



Upholding Democracy through Constitutional Courts: A Comparative Study of Indonesia and Germany

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Article History:

Submitted: August 28, 2024 | Revised: March 20, 2025 | Accepted: May 25, 2025 | Published: June 30, 2025

Citation (APA Style):

Kotyazhov, A. V., & Habibi. (2025). Upholding Democracy through Constitutional Courts: A Comparative Study of Indonesia and Germany. *Justitia Nova: Indonesian Journal of Modern Law*, 1(1), 16–31.

Abstract

Constitutional courts play an essential role in safeguarding democracy, maintaining constitutional supremacy, and protecting fundamental rights within modern legal systems. This study aims to analyze and compare the roles of the Constitutional Court of Indonesia (Mahkamah Konstitusi) and the Federal Constitutional Court of Germany (Bundesverfassungsgericht) in upholding democratic governance and constitutional order. Using a normative-juridical and comparative constitutional law approach, this research examines constitutional provisions, statutory regulations, landmark judicial decisions, and recent scholarly literature related to constitutional adjudication and judicial independence. The findings reveal that both courts function as guardians of democracy through judicial review and constitutional interpretation; however, significant differences exist regarding institutional independence, enforcement mechanisms, judicial authority, and public trust. Germany's constitutional model demonstrates stronger institutional stability, abstract constitutional review, and higher legal compliance, whereas Indonesia's Constitutional Court continues to face challenges associated with political influence, democratic consolidation, and inconsistent implementation of constitutional decisions. The originality of this study lies in its integration of comparative constitutional analysis with contemporary discussions on democratic resilience and judicial legitimacy in transitional democracies. Nevertheless, this research is limited to doctrinal and comparative legal analysis and does not incorporate empirical interviews or quantitative institutional data. The study concludes that strengthening judicial independence, enhancing constitutional enforcement, and improving public trust are essential to reinforce democratic governance in Indonesia. This research contributes to the broader discourse on comparative constitutional law and the evolving role of constitutional courts in contemporary democracies.

Keywords:

Constitutional Court; Democracy; Judicial Review; Comparative Constitutional Law; Indonesia; Germany.

1. Introduction

The rapid development of digital technology and artificial intelligence (AI) has significantly transformed governance systems, public administration, and democratic institutions worldwide. Governments increasingly rely on digital platforms, algorithmic systems, and data-driven governance mechanisms to improve public service delivery, administrative efficiency, and political communication. The implementation of digital governance is often associated with greater transparency, faster decision-making, and broader citizen participation in public affairs.



Nevertheless, these transformations also generate major challenges concerning institutional accountability, democratic legitimacy, freedom of information, and the protection of individual rights (Sam-Chin Li, 2025; Lomas, 2025). Recent studies demonstrate that technological modernization does not automatically strengthen democratic governance because digital systems may simultaneously create opportunities for surveillance, political control, and institutional centralization. Akah et al. (2024) explain that the adoption of digital election technologies may improve electoral administration and reduce procedural inefficiencies, yet such technologies also raise concerns regarding transparency, cybersecurity, and public trust in democratic institutions. Similarly, Brown (2025) argues that many contemporary institutions attempt to maintain political legitimacy through symbolic reforms while failing to adequately address public demands for accountability and participation. Consequently, digital governance has become a critical issue within contemporary political and governance studies because technological innovation increasingly influences the relationship between governments, institutions, and citizens.

The growing use of artificial intelligence within governance systems has intensified debates regarding privacy protection, surveillance practices, and democratic accountability. AI-based surveillance systems, facial recognition technologies, and large-scale data collection mechanisms have expanded the ability of governments to monitor public activities and regulate information flows. Alghafri and Tubaishat (2025) emphasize that the increasing use of AI-driven surveillance creates a complex tension between national security interests and the protection of civil liberties. In many countries, governments justify digital surveillance policies as necessary tools for maintaining public security and administrative effectiveness, while critics argue that such practices may threaten democratic freedoms and individual privacy rights. Furthermore, AI technologies may produce discriminatory outcomes and deepen social inequalities when algorithmic systems rely on biased datasets or opaque decision-making procedures. Machado (2024) highlights that vulnerable social groups are particularly exposed to the risks of algorithmic discrimination within digital governance systems. Borgesano et al. (2025) further explain that the integration of AI into governance and judicial systems introduces important ethical concerns regarding fairness, transparency, and institutional responsibility. In addition, the rapid spread of deepfake technologies and AI-generated political content creates new risks related to misinformation, electoral manipulation, and declining public trust in digital information systems (Hynek et al., 2025). These developments indicate that governments must establish adaptive governance frameworks capable of balancing technological innovation with democratic values, legal accountability, and human rights protections.

Digital governance challenges become even more complex within political systems characterized by institutional fragility, populism, or authoritarian tendencies. Several studies reveal that digital technologies may simultaneously strengthen governance efficiency while also facilitating political centralization and state control over public discourse. Regilme and Parthenay (2024) demonstrate that emergency governance mechanisms implemented during the COVID-19 pandemic contributed to the expansion of executive authority and digital monitoring practices in competitive authoritarian regimes. Likewise, Zhan and Qiao (2024) show that judicial institutions operating under authoritarian political environments often experience significant limitations despite formal legal reforms and institutional restructuring. Freedom of



information and public access to transparent governance therefore remain essential dimensions within contemporary digital governance debates. Alashry (2025) explains that government censorship and restrictions on information access may weaken democratic participation and reduce institutional accountability. Similar concerns emerge in discussions regarding media governance and AI-driven communication systems. Helberger (2024) argues that AI technologies increasingly shape the production, distribution, and consumption of digital information, thereby influencing public opinion and democratic discourse. In this context, judicial independence and institutional accountability remain fundamental requirements for ensuring democratic governance and protecting public trust (Garoupa & Spruk, 2025). Consequently, digital governance reforms require not only technological modernization but also strong institutional safeguards capable of protecting democratic principles and civil liberties.

Various countries have adopted different approaches in responding to digital governance and AI-related challenges depending on their political systems, governance capacities, and socio-cultural conditions. Research conducted in Nepal, Nigeria, China, and Indonesia demonstrates significant differences in governance adaptation, public accountability, and regulatory responses toward technological transformation (Dahal, 2024; Essien & Jesse, 2025; Gupta et al., 2025; Susanti & Khu, 2025). Xiao (2025) explains that China has implemented an agile and iterative governance model that allows rapid adjustments to AI regulatory frameworks in response to technological developments and political priorities. Meanwhile, democratic and hybrid political systems often face difficulties in balancing innovation-oriented governance reforms with the protection of civil liberties and institutional accountability. Studies concerning political participation and electoral governance also reveal that technological transformation increasingly influences public perceptions of legitimacy, trust, and political representation. Susanti and Khu (2025), for example, show that digital communication and online political narratives significantly shaped voter behavior during the 2024 Indonesian presidential election. These developments suggest that digital governance is no longer limited to technical administrative reform but has become deeply connected to broader political, legal, and democratic processes. Therefore, understanding the interaction between technology, governance, and democracy is increasingly important for analyzing contemporary political transformations in both democratic and non-democratic contexts.

Although previous studies have extensively examined digital governance, AI regulation, democratic accountability, and institutional legitimacy, the existing literature remains fragmented across disciplinary perspectives and regional case studies. Many studies focus only on specific technological sectors, legal issues, or governance dimensions without comprehensively analyzing the interconnected relationship between digital transformation, institutional governance, political accountability, and democratic legitimacy. This limitation creates an important research gap because contemporary governance challenges increasingly involve overlapping technological, political, ethical, and legal dimensions. Therefore, this study aims to analyze the relationship between digital governance transformation, artificial intelligence regulation, and democratic accountability within contemporary governance systems. The study further examines how governments balance technological innovation, institutional legitimacy, public participation, and the protection of democratic values in the



digital era. By integrating perspectives from governance studies, political science, digital policy, and legal analysis, this research is expected to contribute to broader academic discussions regarding the future of democratic governance in the age of artificial intelligence and rapid digital transformation.

2. Literature Review

The rapid expansion of digital governance has fundamentally transformed the relationship between states, technology, and society in contemporary public administration. Digital transformation is no longer limited to improving bureaucratic efficiency, but has evolved into a strategic mechanism shaping transparency, accountability, political legitimacy, and citizen participation. Recent scholarship emphasizes that digital governance integrates information technology with institutional governance frameworks to strengthen administrative performance and democratic responsiveness. Muhhina (2024) argues that ICT-based co-production enables governments to create participatory digital spaces that facilitate collaboration between citizens and public institutions. Similarly, Maatsch (2024) demonstrates that parliamentary digitalization became increasingly important during periods of institutional crisis, particularly in maintaining governmental continuity and administrative adaptability. However, the implementation of digital governance does not automatically produce democratic improvement. Brown (2025) highlights that many public institutions utilize technological modernization primarily as a symbolic instrument of legitimacy while failing to substantively strengthen public accountability and transparency. Consequently, contemporary governance studies increasingly recognize that digital transformation must be evaluated not only through administrative efficiency, but also through its implications for institutional trust, democratic resilience, and public participation.

Existing literature further demonstrates that digital governance is closely connected to freedom of information, civil liberties, and state control over digital communication systems. Alashry (2025) explains that government censorship within digital information ecosystems may significantly undermine freedom of information and restrict public access to transparent governance. In this regard, Sam-Chin Li (2025) and Lomas (2025) identify government information governance as a central component of modern democratic administration, particularly in ensuring transparency and institutional accountability. Access to information has therefore become a critical indicator of governance quality in digital societies. Simultaneously, the expansion of artificial intelligence, algorithmic governance, and big data surveillance has intensified debates concerning privacy protection and state authority. Alghafri and Tubaishat (2025) demonstrate that AI-driven surveillance creates a complex tension between national security objectives and the protection of individual privacy rights. Likewise, Miao He and Yongfang Chen (2025) emphasize that personal data protection has emerged as a strategic governance issue due to the increasing capacity of governments and technology corporations to collect, process, and regulate citizen data. Machado (2024) further argues that algorithmic governance systems may reinforce structural inequalities when vulnerable social groups are insufficiently protected within digital regulatory frameworks. These findings suggest that digital governance extends beyond technical modernization, encompassing broader concerns related to human rights, digital ethics, and democratic safeguards in technologically mediated societies.



From a political and institutional perspective, governance quality is strongly influenced by judicial independence, constitutional stability, and the interaction between political power and legal institutions. Garoupa and Spruk (2025) contend that populist constitutional backsliding weakens judicial independence and undermines institutional checks and balances within democratic systems. Similar conclusions are presented by Zhan and Qiao (2024), who demonstrate that judicial review mechanisms in authoritarian regimes are frequently constrained by political intervention and state interests. Al-Dulaimi (2025) further highlights the importance of constitutional courts in maintaining institutional equilibrium and legal legitimacy within state governance structures. In the context of electoral governance, Akah et al. (2024) show that biometric electoral technologies can enhance electoral credibility when accompanied by institutional transparency and effective administrative capacity. Moreover, Susanti and Khu (2025) reveal that digital media and younger generations played a significant role in shaping political behavior during the 2024 Indonesian presidential election. Gupta et al. (2025) similarly emphasize that public accountability of political parties remains essential for strengthening democratic trust and political legitimacy. Collectively, these studies indicate that digital governance cannot be separated from broader political transformations affecting state institutions, electoral systems, and democratic accountability mechanisms.

The governance literature also increasingly incorporates issues of social justice, inclusion, and participatory rights within institutional transformation processes. Altamirano Rayo et al. (2024) demonstrate that the implementation of indigenous rights policies is deeply shaped by political incentives and social movement pressures within state-building processes. Cheng Xu (2025) further argues that constitutional weakening of indigenous activism reduces participatory space for marginalized communities and weakens democratic inclusion. In relation to gender and vulnerable populations, Alvarado-Vélez et al. (2024) identify persistent institutional barriers limiting rural women's access to justice and legal protection. Similarly, Yefet and Friedberg (2024) explain that women's political representation under authoritarian systems is often constrained by patriarchal power structures and media control. Beyond institutional limitations, social movements remain important actors in promoting governance reform and democratic transformation. Ayambire et al. (2025) and Sovacool (2022) argue that collective mobilization and civic activism play critical roles in encouraging more equitable, participatory, and sustainable governance arrangements. These studies collectively illustrate that governance should be understood not merely as an administrative framework, but as a multidimensional process involving justice, inclusion, representation, and citizen empowerment.

Despite the growing body of scholarship on governance and digital transformation, significant research gaps remain within the existing literature. Previous studies have extensively examined issues such as digital surveillance, freedom of information, judicial independence, democratic accountability, and social participation; however, these discussions are often fragmented across different disciplinary and regional contexts. Limited attention has been given to the integrated relationship between digital governance, institutional legitimacy, and the protection of public rights within contemporary governance systems. Furthermore, comparative analyses exploring how technological transformation simultaneously affects transparency, democratic resilience, and governance effectiveness remain relatively underdeveloped. Therefore, this study seeks to



address these limitations by examining the interaction between digital governance, institutional legitimacy, and public accountability in the context of contemporary political transformation. By integrating perspectives from governance studies, digital regulation, and democratic theory, this research aims to contribute to the broader academic discussion on governance modernization and the challenges faced by public institutions in the digital era.

3. Methodology

This study employs a normative-juridical legal research method combined with a comparative constitutional law approach to examine the role of constitutional courts in safeguarding democracy and constitutional supremacy in Indonesia and Germany. Normative legal research focuses on the analysis of legal norms, constitutional principles, statutory regulations, judicial doctrines, and constitutional interpretation embedded within constitutional systems and institutional frameworks. This approach is considered appropriate because constitutional courts function not only as legal institutions but also as guardians of democratic order and constitutional legitimacy. Previous studies have emphasized that judicial independence and constitutional adjudication are essential for maintaining democratic accountability and preventing constitutional backsliding within modern governance systems (Zhan & Qiao, 2024; Garoupa & Spruk, 2025; Smith et al., 2025). Similarly, Al-Dulaimi (2025) argues that constitutional jurisdiction and judicial authority play a crucial role in preserving institutional balance and constitutional stability. The comparative constitutional law approach is used to identify similarities and differences between the Constitutional Court of Indonesia (Mahkamah Konstitusi) and the Federal Constitutional Court of Germany (Bundesverfassungsgericht), particularly concerning constitutional review, judicial independence, democratic protection mechanisms, and constitutional interpretation. Germany represents a mature constitutional democracy characterized by institutional stability and a strong constitutional tradition, whereas Indonesia reflects a developing democratic system undergoing continuous constitutional and political transformation. Comparative analysis therefore enables a broader understanding of how constitutional institutions operate within different political and legal environments (Dahal, 2024; Gupta et al., 2025; Tu et al., 2025; Peck et al., 2025).

This research relies primarily on library-based legal research through the examination of primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, the German Basic Law (Grundgesetz), constitutional court statutes, and landmark constitutional court decisions related to democracy, elections, constitutional rights, and judicial review. Secondary legal materials consist of peer-reviewed journal articles, books, legal commentaries, and recent international publications discussing constitutional democracy, governance, judicial independence, and institutional legitimacy. The study also incorporates interdisciplinary governance literature to strengthen the analytical framework concerning democratic accountability and institutional resilience. Previous scholarship has demonstrated that governance transformation increasingly intersects with transparency, public participation, and institutional legitimacy within contemporary democratic systems (Brown, 2025; Muhhina, 2024; Rodríguez, 2024). Data analysis is conducted qualitatively through descriptive-analytical and comparative methods. Legal materials are systematically interpreted to evaluate constitutional doctrines, judicial reasoning, and institutional practices related to democratic governance and the rule of law. Comparative



analysis is subsequently applied to identify convergences and divergences between the Indonesian and German constitutional court systems. By integrating doctrinal legal research with comparative constitutional analysis, this study seeks to contribute to broader academic discussions concerning constitutional democracy, judicial independence, and the evolving role of constitutional courts in maintaining democratic resilience within contemporary governance systems.

4. Results and Discussion

4.1. Constitutional Courts as Guardians of Democracy

Constitutional courts occupy a central position within democratic constitutional systems because they function as guardians of constitutional supremacy, institutional accountability, and fundamental rights protection. Modern constitutionalism no longer perceives constitutional courts merely as passive legal institutions responsible for interpreting statutory provisions. Instead, constitutional courts increasingly function as active democratic guardians that preserve constitutional order, limit governmental abuse of power, and ensure the implementation of democratic principles within state institutions. Comparative constitutional scholarship demonstrates that judicial institutions significantly influence democratic resilience, institutional legitimacy, and constitutional stability. Lee and Min (2021) explain that defective democratic systems frequently experience weakened accountability mechanisms and institutional fragility, while Brown (2025) argues that democratic institutions may symbolically perform legitimacy without substantively preserving constitutional accountability and public trust.

The growing importance of constitutional adjudication is closely connected to the broader evolution of constitutional democracy in both established and transitional political systems. Constitutional courts play essential roles in maintaining checks and balances, supervising executive and legislative actions, and protecting constitutional rights from political interference. Garoupa and Spruk (2025) emphasize that political intervention within judicial institutions substantially weakens constitutional democracy and contributes to constitutional backsliding. Similarly, Tu et al. (2025) demonstrate that stronger judicial independence positively affects institutional predictability, governance stability, and public confidence. These findings indicate that constitutional courts cannot effectively safeguard democracy unless institutional independence and constitutional legitimacy are adequately protected from political pressure.

The comparative analysis between Indonesia and Germany demonstrates substantial differences regarding constitutional development, institutional resilience, and democratic maturity. Germany's Federal Constitutional Court (Bundesverfassungsgericht) has long been recognized as one of the strongest constitutional courts globally due to its institutional autonomy, broad constitutional jurisdiction, and consistent constitutional interpretation. Germany's constitutional framework emerged after World War II and was intentionally designed to prevent authoritarianism, preserve constitutional supremacy, and strengthen human rights protection. Consequently, the Federal Constitutional Court possesses broad authority to conduct abstract judicial review, constitutional complaints, disputes among constitutional organs, and political party prohibition proceedings. This institutional structure enables the Court to intervene proactively in preserving democratic order and constitutional integrity.

In contrast, Indonesia's Constitutional Court (Mahkamah Konstitusi) emerged following democratic reforms after the collapse of the New Order regime in 1998. The establishment of the Constitutional Court represented a major constitutional achievement because it strengthened judicial review mechanisms and institutional oversight over executive and legislative authority. Nevertheless, Indonesia's Constitutional Court continues facing institutional challenges involving political contestation, fluctuating public trust, and concerns regarding judicial neutrality. Susanti and Khu (2025) explain that Indonesia's 2024 presidential election reflected broader tensions involving democratic legitimacy, electoral accountability, and constitutional interpretation. These developments demonstrate that constitutional courts operating within transitional democracies frequently encounter more fragile political environments compared with courts functioning within consolidated democratic systems such as Germany.

Table 1. Comparative Overview of Constitutional Courts in Indonesia and Germany

Aspect	Indonesia (Mahkamah Konstitusi)	Germany (Bundesverfassungsgericht)
Constitutional Basis	1945 Constitution (Article 24C)	Basic Law (Grundgesetz)
Democratic Context	Transitional democracy	Consolidated democracy
Main Authority	Judicial review, electoral disputes, impeachment	Abstract review, constitutional complaints
Constitutional Complaint Mechanism	Limited	Comprehensive
Judicial Independence	Vulnerable to political influence	Strong institutional safeguards
Public Trust	Relatively fluctuating	Generally stable
Enforcement of Decisions	Occasionally inconsistent	Strong institutional compliance

Source: Compiled by the authors based on comparative constitutional literature.

The comparative findings presented in Table 1 demonstrate that the effectiveness of constitutional courts in safeguarding democracy depends not solely on formal constitutional authority, but also on broader institutional culture, political maturity, and societal trust toward judicial institutions. Germany's constitutional model illustrates how long-term institutional stability, strong constitutional traditions, and consistent judicial independence contribute to sustainable democratic governance and constitutional resilience. The Bundesverfassungsgericht has successfully established itself not merely as a legal institution, but as a constitutional guardian capable of maintaining equilibrium between state authority and constitutional rights. Conversely, Indonesia's Constitutional Court continues operating within a more dynamic and politically contested democratic environment, where constitutional interpretation frequently intersects with electoral competition and governmental interests. These conditions indicate that constitutional courts within transitional democracies often face dual responsibilities: preserving constitutional supremacy while simultaneously strengthening democratic consolidation. Dahal (2024) explains that transitional democratic systems commonly experience institutional adjustments during periods of constitutional transformation,



particularly when democratic institutions remain vulnerable to political influence and governance instability. Similarly, Mkhize (2025) argues that institutional reform and constitutional accountability frequently encounter structural obstacles associated with political interests and weak governance mechanisms. The Indonesian experience therefore demonstrates that constitutional courts require not only constitutional authority but also stronger institutional safeguards, transparent judicial ethics, and broader public legitimacy in order to function effectively as democratic guardians. In this context, comparative constitutional experiences from Germany provide important lessons concerning the significance of judicial independence, constitutional culture, and institutional continuity for sustaining democratic resilience within contemporary constitutional democracies.

4.2 Comparative Constitutional Authority and Judicial Independence

Comparative constitutional analysis further reveals significant differences regarding constitutional authority and institutional safeguards between Indonesia and Germany. Germany adopts a highly institutionalized constitutional review system rooted in historical experiences involving authoritarianism and abuse of state power during the Nazi era. Consequently, constitutional protection and democratic stability remain central components of Germany's constitutional structure. The Federal Constitutional Court possesses extensive constitutional jurisdiction allowing proactive intervention in constitutional disputes and rights protection. Al-Dulaimi (2025) explains that constitutional courts possessing clear and comprehensive jurisdictional authority tend to demonstrate stronger institutional legitimacy and more coherent constitutional interpretation.

Indonesia's Constitutional Court possesses comparatively narrower constitutional authority under Article 24C of the 1945 Constitution. The Court exercises authority regarding judicial review of statutes, electoral disputes, dissolution of political parties, and disputes among state institutions. Although these authorities remain constitutionally significant, Indonesia's constitutional review system is comparatively more reactive because citizens cannot directly submit constitutional complaints regarding constitutional rights violations unless connected to judicial review proceedings. This limitation substantially affects constitutional accessibility and democratic protection. Alvarado-Vélez et al. (2024) emphasize that effective constitutional justice requires institutional mechanisms enabling citizens to challenge state actions directly when constitutional rights are violated. Germany's constitutional complaint mechanism therefore reflects a more citizen-oriented constitutional model because individuals possess direct constitutional access against governmental violations.

Institutional independence similarly differs significantly between both constitutional systems. Germany's judicial appointment process emphasizes professional integrity, constitutional competence, and institutional balance. Although political institutions participate in judicial selection, institutional safeguards substantially limit excessive partisan influence. Indonesia, however, continues experiencing debates concerning judicial neutrality because constitutional judges are nominated by political branches including the President, Parliament, and Supreme Court. Several constitutional controversies involving electoral disputes and constitutional interpretation have intensified public concerns regarding institutional independence and political intervention.



Comparative constitutional scholarship further suggests that institutional resilience depends not only upon constitutional authority but also democratic maturity and political culture. Gupta et al. (2025) argue that institutional accountability remains closely associated with transparency and constitutional enforcement, while Regilme and Parthenay (2024) explain that democratic institutions become increasingly vulnerable during periods of political crisis and competitive authoritarianism. These findings help explain why Germany demonstrates stronger constitutional stability compared with Indonesia despite both countries formally adopting democratic constitutional frameworks.

Beyond institutional structure, the effectiveness of constitutional authority is also shaped by the capacity of constitutional courts to adapt to contemporary governance challenges, including digital governance, electoral disputes, and the increasing complexity of democratic administration. Akah et al. (2024) demonstrate that technological integration within electoral systems requires stronger constitutional supervision to ensure transparency, accountability, and democratic legitimacy. Similarly, Maatsch (2024) explains that constitutional institutions must remain adaptive during periods of political uncertainty and governance transformation because institutional rigidity may weaken democratic responsiveness. In Germany, the Federal Constitutional Court has demonstrated relatively strong institutional adaptability through consistent constitutional interpretation and procedural stability. Indonesia, meanwhile, continues developing institutional mechanisms capable of balancing constitutional supremacy with rapidly evolving democratic dynamics. This condition illustrates that constitutional resilience depends not only upon formal constitutional authority but also upon institutional adaptability, procedural consistency, and sustained public confidence in constitutional adjudication. Consequently, strengthening constitutional courts in transitional democracies requires not merely expanding judicial powers, but also improving institutional ethics, transparency, constitutional culture, and democratic accountability to ensure that constitutional courts remain effective guardians of democratic governance.

4.3 Judicial Review, Human Rights, and Digital Constitutionalism

Judicial review constitutes one of the most important constitutional mechanisms available to constitutional courts for protecting democracy and constitutional governance. Through judicial review, constitutional courts may invalidate laws or governmental actions inconsistent with constitutional principles, thereby limiting political abuse and strengthening democratic accountability. Germany's Federal Constitutional Court has consistently utilized judicial review to preserve constitutional order, protect fundamental rights, and maintain proportionality between governmental authority and individual liberties. Germany also demonstrates strong institutional compliance because governmental institutions generally implement constitutional court decisions consistently, strengthening democratic legitimacy and constitutional stability. Indonesia's Constitutional Court has likewise contributed significantly to democratic reform through decisions concerning elections, constitutional rights, governmental authority, and institutional disputes. Akah et al. (2024) highlight the growing importance of constitutional oversight in technologically mediated electoral governance and democratic legitimacy. Indonesia's Constitutional Court has therefore become increasingly important in resolving electoral disputes and maintaining constitutional order within contemporary democratic transitions. Nevertheless, constitutional implementation challenges



continue weakening the practical effectiveness of constitutional adjudication because constitutional decisions occasionally encounter political resistance and inconsistent enforcement. Brown (2025) explains that democratic institutions may formally appear legitimate while substantively failing to ensure constitutional accountability. This argument remains highly relevant to Indonesia's constitutional environment.

The relationship between judicial review and human rights protection has also become increasingly important within contemporary constitutional governance. Renteln (2022) emphasizes that constitutional systems require effective legal mechanisms capable of protecting fundamental rights from state violations. Germany's constitutional complaint mechanism substantially strengthens rights protection because citizens possess direct access to constitutional remedies. Indonesia's constitutional framework similarly recognizes constitutional rights protections; however, procedural limitations occasionally reduce constitutional accessibility and institutional responsiveness.

Contemporary constitutional challenges have further expanded the responsibilities of constitutional courts through technological transformation, digital governance, artificial intelligence, and information surveillance. Alghafri and Tubaishat (2025) demonstrate that balancing privacy rights and state security increasingly requires strong constitutional oversight mechanisms. Likewise, Miao He and Yongfang Chen (2025) explain that technological governance creates new constitutional challenges concerning personal data protection and civil liberties within digital societies. Helberger (2024) additionally argues that artificial intelligence regulation significantly influences democratic communication systems and public information governance, while Machado (2024) explains that vulnerable groups require stronger constitutional protection within technologically mediated environments. Borgesano et al. (2025) further note that artificial intelligence increasingly affects judicial systems and institutional accountability, requiring constitutional courts to adopt more adaptive constitutional approaches. Germany demonstrates stronger institutional preparedness regarding digital constitutionalism due to its established legal infrastructure concerning privacy rights and constitutional oversight. Indonesia, meanwhile, continues developing constitutional and regulatory responses addressing digital governance, surveillance regulation, and technological accountability.

Table 2. Comparative Democratic Protection Mechanisms

Aspect	Indonesia	Germany
Judicial Review	Available	Available
Constitutional Complaint	Limited	Comprehensive
Human Rights Protection	Constitutional guarantees with procedural limitations	Strong constitutional access
Enforcement of Court Decisions	Occasionally inconsistent	Consistently implemented
Digital Governance Oversight	Developing framework	Established legal framework
Judicial Independence	Vulnerable to political influence	Strong institutional autonomy



Aspect	Indonesia	Germany
Public Confidence	Relatively fluctuating	Relatively stable

Source: Compiled by the authors based on comparative constitutional and governance literature.

4.4 Democratic Legitimacy and Institutional Resilience

Public trust constitutes a fundamental component of constitutional legitimacy because constitutional courts rely not only upon formal constitutional authority but also societal confidence concerning judicial integrity and institutional neutrality. Germany's Federal Constitutional Court consistently maintains strong public trust due to its professional reputation, coherent constitutional reasoning, and institutional independence. In contrast, Indonesia's Constitutional Court has experienced fluctuating legitimacy due to political controversies and judicial ethics concerns. These conditions reflect broader challenges frequently encountered by constitutional courts operating within transitional democracies characterized by political polarization and evolving democratic institutions.

Comparative scholarship demonstrates that populism and institutional distrust significantly influence constitutional governance. Büyükokutan et al. (2025) explain that populist resentment weakens democratic norms and institutional trust, while Garoupa and Spruk (2025) argue that populist constitutional backsliding substantially undermines judicial independence and constitutional accountability. Information transparency also plays a crucial role in democratic legitimacy. Lomas (2025) emphasize that democratic governance requires transparent institutional communication and accessible public information systems, whereas Alashry (2025) demonstrates that censorship and information restrictions weaken democratic participation and constitutional freedoms. Technological transformation further intensifies these constitutional challenges because digital governance increasingly shapes electoral systems, public communication, and democratic participation. Muhhina (2024) explains that ICT-based democratic participation transforms governance relationships between citizens and state institutions, while Xiao (2025) highlights the necessity of adaptive constitutional regulation in response to rapidly evolving artificial intelligence governance. Overall, the comparative findings indicate that Germany demonstrates stronger institutional resilience because constitutional protection is supported by stronger judicial independence, institutional continuity, and broader constitutional access mechanisms. Indonesia, although demonstrating substantial democratic progress, continues facing challenges associated with democratic consolidation, constitutional accountability, and institutional legitimacy. Consequently, strengthening judicial independence, improving constitutional enforcement, and enhancing public trust remain essential for reinforcing democratic governance within Indonesia's evolving constitutional democracy.

5. Conclusion

This study concludes that constitutional courts play a crucial role in safeguarding democracy, maintaining constitutional supremacy, and protecting judicial independence within modern constitutional systems. Through a comparative analysis between Indonesia's Constitutional Court (Mahkamah Konstitusi) and Germany's Federal Constitutional Court (Bundesverfassungsgericht), the research demonstrates that constitutional adjudication



functions not only as a legal mechanism for reviewing legislation but also as an institutional safeguard against abuses of political power. The findings directly answer the research problem by showing that constitutional courts contribute significantly to democratic accountability, protection of constitutional rights, and preservation of checks and balances within democratic governance. However, the effectiveness of constitutional courts depends heavily on institutional independence, constitutional enforcement, and democratic political culture.

The comparative findings reveal important differences between Indonesia and Germany regarding constitutional authority, judicial independence, constitutional access, and institutional stability. Germany demonstrates a more consolidated constitutional system characterized by strong judicial autonomy, broader constitutional jurisdiction, consistent implementation of constitutional decisions, and stable public trust. The availability of constitutional complaint mechanisms further strengthens citizens' access to constitutional justice and rights protection. In contrast, Indonesia's Constitutional Court has made important contributions to democratic transition and constitutional reform following the post-authoritarian era, particularly through judicial review and electoral dispute resolution. Nevertheless, Indonesia continues to face challenges involving political influence, fluctuating public confidence, and inconsistent enforcement of constitutional decisions, indicating that constitutional courts within transitional democracies remain vulnerable to political contestation and institutional pressure.

This study contributes to comparative constitutional law scholarship by providing a contemporary comparative analysis concerning the relationship between constitutional courts and democratic resilience in both consolidated and transitional democracies. The originality of this research lies in its integration of constitutional adjudication, democratic governance, judicial independence, and emerging digital constitutional challenges within a single comparative framework. In addition, the study highlights how constitutional courts increasingly face new responsibilities associated with technological governance, privacy protection, digital democracy, and information regulation. The comparative experiences of Indonesia and Germany demonstrate that constitutional democracy requires not only formal constitutional structures but also strong institutional integrity, public trust, and adaptive constitutional interpretation.

Despite these contributions, this study has several limitations. The research primarily adopts a normative-juridical and comparative legal approach based on constitutional documents, legal literature, and secondary sources without incorporating empirical methods such as interviews, field observations, or quantitative institutional analysis. Consequently, the study may not fully capture practical political dynamics or public perceptions regarding constitutional courts in both countries. Future research is therefore encouraged to integrate empirical approaches and broader comparative case studies in order to provide more comprehensive insights into the evolving role of constitutional courts in contemporary democratic governance.

Acknowledgments

The authors would like to express sincere gratitude to all academic colleagues and reviewers who provided valuable comments, constructive feedback, and scholarly insights during the



preparation of this article. Appreciation is also extended to the affiliated institution for providing academic support and access to relevant legal and constitutional resources. This research received no specific grant from any funding agency in the public, commercial, or non-profit sectors.

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