supervisory team, is responsible for advising the Board of Directors and ensuring that management manages the company in accordance with its objectives, strategic plan (RJPP/RKAP), and complies with all regulations and provisions set by shareholders.

In carrying out its supervisory and consultative functions, the Board of Commissioners focuses on eight key areas to ensure effective and accountable management of the company:

1. Governance and Risk: Oversees the company's risk management systems, internal controls, and IT systems, and assesses the effectiveness of internal and external audit functions.
2. Human Resource Management (HR): Oversees HR management, particularly in terms of career management, as well as transparency of systems and procedures for promotion, mutation, and demotion.
3. Financial Statements: Ensure that accounting and preparation of Financial Statements are carried out accurately and in accordance with the applicable Financial Accounting Standards (SAK) in Indonesia.

4. Operations and Quality: Oversees policies and their implementation related to procurement, quality, and services, including how the Board of Directors manages subsidiaries or joint ventures.
5. Regulatory Compliance: Ensure the company complies with all applicable regulations and all agreements that have been entered into with third parties.
6. Strategic Compliance: Monitor the implementation of the Company's Work Plan and Budget (RKAP) and Company Long-Term Plan (RJPP), as well as assess the company's business processes, especially when there is a decline in performance.
7. Transparency and GCG: Oversee the implementation of *Good Corporate Governance* (GCG), including ensuring that the Board of Directors transparently communicates strategic information to the public and reports on important changes in the business environment.
8. Strategic Direction of Board of Commissioners Strategic Direction: Review, evaluate, and provide recommendations to the Board of Directors regarding the vision, mission, amendments to the Articles of Association, and other fundamental strategic plans (Pertamina PIS, 2025).

The appointment and dismissal of the Board of Commissioners of SOEs (especially those in the form of Persero) is the exclusive authority of the Minister of SOEs, which in this case acts as the General Meeting of Shareholders (GMS) (UU No. 19 Tahun 2003, Pasal 5 ayat 2). The implementation process is subject to several provisions.

1. Term of Office: The term of office of the Commissioner of SOEs is set at a maximum of 5 (five) years and can be reappointed, as stipulated in Article 110 of Law Number 40 of 2007 concerning Limited Liability Companies.
2. Dismissal at Any Time: Commissioners can be dismissed at any time by the Minister of SOEs without having to wait for the end of the term of office. The reason for this dismissal is based on Article 111 of the PT Law and is strengthened by the regulation of the Minister of SOEs, such as because it is considered negligent, violates the provisions of the Articles of Association, or does not carry out duties properly.

Based on the above description, according to the author, the position of the Deputy Minister in the Indonesian government system has a very important and strategic role in supporting the effectiveness of the executive institution. The Deputy Minister is appointed not only as a complement, but as the main assistant to the Minister who is in charge of handling certain affairs in the ministry that require special, efficient, or high-complexity handling. Functionally, the Deputy Minister is responsible for ensuring that the Minister's duties can run optimally, both in internal coordination and the implementation of national strategic priority programs. Thus, the position of the Deputy Minister requires focus, loyalty, and full professionalism on the interests of the state and the bureaucracy, not the interests of groups or individuals.

The importance of the position of the Deputy Minister is the main basis for serious legal implications if a Deputy Minister holds dual positions, especially as a Commissioner or Board of Commissioners of SOEs or private companies. Administratively, government officials are obliged to comply with the General Principles of Good Governance or AUPB in carrying out government administration as contained in Law No. 30 of 2014 concerning Government Administration (UU No. 30 Tahun 2014, Pasal 9 ayat 2). AUPB itself in Law a quo is divided

into several principles, two of which emphasize legal certainty and not abusing power (UU No. 30 Tahun 2014, Pasal 10 ayat 1).

In this case, it is clear that the Deputy Minister has violated these two provisions. According to the author, as the Deputy Minister, he must make policies or recommendations that supervise the performance of SOEs. However, as a Commissioner/Director of SOEs, he is responsible for increasing the company's profits. This dualism of roles inherently undermines the supervisory function of the bureaucracy and creates opportunities for abuse of power and corruption. In addition, the Deputy Minister also openly defied the legal provisions affirmed by the Constitutional Court in its Decision No. 80/PUU-XVII/2019 and the Constitutional Court Decision No. 128/PUU-XXIII/2025, which prohibits the Deputy Minister from holding dual positions. Hence, the Deputy Minister has violated the general principle of good governance as a government office holder.

**Prohibition of Dual Positions for Deputy Ministers in Indonesia**

The significant increase in the number of Ministers and Deputy Ministers in the Red and White cabinet has sparked concerns and discussions that it has the potential to increase the complexity or "obesity" of the bureaucracy. This drastic increase occurred due to several reasons conveyed by President Prabowo. The first reason is because of the problem of Indonesia's large territory and also has a large population, even ranked fourth in the world (Egeham, 2025). The second reason is related to the political system in Indonesia that adheres to a democratic system rather than an authoritarian system that can work with a small number (Attar, 2025).

If we compare the number of Vice Ministers in the Indonesian Cabinet in the era of President Jokowi with the number of Deputy Ministers as many as 31 Deputy Ministers (M & Yanwardhana, 2024), with the era of President Prabowo Subianto, which is as many as 56 Deputy Ministers (BPMI Setpres, 2025), shows a very significant increase in the number of Deputy Ministers, namely as many as 25 Deputy Ministers. The drastic increase in the number of Deputy Ministers compared to the previous government has led to speculation that these positions are only limited to political disguises to accommodate coalition interests or to distribute mere seats of power (Septiani, 2021, p. 12). The following will be described by the author of the Deputy Ministers who held dual positions in the Prabowo or Red-White cabinet.

**Table 1.** Deputy Ministers in the Red-White cabinet who hold dual positions in 2025.

No	Name of the Deputy Minister	Deputy Minister Position	Types of concurrent positions
1	Ossy Dermawan	Deputy Minister of ATR/BPN	Commissioner of PT Telkom Indonesia
2	Angga Raka	Deputy Minister of Communication and Digital Affairs	President Commissioner of PT Telkom Indonesia
3	Silmy Karim	Deputy Minister of Immigration and Corrections	Commissioner of PT Telkom Indonesia
4	Aminuddin Ma'ruf	Deputy Minister of SOEs	Commissioner of PT Perusahaan Listrik Negara
5	Kartika Wirjoatmodjo	Deputy Minister of SOEs	President Commissioner of PT Bank Rakyat Indonesia

No	Name of the Deputy Minister	Deputy Minister Position	Types of concurrent positions
6	Fahri Hamzah	Deputy Minister of Housing and Settlement Areas	Commissioner of PT Bank Tabungan Negara
7	Sudaryono	Deputy Minister of Agriculture	President Commissioner of PT Pupuk Indonesia
8	Dante Saxon.	Deputy Minister of Health	Commissioner of PT Pertamina Bina Medika
9	Helvy Yuni Moraza	Deputy Minister of MSMEs	Commissioner of PT Bank Rakyat Indonesia
10	Diana Kusumastuti	Deputy Minister of Public Works (PU)	President Commissioner of PT Brantas Abipraya
11	Stella Christie	Deputy Minister of Higher Education, Science, and Technology	Commissioner of PT Pertamina Hulu Energi
12	Yuliot Tanjung	Deputy Minister of Energy and Mineral Resources (ESDM)	Commissioner of PT Bank Mandiri
13	Suntana	Deputy Minister of Transportation	President Commissioner of PT Pelabuhan Indonesia
14	Suahasil Nazara	Deputy Minister of Finance	Commissioner of PT Perusahaan Listrik Negara
15	Dyah Roro Esti Widya Putri	Deputy Minister of Trade	President Commissioner of PT Sarinah
16	Ratu Isyana Bagoes Oka	Deputy Minister of Population and Family Development	Commissioner of PT Dayamitra Telekomunikasi
17	Todotua Pasaribu	Deputy Minister of Investment and Downstreaming/Investment Coordinating Board (BKPM),	Deputy President Commissioner of PT Pertamina
18	Didit Herdiawan Ashaf	Deputy Minister of Marine Affairs and Fisheries	President Commissioner of PT Perikanan Indonesia
19	Giring Ganesha	Deputy Minister of Culture	Komisaris PT Garuda Maintenance Facility Aero Asia
20	Donny Ermawan Taufanto	Deputy Minister of Defense	President Commissioner of PT Dahana
21	Christina Aryani	Deputy Minister of P2MI/Deputy Head of BP2MI	Commissioner of PT Semen Indonesi
22	Diaz Hendropriyono	Deputy Minister of Environment	President Commissioner of PT Telekomunikasi Cellular
23	Taufik Hidayat	Deputy Minister of Youth and Sports	Commissioner of PT PLN Energi Primer Indonesia (PLN EPI)
24	Ahmad Riza Patria	Deputy Minister of Villages and Development of Disadvantaged Regions	Commissioner of PT Telekomunikasi Cellular
25	Ardiantoro Jury	Deputy Secretary of State	President Commissioner of PT Jasa Marga
26	Ferry Juliantono	Deputy Minister of Cooperatives	Commissioner of PT Pertamina Patra Niaga
27	Anak Veronica Tan	Deputy Minister of Women's Empowerment and Protection	Commissioner of PT Citilink Indonesia

No	Name of the Deputy Minister	Deputy Minister Position	Types of concurrent positions
28	Arif Havas Oegroseno	Deputy Minister of Foreign Affairs	Commissioner of PT Pertamina International Shipping (PIS)
No	Name of the Deputy Minister	Deputy Minister Position	Types of concurrent positions
29	Danang Parikesit	Deputy Minister of Human Rights	President Commissioner of PT InJourney Aviation Services
30	Bambang Eko Suhariyanto	Deputy Secretary of State	Commissioner of PT PLN
31	Eddy Hiariej	Deputy Minister of Law	Commissioner of PT Perusahaan Gas Negara

Source: Compiled by the author from various sources, primarily Kompas.com, 2025

Normatively, prohibitions related to dual positions by the Deputy Minister in SOEs, have been contained in several laws, including the Law on the Ministry and the SOE Law itself. In Law No. 39 of 2008 concerning ministries, it is explained that Ministers are prohibited from holding dual positions as state officials as stipulated in the Law, Commissioners or Directors of SOEs/Private, and leaders of organizations financed by the state or regions (UU No. 39 Tahun 2008, Pasal 23). This provision was problematic, because the government considered that only the Minister was prohibited in this Law, not the Deputy Minister, so that the practice of dual positions by the Deputy Minister did not violate the existing rules.

Although this article does not mention the Deputy Minister literally, the Constitutional Court in decision No. 80/PUU-XVII/2019, has explained in its legal considerations, that the Minister in this case also includes the Deputy Minister, so the prohibition of dual positions also applies to the Deputy Minister himself. The government considers that this prohibition is only contained in legal considerations, not in the ruling, so that what the government does does not violate the existing rules. This is one of the flaws of the rampant practice of dual positions that occur within the scope of the Deputy Minister.

Testing related to this problem also reappeared on December 8, 2020 from Viktor Santoso. Anwar Usman, who at that time was the chairman of the Constitutional Court, then reaffirmed the prohibition of dual Deputy Ministers in the Constitutional Court's decision No. 76/PUU-XVIII/2020. The legal politics that dominate the dual positions of Deputy Minister then encouraged the President to do reshuffle cabinet, as it is known that in December 2020 there were several Deputy Ministers who were reshuffle from the 2019-2024 Advanced Indonesia Cabinet, including the deputy minister of finance, deputy minister I of SOEs, and deputy minister II of SOEs who have relinquished their dual positions as commissioners who then focus on their obligations as a Deputy Minister (Adelia & Anajeng, 2022, pp. 70–71).

The prohibition of dual positions is also regulated in Law No. 1 of 2025 concerning SOEs which basically prohibits members of Persero's board of directors, board of directors, members of the board of directors of Perum, and board of commissioners to hold concurrent positions for several positions regulated in the Law (UU No. 1 Tahun 2025, Pasal 15B, 27B, 43D). Status quo currently shows that there are 31 Deputy Ministers who hold concurrent positions as commissioners and board of commissioners in SOEs, even though in the SOE Law, it has actually been stipulated that the Board of Commissioners is prohibited from holding concurrent

positions for positions regulated in the Law (Uly & Setiawan, 2025). As a commissioner in SOEs, he should be aware that in his position he has a crucial responsibility to carry out supervision and provide advice to the board of directors to ensure the achievement of the company's objectives and protect the interests of shareholders and other stakeholders.

If the Deputy Minister (who is essentially a government representative) also serves as the Commissioner of SOEs, this certainly creates a structural conflict of interest. The political interests of the ministry and the business interests of the company have become difficult to separate, threatening the independence of the Deputy Minister in carrying out his main duties. Supervision of the performance of SOEs by the government should be carried out objectively and impartially. This dual position actually weakens the mechanism check and balance, because the supervisor (Deputy Minister) is part of the entity that is supposed to be supervised.

A breath of fresh air then came, when the Constitutional Court issued decision No. 128/PUU-XXIII/2025, which stated in its verdict that article 23 of Law Number 39 of 2008 concerning State Ministries is contrary to the Indonesian Constitution. The Constitutional Court (MK) Decision Number 128/PUU-XXIII/2025 is an important milestone in efforts to uphold the integrity and professionalism of state officials in Indonesia. Through the verdict judicial review Regarding Article 23 of Law Number 39 of 2008 concerning State Ministries, the Constitutional Court expressly provides a final legal implication of the prohibition of dual positions that applies to Ministers, now explicitly and binding also applies to the Deputy Minister.

Although this ban already has binding legal force, there are still many Deputy Ministers who are reluctant to relinquish their dual positions in SOEs. The action to release the concurrent position should not be necessary to wait for the revision of the Law on Ministries or wait for up to two years of grace period as decided by the Constitutional Court. The attitude of delaying the release of the position of SOE commissioner for deputy ministers has the potential to hurt the law. Although there is a grace period from the Constitutional Court and the plan to revise the Ministerial Law, firm steps must be taken immediately so that the government is not considered to be in defiance of the basic rules of the state.

## **CONCLUSION**

The practice of dual positions among Deputy Ministers reflects a disregard for professionalism and integrity in the bureaucracy, driven by an attitude that prioritises power and personal gain over public service. Such practices violate the principles of Good Governance and the constitutional mandate concerning the separation of powers, while also creating a systemic conflict of interest that undermines ministerial effectiveness and blurs the boundary between supervisory and executive functions in state administration. Therefore, strict enforcement of existing regulations is essential to ensure that restrictions on authority serve their optimal function in creating an accountable government. Future research may explore the effectiveness of institutional oversight mechanisms and the development of more stringent sanction frameworks to deter dual position practices and uphold the integrity of Indonesia's executive structure.

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