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Research Article

Comparative Constitutional Governance in Indonesia and Hungary: Challenges to Democracy and the Rule of Law

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Abstract

Constitutional resilience depends on whether institutions constrain governmental power across changes of political leadership. This article compares constitutional governance in Indonesia and Hungary, with particular attention to constitutional review, judicial independence, executive accountability, civic freedoms, and equal access to political representation. A qualitative normative-comparative legal approach examines constitutional provisions, selected institutional decisions, official reports, and comparable 2026 rule-of-law indicators. The analysis distinguishes the legacy of Hungary's executive concentration under the Orbán government (2010–2026) from the post-election reform agenda following the April 2026 victory of the TISZA party. Indonesia retains institutional pluralism but faces tensions involving judicial ethics, coalition-based oversight, and uneven rights protection. Hungary's peaceful alternation of power creates an opening for reform, although persistent institutional constraints cannot be presumed resolved merely by an electoral turnover. The 2026 World Justice Project scores are 0.51 for Indonesia and 0.50 for Hungary, underscoring the need for dimension-specific rather than regime-label comparisons. This study refines a five-dimensional Constitutional Governance Resilience Model as a diagnostic, not yet validated, framework linking constitutional supremacy, independent adjudication, executive accountability, substantive rights, and enforceable remedies. The article identifies reform priorities and limitations of inference from normative legal materials.

Keywords: Comparative Constitutional Law; Constitutional Governance; Democracy; Gender Equality; Hungary; Indonesia; Rule Of Law

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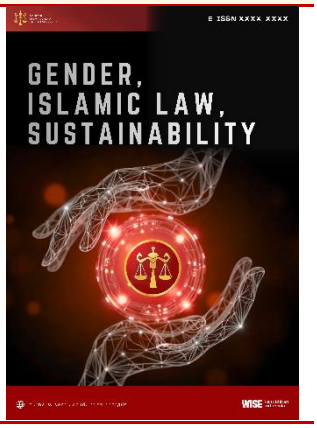

INTRODUCTION

Constitutional democracy constitutes the fundamental foundation of modern state governance by positioning the constitution as the supreme legal norm governing the relationship between the state and its citizens. Within this framework, the constitution serves not only as an instrument for limiting governmental power (limitation of power), but also as a mechanism for safeguarding human rights, ensuring the independence of state institutions, promoting governmental accountability, and guaranteeing legal certainty [1], [2], [3], [4]. Consequently, the quality of a country's democracy is determined not merely by the existence of free and competitive elections, but also by the effective implementation of the principles of constitutional governance and the rule of law in the practice of public administration.

Recent empirical assessments show that democratic erosion is not confined to a single region or constitutional form. The V-Dem Democracy Report 2026 identifies a continuing global deterioration in several liberal-democratic safeguards, while the World Justice Project (WJP) measures compliance with the rule of law across eight factors [5], [6]. These measures should be treated as complementary indicators rather than as conclusive judgments about constitutional validity. For this study, the critical question is whether constitutional constraints remain effective when executive majorities change or political conflict intensifies.

Indonesia's post-1998 constitutional transformation introduced an independent Constitutional Court, direct presidential elections, presidential term limits, and stronger textual rights guarantees [1], [7]. However, the existence of these institutional features does not itself establish consistent independence or accountability. The Constitutional Court's ethical controversy connected to Decision No. 90/PUU-XXI/2023, for example, provides a concrete occasion for examining the relationship between binding constitutional judgments and judicial integrity [8], [9], [10], [11]. Indonesia's trajectory must therefore be evaluated through institutional practice and access to remedies, not through its electoral status alone.

Hungary illustrates an important temporal qualification in comparative constitutional analysis. After an extended period of constitutional and administrative centralisation under Viktor Orbán's Fidesz-led governments (2010–2026), the parliamentary election of 12 April 2026 produced a substantial electoral realignment. The TISZA party secured 141 of 199 parliamentary seats, and Péter Magyar became prime minister on 9 May 2026 [12]. The 2026 European Commission country chapter reports that the new government had initiated rule-of-law reform efforts but also identifies ongoing concerns about judicial administration, prosecutorial independence, corruption investigations, and media pluralism [13]. Consequently, this article examines both the institutional legacy of democratic backsliding and the early reform period; it does not present the former governing party as still in office in late 2026.

These two cases differ in constitutional structure, historical development, and external accountability. Indonesia's multiparty presidential system constitutionally separates executive and legislative branches; Hungary's parliamentary system permits a parliamentary majority to exercise decisive influence over the government. Hungary also operates within European Union legal and oversight arrangements. The comparison is therefore functional rather than an assumption that identical institutions or numerical indices have identical meaning. It asks how each arrangement can prevent abuse, maintain impartial review, protect individual rights, and permit genuine political alternation [2], [3], [4].

Prior work on Indonesia has addressed constitutional interpretation, judicial review, the legislature, and electoral practices [14], [15], [16], [17], [18], [19]. Research on Hungary has examined populist constitutionalism, changes in constitutional review, and the earlier democratic-backsliding period [20], [21], [22], [23]. The April 2026 election and subsequent reform agenda make it especially important to separate retrospective assessment from prospective expectations. Published studies and official assessments do not all use the same definitions of judicial independence, democratic accountability, or rule-of-law performance; these differences limit simple cross-country rankings.

The research gap addressed here is therefore specific rather than an unverified claim that no comparable work exists: the available literature rarely connects five constitutional-resilience dimensions to a temporally explicit assessment of Indonesia and Hungary that includes the 2026 Hungarian transition, institutional ethics, and equal protection in one functional matrix. The article does not purport to provide an exhaustive review of all studies, a causal test of institutional design, or proof that either country has definitively achieved a particular democratic status.

Three analytical gaps structure the inquiry: (1) the insufficient separation of constitutional design from actual institutional performance; (2) the tendency to treat an electoral change or formal judicial reform as automatically sufficient evidence of restored constitutionalism; and (3) the limited specification of observable indicators that connect constitutional supremacy, judicial impartiality, accountable government, substantive rights, and enforcement. These are propositions examined through selected legal and institutional materials, not assertions that all previous scholarship lacks a conceptual framework [3], [21], [23].

To address those gaps, the study develops a Constitutional Governance Resilience Model (CGRM) with five analytically distinct but interdependent dimensions: constitutional supremacy, judicial independence, executive accountability, human rights and substantive equality, and effective rule-of-law enforcement. The model is proposed as a normative diagnostic tool. Its categories are informed by established constitutionalism scholarship and the dimensions of official rule-of-law monitoring; neither the five dimensions nor their combination should be treated as empirically validated solely because they are presented in a new diagram or table [3], [5], [13].

The study addresses three questions. First, how do constitutional design and constitutional review differ functionally between Indonesia and Hungary? Second, how do major institutional developments including the 2023 Indonesian Constitutional Court ethics controversy and Hungary's 2026 transition reveal vulnerabilities in judicial independence, executive accountability, and rights protection? Third, which legal safeguards and observable criteria should inform a defensible CGRM? The study compares legal-institutional mechanisms and develops conditional recommendations; it does not estimate a causal effect of presidentialism or parliamentarism on democracy.

In addition to advancing comparative constitutional analysis, the study evaluates substantive equality as one component of constitutional resilience. Women's legislative representation provides an illustrative, limited indicator of political inclusion: Inter-Parliamentary Union figures report 22.2% women in Indonesia's House of Representatives in its current-data series, whereas 27.1% of the members elected to Hungary's National Assembly in April 2026 were women [24], [12]. These descriptive percentages do not, by themselves, measure effective representation or establish the causes of gender inequality. This rights-based dimension also clarifies the article's relevance to interdisciplinary debates about gender and legal sustainability.

METHODS

This study uses qualitative normative legal research with statutory, doctrinal, case-based, and functional-comparative approaches. Its units of analysis are constitutional safeguards and institutional practices, not individual citizens or survey respondents. The primary legal framework consists of the Constitution of the Republic of Indonesia and the Fundamental Law of Hungary, supplemented by relevant institutional decisions and official documents [1], [2]. Case materials include Indonesia's Constitutional Court Decision No. 90/PUU-XXI/2023 and the Constitutional Court Ethics Council's Decision No. 02/MKMK/L/11/2023, considered as an illustration of judicial ethics and institutional accountability [11]. The Hungarian comparison differentiates the Orbán period (2010–May 2026) from the early Magyar administration (May–October 2026), drawing particularly on the April 2026 election record and the European Commission's July 2026 country report [12], [13]. Secondary sources include the peer-reviewed legal literature already cited and the 2026 WJP country profiles, used only for contextual triangulation [25], [26]. The documentary cut-off for this revision is 31 October 2026. A comprehensive census of all judgments, statutes, or subnational practices was not attempted.

Document selection prioritised: (a) constitutional provisions defining institutional competence and protected rights; (b) judicial or ethics decisions demonstrating an institutional safeguard in operation; (c) official 2026 reports relevant to institutional developments; and (d) scholarship explaining the legal concept under comparison. The analytical procedure involved extraction of source, date, jurisdiction, legal function, evidence of institutional practice, and limitation; comparison across the five dimensions; and cautious synthesis into a diagnostic matrix. Triangulation means comparing legal texts with independent institutional reporting, not equating an index score with proof of legal causation. The analysis has three limitations: no field interviews or direct observation, incomplete coverage of all Hungarian and Indonesian legal developments, and a short observation window after Hungary's 2026 change of government. Accordingly, statements about reform success are provisional and the proposed model requires future empirical evaluation.

RESULTS AND DISCUSSION

Constitutional Governance in Indonesia and Hungary

Constitutional governance concerns the legal creation, distribution, restriction, and review of public power. Democracy supplies electoral legitimacy, whereas the rule of law also requires remedies that can constrain officeholders between elections. The comparative standard used here therefore distinguishes formal guarantees, institutional mechanisms, and evidence of implementation. A successful election is relevant to political competition but cannot alone establish the independence of prosecutors or judges; likewise, an adverse country score does not by itself demonstrate that a particular law violates the constitution [3], [5].

Indonesia's post-amendment constitutional order allocates legislative and executive authority to separate institutions, subjects statutes to constitutional review, and protects civil and political rights under Articles 28D–28I of the 1945 Constitution [1], [27], [28], [29]. These formal safeguards are important, but coalition dynamics, legislative deliberation, and the implementation of judgments can affect their effectiveness. Evaluation must therefore ask whether oversight bodies

are able to act independently and whether affected individuals have accessible remedies, rather than assuming that institutional pluralism automatically yields accountability [25].

Hungary's Fundamental Law establishes a parliamentary constitutional architecture, constitutional review, and rights guarantees [2]. During the Orbán era, constitutional changes and the organisation of public institutions prompted extensive concerns about constraints on government [20], [21], [22], [23]. The April 2026 election ended that period of government. Nonetheless, the existence of a new parliamentary supermajority can itself create a constitutional test: whether reforms respect pluralism, court independence, legal predictability, and checks on the newly elected executive. The July 2026 European Commission assessment records reform initiatives together with unresolved institutional weaknesses [30], [13], [12].

Table 1. Functional comparison of constitutional resilience; source documents and indices

Dimension	Indonesia (2026)	Hungary (2026)	Assessment criterion
Constitutional structure	Presidential, multiparty; separate constitutional organs	Parliamentary; TISZA majority after April election	Can rules restrain any governing majority?
Judicial safeguards	Constitutional Court; ethics issues illustrated by 2023 case	Constitutional Court; reform efforts with residual judicial concerns	Appointment transparency, impartiality, case allocation
Accountability	Parliamentary scrutiny subject to coalition incentives	Two-thirds new majority and inherited institutions	Independent scrutiny beyond electoral mandate
Rights and inclusion	Articles 28D–28I; 22.2% women MPs (IPU series)	Fundamental Law; 27.1% women elected in 2026	Equal protection and meaningful participation
Rule-of-law context	WJP 2026 overall 0.51; constraints 0.60	WJP 2026 overall 0.50; constraints 0.35	Distinguish composite scores from legal proof

Constitutional Supremacy, Judicial Independence, and Executive Accountability

Constitutional supremacy requires lawful government and effective judicial review, not the assertion that all review must always be exercised by a single constitutional court. Indonesia's Constitutional Court has important review powers under the 1945 Constitution [1]. The controversy surrounding Decision No. 90/PUU-XXI/2023 is analytically relevant because the Constitutional Court Ethics Council found violations of judicial ethics and removed Anwar Usman from the position of chief justice in November 2023 [8], [9], [10], [11]. The distinction between a court decision's legal effects and a judge's ethical accountability should be made explicit; the ethics decision cannot be described as automatically annulling the substantive constitutional judgment.

Hungary's Constitutional Court performs review within a parliamentary system in which constitutional amendments and appointment rules have themselves been the subject of dispute [21], [22]. The constitutional capture literature helps explain how formally prescribed amendment procedures may be used to weaken countermajoritarian institutions [3]. However, the 2026 change of government creates a different question from that posed during the Orbán era: whether the new majority can repair institutional safeguards without treating its own mandate as unlimited. The European Commission's July 2026 report records ongoing issues in the transparency of case allocation, prosecutorial independence, and other justice-sector arrangements despite reform activity [13].

Judicial independence is a functional concern in both countries, but the sources document different kinds of risk. Indonesia's framework comprises the Supreme Court, Constitutional Court, and Judicial Commission; concerns have centred on appointment processes, ethics, and the integrity of legal remedies [31], [32], [33]. Hungary's National Judicial Council acquired further powers through earlier reforms, yet the Commission's 2026 assessment still noted problems relating to case allocation and possible undue political interference [13]. The appropriate comparison is not a categorical statement that one national judiciary is entirely independent and the other is not, but an examination of safeguards against pressure, transparent appointments, case allocation, and enforceable disciplinary standards.

Executive accountability operates through different legal channels. In Indonesia, legislative scrutiny, judicial review, audit institutions, and public contestation are formally available, though strong executive coalitions can reduce the incentive for parliamentary scrutiny [6], [28]. In Hungary, the Fidesz-era supermajority facilitated extensive institutional changes; since May 2026, TISZA has also held more than two-thirds of parliamentary seats [12]. Thus, a concentration of legislative seats must be evaluated alongside opposition rights, transparent procedures, and independent institutional constraints, irrespective of which party holds office. The comparison supports a norm of continuous accountability rather than a partisan judgment.

Human Rights Protection, Media Freedom, and the Rule of Law

Rights protection is a separate test of constitutional resilience because institutions may survive while access to those institutions remains unequal. Indonesia's Constitution protects equality before the law, equal opportunities in government, freedom of expression, and protection against discrimination in Articles 28D, 28E, and 28I [1]. Hungary's Fundamental Law also contains equality and rights provisions [2]. The relevant question is whether courts, administrative bodies, and parliamentary processes translate these guarantees into accessible remedies for women, minorities, and other groups vulnerable to exclusion. Constitutional text alone does not establish equal outcomes [34], [35], [24].

The quality of media freedom and civic participation affects whether electoral and judicial accountability can function. Indonesia's political debate and civil-society oversight operate alongside concerns about unequal access, political influence, and legal constraints; claims about their extent should be linked to dated institutional evidence rather than presented as permanent national characteristics [5], [25]. Democratic resilience requires the ability to investigate official misconduct and communicate criticism without disproportionate legal or economic pressure.

For Hungary, pre-2026 rule-of-law scholarship and institutional monitoring documented concerns about media pluralism and public influence over the information environment [20], [23]. The July 2026 European Commission country chapter identifies problems requiring continued attention while describing the new administration's reform efforts [13]. These observations should be dated: older assessments characterise the inherited system, whereas later reports can show whether reform measures were adopted. They do not yet establish their long-term effects.

Anti-corruption enforcement illustrates the difference between adopting rules and demonstrating outcomes. Indonesia has established bodies and laws designed to investigate corruption, but reports of inconsistent enforcement require case-specific evidence [36], [37], [38]. In Hungary, the Commission's 2026 report records new legislation to strengthen the Integrity Authority and asset declarations, while observing that a robust track record in high-level corruption cases had not yet emerged [13]. These findings justify monitoring prosecutorial autonomy, public

procurement, and enforcement outcomes over time rather than assuming that enactment equals effectiveness.

Substantive Gender Equality as a Constitutional Resilience Test

For an interdisciplinary journal concerned with gender and legal development, the comparative model must address who can actually use constitutional protections. IPU data report women holding 129 of 580 seats (22.2%) in Indonesia's House of Representatives, while Hungary's April 2026 election returned 54 women to a 199-seat National Assembly (27.1%) [24], [12]. The denominators are comparable legislative chambers, but these snapshots describe presence rather than legislative influence, policy quality, or the overall experience of women. A more rigorous future analysis should examine equality jurisprudence, barriers to candidacy, gender-responsive lawmaking, and differentiated access to judicial remedies.

Equal protection is normatively relevant to both constitutional frameworks. In Indonesia, Articles 28D and 28I support equality before the law and freedom from discriminatory treatment [1]. Hungary's Fundamental Law provides a corresponding point of analysis [2]. The contribution here is not an unsupported claim that either country has solved gender inequality; rather, gender equality is specified as an operational question within the human-rights dimension of the proposed model. This keeps gender from being a decorative add-on and makes the article's interdisciplinary focus identifiable.

Democratic Backsliding and the Constitutional Governance Resilience Model

The 2026 comparison requires particular caution about timing. Indonesia's WJP Rule of Law Index score is 0.51 (75th of 143), with a 'constraints on government powers' factor score of 0.60; Hungary's corresponding overall score is 0.50 (78th of 143), with a government-constraints score of 0.35 [25], [26]. Scores reflect composite assessments and are not measures of constitutionality or causal effects. The proximity of the aggregate scores does not erase substantial variation by factor, economic context, legal tradition, or temporal trajectory. The 2026 Hungarian electoral turnover should be considered a major institutional opportunity whose effects require subsequent observation [12].

Hungary is thus best analysed in two stages. The 2010–2026 period presents a documented example of democratic and rule-of-law deterioration associated with concentration of power and institutional redesign [20], [21], [23]. Following the April election and May inauguration, the new government initiated reform efforts, some reflected in the July Commission report [30], [13], [12]. A responsible assessment avoids both claiming that Hungary remains under the former government and declaring that elections have already repaired accumulated institutional problems. The key test is whether reform establishes safeguards that would bind the current majority and its successors.

The Constitutional Governance Resilience Model (CGRM) draws a practical inference from these cases: the preservation of constitutional democracy depends on interacting safeguards, not on the formal presidential or parliamentary label. Its five dimensions are (1) constitutional supremacy and lawful amendment; (2) judicial independence and ethical adjudication; (3) executive and legislative accountability; (4) substantive rights, including gender equality and civic inclusion; and (5) access to enforceable legal remedies. Each dimension is tied below to an observable institutional question. This is a conceptual synthesis of comparative findings, not a statistically estimated index or a validated intervention model [3], [13], [25], [26].

For Indonesia, priorities include transparent judicial appointments and ethics processes, legislative scrutiny independent of governing coalitions, accessible rights remedies, and predictable

anti-corruption enforcement. For Hungary, priorities include reforming institutions without substituting one partisan monopoly for another, strengthening transparent case allocation and prosecution, safeguarding media pluralism, and periodically assessing implementation of the 2026 reforms [13]. The model also requires a gender-sensitive accountability question: whether formally equal political rights are accompanied by realistic opportunities for participation and judicial protection. Future evaluation could combine longitudinal institutional datasets with judgment analysis and interviews, but those studies have not yet been conducted here.

Operationalisation and Testability of the Proposed Model

For constitutional supremacy, the indicator is the availability and practical effect of review of legislation and constitutional amendment. For judicial independence, it is appointment integrity, transparent case allocation, and enforceable judicial ethics. For executive accountability, it is the capacity of parliaments, auditors, independent institutions, and media to challenge incumbents. For substantive rights, it is the accessibility and non-discriminatory application of remedies, including for women and minorities. For rule-of-law enforcement, it is compliance with judgments, predictable prosecution, and timely legal relief. These indicators provide a possible agenda for future data collection, but no scoring threshold or empirical causal relationship has been established by this documentary study.

CONCLUSION

This comparative study finds that constitutional democracy in Indonesia and Hungary is shaped less by a state's formal classification as presidential or parliamentary than by the enforceability of constraints on public power. Indonesia retains plural constitutional institutions but faces challenges concerning judicial ethics, accountability under broad parliamentary coalitions, and uneven rights protection. Hungary's experience cannot be described solely as continuing executive domination by the former Fidesz government: the TISZA victory of 12 April 2026 and Péter Magyar's inauguration in May created a new phase of reform. The European Commission's July 2026 assessment nevertheless identifies institutional concerns that remain unresolved. The proposed five-dimensional Constitutional Governance Resilience Model offers a structured diagnostic framework for constitutional supremacy, independent adjudication, executive accountability, substantive rights and gender equality, and enforceable legal remedies. Its relevance is conceptual; it has not been empirically validated. Because the research is limited to selected legal materials and a short post-transition observation period, future research should track implementation over time, compare judicial decisions, and evaluate gender-differentiated access to public institutions and remedies.

Policy implications follow from the same distinction between constitutional norms and performance: reform should be judged by transparent appointments, independent review, predictable enforcement, meaningful rights participation, and evidence of continuing protection across political alternation. A prospective comparative study incorporating interviews, administrative data, and longitudinal indicators would be necessary to test whether the CGRM predicts institutional resilience rather than merely describing its components.

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A.W. led conceptualization, methodology, analysis, investigation, and drafting; G.Y. supported literature review, comparative assessment, and manuscript revision; and R.R. contributed to methodological review, legal analysis, and editing. N.H.'s contribution must be supplied and confirmed by the authors before publication. All authors' approval and the attribution of individual roles must be independently confirmed by the corresponding author.

CONFLICT OF INTEREST

The authors declare no conflict of interest.

DECLARATION OF USE OF AI IN SCIENTIFIC WRITING

The authors report using ChatGPT for organizing concepts and Grammarly for language editing. The authors should confirm the exact tools and their use, verify all legal and bibliographic assertions independently, and retain full responsibility for the analysis, conclusions, and originality of the manuscript. This statement must be approved by all authors before publication.

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