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# RETHINKING INDONESIA'S DEMOCRATIC SYSTEM: WHY IS A CONSTITUTIONAL MONARCHY WORTH CONSIDERING?

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Ardhes Blandhivay Leuanan<sup>1</sup>

## I. ABSTRACT

*This article critically analyses Tom Ginsburg's thesis on constitutional monarchy as a counter-majoritarian institution and tests its relevance to the diagnosis of Indonesia's democratic crisis during the period 2014-2026. The study employs a normative comparative legal method with a comparative constitutional analysis approach to key 2018-2026 literature and to empirical data from V-Dem, Freedom House, and the Economist Intelligence Unit; the conceptual approach is emphasised because the discussion engages doctrinal categories rather than primary empirical fieldwork. Although the literature on Indonesia's democratic backsliding is abundant, scholarly debate has rarely seriously considered non-republican alternative state-design models, even though Ginsburg and his colleagues at the Universities of Chicago and Northwestern have developed a systematic thesis arguing that constitutional monarchy functions as a stakes-reducing device and as crisis insurance that supports democratic stability. The findings are threefold. First, the constitutional monarchies of Northern Europe, Japan, and Spain correlate strongly with stable liberal democracies; second, the causal mechanism lies in the separation of a symbolic head of state from an executive head of government, which closes the narrative space available to populist-authoritarian leaders; third, Indonesia already possesses a living precedent in the Special Region of Yogyakarta, which functions as a juridical constitutional monarchy within the body of the Republic. Although a full national conversion to constitutional monarchy is unrealistic, the functional logic articulated by Ginsburg can guide the strengthening of Indonesia's counter-majoritarian institutions, with Yogyakarta serving as a constitutional experiment that warrants serious study.*

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## II. KEYWORDS

Constitutional Monarchy; Democratic Erosion; Counter-Majoritarian Institutions; Indonesian Constitutional Law; Special Region of Yogyakarta.

## III. INTRODUCTION

Indonesia entered 2026 as a nation that remained procedurally democratic but was substantively drifting away from the ideals of the 1998 Reformasi. The 2024 general election produced a decisive victory for the Prabowo Subianto-Gibran Rakabuming Raka ticket with 58.59 per cent of the vote, alongside a parliamentary coalition that consolidated 92 per cent of the seats in the House of Representatives (DPR) under executive control.<sup>2</sup> In its 2025 Democracy Report, the V-Dem Institute explicitly classified Indonesia as an electoral autocracy, stating that Georgia and Indonesia experienced democratic breakdown in 2024.<sup>3</sup> Indonesia's Liberal Democracy Index declined from a peak of 0.546 in 2008 to 0.326 in 2024.<sup>4</sup> As of 2026, Indonesia's Freedom House score stands at 56 out of 100, placing the country in the Partly Free category.<sup>5</sup>

These dynamics are not coincidental. Marcus Mietzner identifies three systematic pathways of authoritarian innovation: the narrowing of electoral competition, the mobilisation of identity politics, and efforts to concentrate executive power.<sup>6</sup> Edward Aspinnall and Mietzner describe the period 2014-2024 as a slow-motion slide toward democratic regression marked by a decoupling between religious pluralism and

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<sup>2</sup> Marcus Mietzner, "Elite Collusion in Indonesia: How It Has Both Enabled and Limited Executive Aggrandizement," *Annals of the American Academy of Political and Social Science*, 2024, <https://doi.org/10.1177/00027162241309436>.

<sup>3</sup> V-Dem Institute, "Democracy Report 2025: 25 Years of Autocratization—Democracy Trumped?" (Gothenburg: V-Dem Institute, University of Gothenburg, 2025), <https://v-dem.net/publications/democracy-reports/>.

<sup>4</sup> V-Dem Institute, *Democracy Report 2025: 25 Years of Autocratization—Democracy Trumped?* (Gothenburg: V-Dem Institute, University of Gothenburg, 2025), <https://v-dem.net/publications/democracy-reports/>.

<sup>5</sup> Freedom House, "Freedom in the World 2025: The Uphill Battle to Safeguard Rights" (Washington, DC: Freedom House, 2025), <https://freedomhouse.org/report/freedom-world/2025>.

<sup>6</sup> Marcus Mietzner, "Authoritarian Innovations in Indonesia: Electoral Narrowing, Identity Politics and Executive Illiberalism," *Democratization* 27, no. 6 (2020): 1021–36, <https://doi.org/10.1080/13510347.2019.1704266>.

democratic commitment.<sup>7</sup> Constitutional Court Decision No. 90/PUU-XXI/2023, which paved the way for Gibran Rakabuming Raka, son of President Joko Widodo, to stand as a vice-presidential candidate despite not yet meeting the minimum age requirement of forty, presided over by Anwar Usman, the President's brother-in-law,<sup>8</sup> became the most blatant symbol of what Kim Lane Scheppelle has termed *autocratic legalism*: the use of legal and constitutional instruments to dismantle constitutionalism itself.<sup>9</sup>

Amid this decline, academic and public debate in Indonesia has focused almost exclusively on partial reforms within the existing system, such as electoral reform, the strengthening of oversight, or changes in the party regime. Few have dared to question the most basic assumption: whether the republican-presidential design inherited since 1945 and reinforced by four amendments to the 1945 Constitution (1999-2002) is indeed the only configuration suited to Indonesian democracy. Beyond Indonesia, however, a new body of literature pioneered by Tom Ginsburg, the Leo Spitz Professor at the University of Chicago Law School, has advanced a provocative thesis: constitutional monarchy is not a feudal relic but in fact one of the most effective forms of government for preserving liberal democracy in the twenty-first century.

Together with Daniel Rodriguez and Barry Weingast, Ginsburg argues that constitutional monarchy functions as a stakes-reducing device that lowers the stakes of politics, and as crisis insurance that protects the democratic order from authoritarian ambition.<sup>10</sup> The empirical evidence he presents is far from trivial: eight of the world's fifteen leading democracies according to the Economist Intelligence

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<sup>7</sup> Edward Aspinall and Marcus Mietzner, "Southeast Asia's Troubling Elections: Nondemocratic Pluralism in Indonesia," *Journal of Democracy* 30, no. 4 (2019): 104–18, <https://doi.org/10.1353/jod.2019.0055>.

<sup>8</sup> Marcus Mietzner, "Flirting with Autocracy in Indonesia: Jokowi's Majoritarianism and Its Democratic Legacy," *Journal of Current Southeast Asian Affairs*, 2025, <https://doi.org/10.1177/18681034251318053>.

<sup>9</sup> Kim Lane Scheppelle, "Autocratic Legalism," *University of Chicago Law Review* 85, no. 2 (2018): 545–83.

<sup>10</sup> Tom Ginsburg, Daniel B Rodriguez, and Barry R Weingast, "The Functions of Constitutional Monarchy: Why Kings and Queens Survive in a World of Republics," *University of Chicago Public Law Working Paper No. 831* (University of Chicago Law School, 2023), <https://ssrn.com/abstract=4454620>.

Unit 2020 are constitutional monarchies, and the top three positions in the V-Dem Liberal Democracy Index 2024 (Denmark, Sweden, and Norway) are all monarchies.<sup>11</sup>

The research question that frames this article is the following: why does Tom Ginsburg consider constitutional monarchy worthy of consideration in modern democratic design, and to what extent can his argument be brought into dialogue with Indonesia's ongoing democratic erosion? This article therefore aims, first, to systematically reconstruct Ginsburg's thesis on constitutional monarchy as a counter-majoritarian institution; second, to diagnose Indonesia's condition in 2014–2026 using the Ginsburg-Huq typology of democratic erosion; and third, to formulate the practical and conceptual implications for the design of the Indonesian state, with attention to the Special Region of Yogyakarta as a constitutional monarchy that lives within the body of the Republic.

The argument developed here is as follows. Although a wholesale conversion of Indonesia into a national constitutional monarchy is not a realistic option, given the Pancasila ideology, the strong republican sentiment that has prevailed since the 1945 proclamation of independence, and the absence of any single dynasty recognised nationally, the functional logic underlying Ginsburg's thesis remains highly relevant. He reminds us that a healthy democracy requires credible counter-majoritarian institutions, a symbolic head of state who stands above day-to-day political contestation, and constitutional fire-extinguisher mechanisms that operate when an elected executive seeks to consolidate power. Indonesia lacks all three of these elements, and Yogyakarta provides a living laboratory for considering how traditional legitimacy can supply the constitutional anchor that a majoritarian republic, easily dominated by a winning electoral majority, does not possess.

The novelty of this article lies in its attempt to bridge two discourses that have hitherto remained separate, namely the literature on Indonesia's democratic backsliding on the one hand and the international literature on the functions of constitutional monarchy on the other. By drawing on the Ginsburg-Huq diagnostic framework alongside the functional thesis of Ginsburg, Rodriguez, and Weingast, this article offers a new

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<sup>11</sup> Ginsburg, Rodriguez, and Weingast.

analytical framework that positions the Special Region of Yogyakarta not as a mere historical anomaly but as a constitutional laboratory of theoretical significance for redesigning Indonesia's counter-majoritarian institutions.

### **A. Research Objectives**

This article has three principal objectives.

1. It seeks to systematically reconstruct Tom Ginsburg's thesis that constitutional monarchy functions as a counter-majoritarian institution capable of reinforcing democratic stability.
2. It aims to diagnose Indonesia's democratic condition during the period 2014–2026 using the analytical framework of democratic erosion developed by Tom Ginsburg and Aziz Huq.
3. It seeks to formulate the practical and conceptual implications of that thesis for Indonesian constitutional design, with particular attention to the Special Region of Yogyakarta as a living constitutional monarchy within the Republic of Indonesia.

### **B. Research Questions**

1. Why does Tom Ginsburg regard constitutional monarchy as an institution worthy of consideration in modern democratic design?
2. To what extent can Ginsburg's argument be applied to explain and address Indonesia's democratic erosion during the period 2014–2026?

### **C. Research Methodology**

This study employs a normative comparative legal method with a comparative constitutional analysis approach. The normative legal method is used to examine constitutional doctrines, legal theories, statutory provisions, and scholarly literature relating to constitutional monarchy, democratic erosion, and counter-majoritarian institutions. The comparative constitutional approach is applied to analyse the institutional experiences of constitutional monarchies in Northern Europe, Japan, and

Spain, and to compare those experiences with Indonesia's constitutional structure and democratic trajectory during the period 2014–2026.

The analysis is based on primary legal materials, including the Constitution of the Republic of Indonesia, relevant statutes, Constitutional Court decisions, and legislation concerning the Special Region of Yogyakarta. Secondary materials consist of academic works by Tom Ginsburg, Aziz Huq, Daniel Rodriguez, Barry Weingast, and other constitutional scholars. To support the constitutional diagnosis, the study also relies on empirical indicators from the V-Dem Institute, Freedom House, and the Economist Intelligence Unit.

The research is doctrinal and conceptual in nature and does not involve fieldwork or interviews. Its purpose is to assess whether the functional logic of constitutional monarchy, as articulated in comparative constitutional scholarship, offers a useful analytical framework for evaluating Indonesia's democratic erosion and for identifying possible institutional reforms to strengthen constitutional democracy.

## IV. RESEARCH AND ANALYSIS

### A. The Ginsburg-Huq Thesis on Democratic Erosion and the Need for Guardrails

Before explaining Ginsburg's argument on constitutional monarchy, it is necessary to understand his diagnostic framework concerning the death of modern democracy. In *How to Save a Constitutional Democracy* (2018), co-authored with Aziz Huq, Ginsburg distinguishes two pathways to democratic death: rapid authoritarian collapse (authoritarian reversion) through coups or the abuse of emergency powers, and gradual constitutional erosion (constitutional retrogression), which is subtler, more incremental, and more dangerous.<sup>12</sup> They define democratic erosion as a process of incremental yet substantial decay across the three basic prerequisites of democracy: collective elections, liberal rights to free speech and association, and the rule of law. The message is clear: in the twenty-first century, the principal threat to democracy is no longer the tank rolling over a parliament building, but rather an elected president

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<sup>12</sup> Tom Ginsburg and Aziz Z Huq, *How to Save a Constitutional Democracy* (Chicago: University of Chicago Press, 2018).

who deploys constitutional amendments, court rulings, and ordinary legislation to dismantle democratic safeguards one by one.

Ginsburg and Huq identify five mechanisms of erosion: first, constitutional amendments designed to alter the architecture of power; second, the elimination of *checks and balances* between branches of government; third, the centralisation and politicisation of the executive; fourth, the contraction of the public sphere; and fifth, the elimination of partisan competition and the rotation of power.<sup>13</sup> Their primary concern is the phenomenon of *charismatic populism*, in which leaders, following Jan-Werner Muller, claim to be the sole authentic representatives of the people and use that claim to delegitimise the opposition, the press, the academy, and civil society.<sup>14</sup> In an earlier version of their argument, Huq and Ginsburg emphasised that the risk of reversion has declined while the risk of retrogression has risen sharply during the 2010s, as shown by the data of Powell and Thyne on global coup trends.<sup>15</sup>

The conceptual consequence is that democracy requires “guardrails” that are stronger than a written constitution alone. Ginsburg and Huq argue that democracy demands a particular political morality from its participants, and that once that morality has eroded, no device in the constitutional designer’s toolkit can save constitutional democracy.<sup>16</sup> Where political morality has begun to fray, however, credible counter-majoritarian institutions become the last line of defence: the ombudsman, an independent supreme and constitutional court, the electoral commission, anti-corruption agencies, the judicial council, and the civil-service commission, which Bruce Ackerman once described as the fourth branch of government.

Steven Levitsky and Daniel Ziblatt reinforce this thesis by emphasising two informal democratic norms that operate as soft guardrails: mutual toleration (acknowledging the right of opponents to govern) and institutional forbearance, that is, restraint in exercising formal authority to its extreme limits even where the law permits it.<sup>17</sup>

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<sup>13</sup> Ginsburg and Huq.

<sup>14</sup> Ginsburg and Huq.

<sup>15</sup> Aziz Z Huq and Tom Ginsburg, “How to Lose a Constitutional Democracy,” *UCLA Law Review* 65 (2018): 78–169.

<sup>16</sup> Ginsburg and Huq, *How to Save a Constitutional Democracy*.

<sup>17</sup> Steven Levitsky and Daniel Ziblatt, *How Democracies Die* (New York: Crown Publishing, 2018).

## **B. Why Constitutional Monarchy Functions as an Effective Counter-Majoritarian Institution**

It is here that Ginsburg moves further than his peers in democratic studies. In a working paper co-authored with Daniel Rodriguez and Barry Weingast in 2023, entitled *The Functions of Constitutional Monarchy: Why Kings and Queens Survive in a World of Republics*, Ginsburg formulates his most provocative thesis: constitutional monarchy is one of the most effective counter-majoritarian institutions humankind has ever devised.<sup>18</sup> They define constitutional monarchy by three elements: a head of state who is a monarch, whether appointed or hereditary; an actual head of government who is not the monarch and who is accountable to electoral institutions; and the powers of the monarch as constrained by a written constitution.

Their central argument is that constitutional monarchy performs three concealed functions that are difficult for any republican institution to replicate. First, it serves as a stakes-reducing device, an instrument that lowers the stakes of politics. Democratic constitutions endure, they argue, when they successfully reduce political stakes; the monarch reassures conservative groups that the symbols of nation, religion, and tradition will not be obliterated by a change of government, thereby making the rotation of power acceptable. Without such reassurance, those who lose elections have an incentive to overturn the system rather than accept defeat, a dynamic that Adam Przeworski long ago recognised as the rationality of fear.

Second, the monarchy provides crisis insurance. Anne Twomey, in her work on reserve powers, offers a metaphor that Ginsburg subsequently invokes: the monarchy is like a fire extinguisher, something we hope never to use but which must always be maintained in good working order.<sup>19</sup> The paradigmatic example is Spain on 23 February 1981, when Lieutenant-Colonel Antonio Tejero held the Cortes hostage in an attempted coup. King Juan Carlos appeared on television in the uniform of Commander-in-Chief and ordered the armed forces back to their barracks, a single act

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<sup>18</sup> Ginsburg, Rodriguez, and Weingast, "The Functions of Constitutional Monarchy: Why Kings and Queens Survive in a World of Republics."

<sup>19</sup> Anne Twomey, *The Veiled Sceptre: Reserve Powers of Heads of State in Westminster Systems* (Cambridge: Cambridge University Press, 2018).

that Stepan, Linz, and Minoves describe as the defining moment of the institutionalisation of post-Franco Spanish democracy.<sup>20</sup>

Other examples include King Haakon VII of Norway, who refused to recognise the Quisling government in 1940, and the Sultan of Morocco, who refused Vichy orders to surrender Jewish citizens.<sup>21</sup>

Third, and perhaps most pertinent to Indonesia, the monarchy imposes an upper limit on populism. Ginsburg, Rodriguez, and Weingast show that the presence of a monarch sets a ceiling on the power of political leaders, and that the symbolic unity which monarchy provides can constrain the most problematic forms of populism.<sup>22</sup> The logic is elegant: because the monarch already occupies the symbolic position of the embodiment of the people, populist demagogues find it difficult to claim to be the sole authentic representatives of the people, since that narrative space is already filled by an institution that is trans-partisan and trans-generational.

Whereas Erdogan can position himself as a new sultan and Hugo Chavez liked to invoke Simon Bolivar as a president for life, no British, Danish, or Norwegian populist counterpart could plausibly emerge.<sup>23</sup> Data from the Global Populism Database that they cite confirm this pattern: every constitutional monarchy sits in the lower half of vote share for populist parties.

### C. Empirical Evidence and the Causal Mechanisms of Constitutional Monarchy

Ginsburg's thesis is supported by consistent empirical evidence. In 2020, eight of the fifteen highest-ranked democracies in the world according to the Economist Intelligence Unit were constitutional monarchies.<sup>24</sup> In 2024-2025, the top three places

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<sup>20</sup> Alfred Stepan, Juan J Linz, and Juli F Minoves, "Democratic Parliamentary Monarchies," *Journal of Democracy* 25, no. 2 (2014): 35–51, <https://doi.org/10.1353/jod.2014.0024>.

<sup>21</sup> Ginsburg, Rodriguez, and Weingast, "The Functions of Constitutional Monarchy: Why Kings and Queens Survive in a World of Republics."

<sup>22</sup> Tom Ginsburg, Daniel B. Rodriguez, and Barry R. Weingast, "The Functions of Constitutional Monarchy: Why Kings and Queens Survive in a World of Republics," University of Chicago Public Law Working Paper No. 831 (2023), <https://ssrn.com/abstract=4454620>.

<sup>23</sup> Ginsburg, Rodriguez, and Weingast, "The Functions of Constitutional Monarchy: Why Kings and Queens Survive in a World of Republics."

<sup>24</sup> Tom Ginsburg, "Long Live the Kings and Queens," Project Syndicate, 2023, <https://www.project-syndicate.org/commentary/king-charles-advantages-of-constitutional-monarchy-by-tom-ginsburg-2023-05>.

in the V-Dem Liberal Democracy Index were occupied by Denmark, Sweden, and Norway, all of which are monarchies.<sup>25</sup> Freedom in the World 2025 scores show that the average for nine Western European constitutional monarchies and Japan stood at 95.9 out of 100, far above the global average of about 58.<sup>26</sup>

Mauro Guillen, in a panel-data study of 137 countries covering the period 1900-2010 published in *Social Forces*, demonstrates that, relative to republics, monarchies protect property rights to a greater extent by reducing the negative effects of internal conflict, executive tenure, and executive discretion.<sup>27</sup> The three mechanisms he identifies symbolic unity, dynastic continuity that secures a long time horizon, and countervailing power the executive correlate empirically with higher per capita income and greater political stability. Stepan, Linz, and Minoves note in the *Journal of Democracy* that seven of the sixteen Western European democracies with populations exceeding one million are monarchies, with Japan added, a cluster too systematic to be regarded as coincidental.<sup>28</sup>

What makes constitutional monarchy work? Ginsburg identifies three interrelated causal mechanisms. The first is the firm separation between a symbolic head of state and an executive head of government. This is the long-standing lesson of Walter Bagehot in *The English Constitution* (1867), distinguishing the dignified parts from the efficient parts of the constitution, which has been refined by Vernon Bogdanor, who formulates that a constitutional monarch is one who reigns symbolically but does not rule executively.<sup>29</sup> This separation enables criticism of the prime minister without it automatically becoming an attack on the state; conversely, loyalty to the state does not automatically entail loyalty to the governing party. This is what Ginsburg, in a

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<sup>25</sup> Institute, "Democracy Report 2025: 25 Years of Autocratization – Democracy Trumped?"

<sup>26</sup> House, "Freedom in the World 2025: The Uphill Battle to Safeguard Rights."

<sup>27</sup> Mauro F Guillén, "Symbolic Unity, Dynastic Continuity, and Countervailing Power: Monarchies, Republics, and the Economy," *Social Forces* 97, no. 2 (2018): 607–48, <https://doi.org/10.1093/sf/soy037>.

<sup>28</sup> Stepan, Linz, and Minoves, "Democratic Parliamentary Monarchies."

<sup>29</sup> Vernon Bogdanor, *The Monarchy and the Constitution* (Oxford: Clarendon Press, 1995).

2025 podcast interview, calls constitutional monarchy as a constraint, namely a check on the politicisation of the head of state.<sup>30</sup>

The second mechanism is the existence of *reserve powers*. Bogdanor recalls the three classical constitutional rights of the monarch: the right to be consulted, the right to encourage, and the right to warn.<sup>31</sup> These rights, together with the formal authority to refuse a dissolution of parliament under certain circumstances, to appoint a prime minister in a hung parliament, or, in extremis, to refuse assent to unconstitutional legislation, function as a *constitutional longstop*. They are rarely invoked, but their existence as a *credible threat* binds political actors to remain within the constitutional corridor. Robert Hazell and Bob Morris, in a comparative study of eight European monarchies, show that monarchies endure precisely because they continually adapt: through strict political neutrality, financial transparency, and responsiveness to public opinion, supported by consistent public approval ranging between 60 and 80 per cent across all such monarchies.<sup>32</sup>

The third mechanism is non-partisan historical legitimacy. The monarch, in Ginsburg's logic, derives legitimacy from a historical-cultural continuity that precedes and will outlast any particular government. Unlike an elected president, who can therefore always be accused of partisanship, the monarch is structurally unattached to any specific electoral victory. This is what enables the monarch to act as a *focal point* in coordination crises: when democratic norms are breached, the monarch becomes a point of reference that can identify who has transgressed without himself or herself appearing as an interested actor. Ginsburg, Rodriguez, and Weingast explicitly compare this with the courts: courts may substitute for the monarchy in certain

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<sup>30</sup> Tom Ginsburg, "Long Live the Kings and Queens," *Project Syndicate*, 4 May 2023, <https://www.project-syndicate.org/commentary/king-charles-advantages-of-constitutional-monarchy-by-tom-ginsburg-2023-05>; Tom Ginsburg, Daniel B. Rodriguez, and Barry R. Weingast, "The Functions of Constitutional Monarchy: Why Kings and Queens Survive in a World of Republics," University of Chicago Public Law Working Paper No. 831 (2023), <https://ssrn.com/abstract=4454620>.

<sup>31</sup> Bogdanor, *The Monarchy and the Constitution*.

<sup>32</sup> Robert Hazell and Bob Morris, eds., *The Role of Monarchy in Modern Democracy: European Monarchies Compared* (Oxford: Hart Publishing, 2020).

functions, yet courts cannot easily play the symbolic role of integrating the nation.<sup>33</sup> It must be underscored that Ginsburg is not naive.

He acknowledges that monarchy does not automatically entail democracy; the absolute monarchies of the Arab world prove the opposite. What he advocates is a specific combination: a monarchy with very limited formal powers, in which the monarch's symbolic legitimacy reinforces, rather than replaces, democratic institutions. In the game-theoretic language he employs with Rodriguez and Weingast, constitutional monarchy is a stable *equilibrium* in which political actors rationally choose to retain the monarch without executive power because doing so yields a higher *payoff* for all.

#### **D. Diagnosing the Indonesian Condition: Signs of Democratic Erosion and Authoritarian Drift**

When the Ginsburg-Huq framework is applied to Indonesia in 2014-2026, the diagnosis is bleak. Almost every mechanism of democratic erosion they identify has been observed in significant doses, often without effective elite resistance or public mobilisation. First, the manipulation of the Constitutional Court. Constitutional Court Decision No. 90/PUU-XXI/2023 of 16 October 2023, which altered the minimum-age requirement for presidential and vice-presidential candidates by opening a special exception for those who have served or are serving as regional heads elected through *pilkada*, is the most blatant case of what Scheppele terms *autocratic legalism*, namely the use of legal instruments to dismantle the constitution.<sup>34</sup>

The Chief Justice at the time, Anwar Usman, was the brother-in-law of President Jokowi, a conflict of interest that was not disclosed openly to the public. Mietzner notes that Indikator polling found that 76 per cent of respondents were unaware of this familial relationship; among the 45 per cent who were aware, 70 per cent supported the ruling.<sup>35</sup> In November 2023, the Constitutional Court Honour Council

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<sup>33</sup> Ginsburg, Rodriguez, and Weingast, "The Functions of Constitutional Monarchy: Why Kings and Queens Survive in a World of Republics."

<sup>34</sup> Mietzner, "Flirting with Autocracy in Indonesia: Jokowi's Majoritarianism and Its Democratic Legacy."

<sup>35</sup> Mietzner, "Authoritarian Innovations in Indonesia: Electoral Narrowing, Identity Politics and Executive Illiberalism."

removed Anwar Usman from the chairmanship for grave ethical violations, yet the ruling itself was upheld and Gibran Rakabuming Raka was duly inaugurated as Vice-President on 20 October 2024.

The same pattern recurred on 30 May 2024, when the Supreme Court, through Decision No. 23 P/HUM/2024, rather than the Constitutional Court, granted an exception allowing Kaesang Pangarep, Jokowi's youngest son, to contest the regional elections despite his not yet having reached the required age, a ruling that was subsequently and unexpectedly superseded by the post-Anwar Usman Constitutional Court.<sup>36</sup> This phenomenon corresponds precisely to David Landau's typology of *abusive constitutionalism*, namely the use of constitutional-change mechanisms to erode the democratic order.<sup>37</sup> The marriage of Jokowi's sister to Anwar Usman in 2022, Gibran's nomination for the vice-presidency in 2024, and Kaesang's candidacy in the regional elections meant that within two years a single core family of the President had placed three of its members in the highest constitutional positions or on the path leading there. Mietzner takes this as evidence that Indonesian elites have colluded to share power and to enable the President to engage in *executive aggrandisement*.<sup>38</sup> Aspinall states more pointedly that Indonesia's democratic decline is accelerating as key accountability institutions weaken and as the country falls into the grip of dynastic succession.<sup>39</sup>

The weakening of the Corruption Eradication Commission (KPK). The KPK Law was revised through Law No. 19 of 2019, passed in less than two weeks, which placed the KPK within the executive branch, established a Supervisory Board whose approval is required for wiretapping, and reclassified KPK staff as members of the Civil Service (ASN). Abdil Mughis Mudhoffir, writing in *Critical Asian Studies*, documents how this

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<sup>36</sup> MKMK, "Putusan Majelis Kehormatan Mahkamah Konstitusi" (2023).

<sup>37</sup> David Landau, "Abusive Constitutionalism," *UC Davis Law Review* 47, no. 1 (2013): 189-260.

<sup>38</sup> Mietzner, "Elite Collusion in Indonesia: How It Has Both Enabled and Limited Executive Aggrandizement."

<sup>39</sup> Edward Aspinall, "Indonesia's Election Bears the Signs of Weakening Democracy," *East Asia Forum*, 2023, <https://eastasiaforum.org/2023/12/10/indonesias-election-bears-the-signs-of-weakening-democracy/>.

revision significantly weakened the KPK's autonomy.<sup>40</sup> The practical impact became evident in the 2021 National Insight Test (TWK), which removed 57 of the KPK's most senior investigators, including Novel Baswedan, from the institution.

The Omnibus Law and the deliberative vacuum. Law No. 11 of 2020 on Job Creation, passed by the House of Representatives on 5 October 2020 and formally enacted on 2 November 2020 in the midst of the COVID-19 pandemic, comprising 1,187 pages and amending hundreds of statutes, became a symbol of autocratic legalism in legislative practice. Tim Lindsey and Simon Butt document how its drafting violated the basic principles of public participation and parliamentary deliberation.<sup>41</sup> In November 2021, the Constitutional Court declared the law conditionally unconstitutional, yet the government responded with Government Regulation in Lieu of Law (Perppu) No. 2 of 2022, which was subsequently enacted as Law No. 6 of 2023, illustrating how the executive can circumvent judicial review through procedural innovation.

The militarisation of civilian posts. The revision of the Indonesian National Armed Forces (TNI) Law No. 34 of 2004, enacted on 20 March 2025 following Prabowo's inauguration, expanded the range of civilian positions that may be occupied by active TNI officers. Abdurrachman Satrio, writing in the *IACL-AIDC Blog*, calls this a serious erosion of post-authoritarian norms regarding the separation of civilian and military spheres, observing that the law was passed behind closed doors with minimal transparency and without meaningful public participation.<sup>42</sup>

The appointment of Teddy Indra Wijaya who held the rank of Major when he was appointed Cabinet Secretary on 20 October 2024 and was subsequently promoted to Lieutenant Colonel in early 2025 amid public controversy regarding the acceleration of his promotion together with the appointment of Major-General Novi Helmy as

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<sup>40</sup> Abdil Mughis Mudhoffir, "The Limits of Civil Society Activism in Indonesia: The Case of the Weakening of the KPK," *Critical Asian Studies* 55, no. 1 (2022): 62–82, <https://doi.org/10.1080/14672715.2022.2155567>.

<sup>41</sup> Tim Lindsey and Simon Butt, "Indonesia's Omnibus Law on Job Creation: Legal Hierarchy and Responses to Judicial Review in the Labour Cluster of Amendments," *Asian Journal of Comparative Law* 17, no. 1 (2022): 1–25, <https://doi.org/10.1017/asjcl.2022.6>.

<sup>42</sup> Abdurrachman Satrio, "Indonesia's New Military Law and the Ghost of Consensus-Based Constitutional Transition," *IACL-AIDC Blog*, 2025, <https://blog-iacl-aidc.org/2025-posts/2025/4/29/indonesias-new-military-law>.

Chief Executive of Bulog, reflects the return of the *dwifungsi* (dual function) logic in a new guise. The contraction of the public sphere. The Electronic Information and Transactions Law (UU ITE), particularly its rubber-band provisions on defamation and hate speech, has been consistently used to criminalise criticism. Ken Setiawan, writing in the Power and Warburton volume, documents how a digital *surveillance state* has expanded under Jokowi.<sup>43</sup> Indonesia's 2025 Freedom on the Net score stands at 48 out of 100, with Partly Free status.<sup>44</sup>

In Jokowi's final year, only one of the nine parliamentary parties stood outside the government coalition; the presidential coalition controlled 92 per cent of seats in the DPR.<sup>45</sup> After his inauguration, Prabowo formed the Red and White Cabinet (*Kabinet Merah Putih*) with 103 members, the largest cabinet in Indonesian history, embracing nearly every significant political force and leaving the PDI-P as a weak lone opposition. Dan Slater describes this pattern as *promiscuous power-sharing* that deepens party cartelisation and renders the democratic opposition *contingent* rather than institutional.<sup>46</sup>

When this list is set against the five Ginsburg-Huq mechanisms of erosion constitutional amendment, the elimination of *checks and balances*, executive centralisation, the contraction of the public sphere, and the elimination of rotation Indonesia satisfies four of the five criteria, with rotation still occurring nominally but only through figures linked by dynasty and coalition. It is therefore unsurprising that V-Dem 2025 declared that Indonesia's democracy broke down in 2024. Thomas Pepinsky's diagnosis in the *Journal of Democracy* is even more pointed: Indonesia's

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<sup>43</sup> Ken M P Setiawan, "A State of Surveillance? Freedom of Expression under the Jokowi Presidency," in *Democracy in Indonesia: From Stagnation to Regression?*, ed. Thomas Power and Eve Warburton (Singapore: ISEAS – Yusof Ishak Institute, 2020), 254–74.

<sup>44</sup> Freedom House, "Freedom on the Net 2025" (Washington, DC: Freedom House, 2025), <https://freedomhouse.org/country/indonesia/freedom-net/2025>.

<sup>45</sup> Mietzner, "Elite Collusion in Indonesia: How It Has Both Enabled and Limited Executive Aggrandizement."

<sup>46</sup> Dan Slater, "What Indonesian Democracy Can Teach the World," *Journal of Democracy* 34, no. 1 (2023): 95–109, <https://doi.org/10.1353/jod.2023.0006>.

democratic decline has accelerated precisely because of decisions taken by the ruling elite, especially the President himself.<sup>47</sup>

### **E. Indonesian Lessons from Ginsburg's Argument and the Special Region of Yogyakarta**

How can Ginsburg's logic be brought into dialogue with the Indonesian condition? The argument here is developed across four levels of analysis, from the most literal to the most abstract. First, the option of a wholesale conversion to a national constitutional monarchy is neither realistic nor desirable. Since 17 August 1945, Indonesia has been fundamentally a republic grounded in the Pancasila ideology, which locates sovereignty in the people. No single dynasty holds a trans-regional claim over the Archipelago; Majapahit and Srivijaya are historical memories rather than living institutions. Proposing the restoration of a national monarchy would be an anachronism, inviting rejection from religious groups (who regard *bai'at* as appropriate only to religious figures) and from republican-nationalists alike (who inherit the Sukarno-Hatta ethos). Ginsburg himself never advocates conversion; he analyses why existing monarchies endure as a stable equilibrium rather than proposing the establishment of new ones. As he affirms in *Project Syndicate*, long live the kings and queens is a descriptive statement about institutional function, not a universal prescription.<sup>48</sup>

Second, Indonesia in fact already possesses a living precedent in the Special Region of Yogyakarta. This is a constitutional fact that often escapes notice: Indonesia, uniquely in the world, has a province in which the governor and deputy governor are not elected through direct popular vote, but are filled hereditarily by Sultan Hamengku Buwono and Adipati Pakualam. Article 18(1)(c) of Law No. 13 of 2012 on the Privileges of the Special Region of Yogyakarta firmly stipulates that candidates for Governor and Deputy Governor must be Indonesian citizens enthroned as Sultan

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<sup>47</sup> Thomas B Pepinsky, "Why Indonesia's Democracy Is in Danger," *Journal of Democracy Online Exclusive*, 2024, <https://www.journalofdemocracy.org/online-exclusive/why-indonesias-democracy-is-in-danger/>.

<sup>48</sup> Ginsburg, "Long Live the Kings and Queens."

Hamengku Buwono and Adipati Paku Alam, while Article 25(2) further provides that the term of the Sultan-Governor is not bound by periodic limits.<sup>49</sup>

Marcin Wiszowaty and Indria Wahyuni describe Yogyakarta as a unique example of a hybrid system in which republican and monarchical elements coexist, with the Sultan playing the dual role of republican governor and hereditary ruler.<sup>50</sup> Sultan Hamengku Buwono X has served as Governor since 1998, more than 27 years by 2026, demonstrating an institutional stability impossible elsewhere in Indonesia.

More importantly, Yogyakarta is empirically among the provinces with the highest public satisfaction with government, a strong local democracy index, and low levels of horizontal conflict. The historical research of Catur Nugroho and his colleagues shows that, in Yogyakarta, in contrast to Surakarta, whose special status was revoked in 1946, monarchism correlates positively with national identity and with trust in national democratic institutions.<sup>51</sup> This is the very constitutional laboratory that Ginsburg would recognise as a working stakes-reducing device: the Sultan's traditional legitimacy serves as an anchor that prevents day-to-day politics from becoming an existential struggle. Nugroho and his colleagues note that the Sultan does not position himself as a king with unlimited power; he practises *pisowanan ageng*, the opening of dialogic space with the people, which is a substantive element of a functional constitutional monarchy.<sup>52</sup>

Yogyakarta is, of course, not without its critics. Bayu Dardias Kurniadi cautions that the concentration of authority in the Sultan leaves little room for the *checks and balances* required by modern democracies, with the provincial legislature tending to follow the Sultan's wishes.<sup>53</sup> This criticism is valid; yet it is essential to underscore that what is

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<sup>49</sup> Catur Nugroho, Wisma Nugraha Ch., and S Bayu Wahyono, "History of the Yogyakarta Monarchy: From the Islamic Kingdom to Being Imprisoned in the Indonesian Democratic System," *Historia Madania* 5, no. 1 (2021): 33–55, <https://doi.org/10.15575/hm.v5i1.11974>.

<sup>50</sup> Marcin M Wiszowaty and Indria Wahyuni, "Sultanate of Yogyakarta in the Republic of Indonesia / Monarchy in the Republic," *Przegląd Prawa Konstytucyjnego* 6 (2023): 305–20, <https://doi.org/10.15804/ppk.2023.06.23>.

<sup>51</sup> Nugroho, Nugraha Ch., and Wahyono, "History of the Yogyakarta Monarchy: From the Islamic Kingdom to Being Imprisoned in the Indonesian Democratic System."

<sup>52</sup> Nugroho, Nugraha Ch., and Wahyono.

<sup>53</sup> Bayu Dardias Kurniadi, "Yogyakarta in Decentralised Indonesia: Integrating Traditional Institution in Democratic Transitions," *Jurnal Ilmu Sosial Dan Ilmu Politik* 13, no. 2 (2009): 191–207, <https://doi.org/10.22146/jsp.10963>.

feared in the context of Yogyakarta is precisely what has already occurred at the national level: a concentration of power without *checks and balances*. The difference is that, in Yogyakarta, that power is held by an institution that structurally cannot use its leverage for national campaigning, cannot build a dynasty through competitive elections, and has no incentive to dismantle the national constitution for electoral gain. Third, the long history of the sultanates of the Archipelago provides a cultural vocabulary that may be revitalised as a counter-majoritarian anchor. Aceh Darussalam under Sultan Iskandar Muda, Ternate-Tidore as documented by Leonard Andaya, Goa-Tallo as analysed by William Cummings, and Surakarta-Yogyakarta as the heir to Mataram—all are monarchical institutions that once provided stability, integration, and historical legitimacy for the peoples of the Archipelago.<sup>54</sup> Indeed, since its cultural revitalisation in 1999, the Sultanate of Ternate has played a role in the resolution of horizontal conflict in North Maluku. This is not a call to restore executive power to the sultans, but rather a recognition that Indonesia is not a republican *tabula rasa*; it is a state born of a long mosaic of monarchical experience. The asymmetric logic of Law No. 13 of 2012 may be conceptually extended to regions with living sultanate traditions, as a mechanism of symbolic integration that Ginsburg identifies as a key function of monarchy.

Fourth, and herein lies the most important contribution, Ginsburg's functional logic can be translated into reforms of Indonesia's non-majoritarian institutions without requiring a national monarchy. Ginsburg's argument is not, in essence, about kings per se but about the need for a head of state who is detached from day-to-day political contestation and for credible counter-majoritarian institutions. Indonesia can pursue this goal through several concrete avenues. First, the depoliticisation of the Constitutional Court through selection mechanisms insulated from presidential intervention, for example through a single long term (twelve years, non-renewable) and a parliamentary supermajority requirement that includes opposition majorities.

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<sup>54</sup> Leonard Y Andaya, *The World of Maluku: Eastern Indonesia in the Early Modern Period* (Honolulu: University of Hawaii Press, 1993).

Second, the strengthening of the KPK and the Ombudsman as a fourth branch protected by the Constitution rather than by ordinary statute, so that easy revisions such as Law No. 19 of 2019 cannot be enacted by a simple legislative majority. Third, a firm prohibition on the appointment of active TNI personnel to civilian posts, enforced by constitutional rather than administrative sanction. Fourth, reform of the presidential threshold in the wake of Constitutional Court Decision 62/PUU-XXII/2024, in order to guarantee a plurality of candidates and to close off the space for swollen coalitions that erase the opposition.

The most ambitious avenue, and the most consistent with Ginsburg's logic, is to imagine an Indonesian ceremonial head of state who is symbolically stronger and executively weaker. Indonesia's presidential system fuses both roles (head of state and head of government) in a single figure, so that criticism of the government always risks being read as an attack on the state, with UU ITE serving as the instrument. A parliamentary system with a ceremonial president, or, in a more radical form, a presidential system with a trans-religious council of customary elders, akin to a Council of State comprising *ulama*, priests, monks, and customary leaders, vested with limited reserve powers, could provide the function performed by constitutional monarchs in Europe. This is not a ready-made proposal, since its design requires deep constitutional discussion; rather, it is a direction opened up by Ginsburg's diagnosis and a point of departure for Indonesia's constitutional engineering going forward.

## V. SUGGESTIONS AND RECOMMENDATIONS

Based on the foregoing analysis, several institutional reforms are recommended to strengthen Indonesia's constitutional democracy:

1. The Constitutional Court should be depoliticised through appointment mechanisms that reduce executive influence, including the possibility of a single non-renewable term and supermajority approval requirements.
2. The Corruption Eradication Commission (KPK) and the Ombudsman should receive stronger constitutional protection to safeguard their independence from ordinary legislative revision.

3. The appointment of active military officers to civilian offices should be constitutionally restricted in order to preserve the principle of civilian supremacy.
4. Electoral regulations should be designed to ensure meaningful political competition and to prevent excessive coalition dominance that weakens parliamentary opposition.
5. Indonesia should consider institutional arrangements that more clearly separate symbolic and executive authority, including the possible strengthening of a ceremonial head of state or other non-partisan constitutional bodies capable of functioning as counter-majoritarian safeguards.

## VI. CONCLUSION

Indonesian democracy will not be saved by a republican nostalgia that refuses to interrogate the most basic assumptions of constitutional design. The Ginsburg-Huq diagnosis of democratic erosion is a reminder that modern democracy dies not by the tank but by having the very instruments of democracy turned against it, and the sequence of constitutional events in Indonesia between 2014 and 2026 fits that typology with striking precision. The thesis advanced by Ginsburg, Rodriguez, and Weingast on the functions of constitutional monarchy as a stakes-reducing device, as crisis insurance, and as an upper limit on populism offers an analytical framework that goes beyond the partial repair of the existing republican-presidential system.

A wholesale conversion to a national constitutional monarchy is neither realistic nor desirable for Indonesia; the Special Region of Yogyakarta as a living constitutional monarchy within the body of the Republic, together with the legacy of the sultanates of the Archipelago, supplies a cultural-constitutional vocabulary that can be revitalised. The most concrete contribution of this article is to translate Ginsburg's functional logic into four reform agendas: the depoliticisation of the Constitutional Court, constitutional protection for the KPK and the Ombudsman, a firm restriction on civilian militarisation, and serious reflection on a ceremonial head of state insulated from day-to-day political contestation, with Yogyakarta as a constitutional experiment that warrants serious study to enrich the body of Indonesian constitutional design.

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