



The Pancasila Rule of Law and Democratic Backsliding in Indonesia A Critical Legal Perspective

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Abstract: This article examines the Pancasila-based rule of law in Indonesia within the context of democratic backsliding using a Critical Legal Studies (CLS) approach. Normatively, Pancasila offers a synthesis of legality, morality, social justice, and religious values. This study addresses the growing tension between the normative ideals of the Pancasila-based rule of law and contemporary patterns of democratic backsliding in Indonesia, particularly regarding judicial independence, executive dominance, and restrictions on civil liberties. The weakening of judicial independence, the expansion of executive power, and the restriction of civil liberties indicate patterns of democratic erosion. Furthermore, the interpretive flexibility of Pancasila enables its instrumentalization by political elites to legitimize policies that deviate from democratic principles. This study employs a qualitative normative-empirical approach using Critical Legal Studies (CLS), constitutional analysis, and critical interpretation of legal and political discourse related to democratic regression in Indonesia. The findings indicate that democratic backsliding in Indonesia is reinforced by the political instrumentalization of Pancasila, enabling legal justification for executive power expansion and restrictions on democratic freedoms despite constitutional commitments to justice and the rule of law. Therefore, a critical reconstruction is necessary to strengthen legal integrity and democratic governance.

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INTRODUCTION

The idea of the rule of law in Indonesia is constitutionally anchored in the principle that the state is a *negara hukum* grounded in Pancasila. This formulation reflects a distinctive legal philosophy that combines constitutional legality, social justice, collective harmony, and religious morality, differentiating the Pancasila rule of law from both the liberal Anglo-Saxon rule of law and the formalistic continental *rechtsstaat* tradition (Sila et al., 2025). In this sense, the Pancasila-based rule of law is designed to integrate legality, morality, social justice, and religious values into



a unified legal framework (Entah, 2016). However, despite its normative richness, the practical realization of this ideal remains deeply contested in contemporary Indonesia, particularly in light of increasing concerns over democratic backsliding.

In the post-Reformasi era, Indonesia has often been celebrated as one of the world's largest democracies, characterized by competitive elections, decentralization, and constitutional reforms. Recent scholarship indicates increasing tensions between democratic procedures and substantive rule-of-law principles in Indonesia, particularly in relation to executive influence over legal institutions, weakening judicial independence, and restrictions on civic freedom (Santika et al., 2019). The persistence of political dynasties, elite capture, and institutional manipulation suggests that democratic procedures are increasingly used to legitimize power consolidation rather than to ensure accountability (Widiyahseno et al., 2026). This phenomenon aligns with broader global patterns of democratic erosion, where legal and constitutional mechanisms are subtly reconfigured to weaken checks and balances without overt authoritarian rupture.

From a theoretical standpoint, the Pancasila rule of law aspires to achieve a balance between individual rights and collective harmony, emphasizing social justice (*keadilan sosial*) as a core objective. Nevertheless, empirical realities reveal a significant gap between these ideals and actual legal practices. Law enforcement in Indonesia continues to face structural challenges, including allegations of judicial corruption, political intervention in constitutional adjudication, and inconsistent legal accountability, all of which undermine public trust in the legal system (Kadir et al., 2025). This discrepancy raises critical questions about whether the Pancasila framework is being substantively implemented or merely symbolically invoked.

Existing studies have attempted to address aspects of this problem, but often remain limited in scope. For instance, research on Pancasila and legal reform tends to emphasize its normative importance and ideological resilience, highlighting its role as a foundational value in shaping legal policies (Siregar et al., 2024; Hadiprabowo et al., 2024). While previous studies emphasize the normative importance of Pancasila, they rarely examine how political elites, institutional power relations, and legal manipulation shape the practical interpretation and implementation of Pancasila within contemporary democratic decline (Althafa & Pramesti., 2025). Similarly, socio-legal analyses have explored the role of civic education and civil society in strengthening democratic values, particularly amid signs of democratic regression (Pratiwi et al., 2025; Wijaya., 2023). However, such approaches often overlook the structural and institutional dimensions of legal decline.

Moreover, earlier scholarship on Indonesia's constitutional democracy has identified the persistent tension between law and politics, noting that legal institutions are frequently subject to political interests. This condition results in what has been described as the politicization of law and the weakening of independent institutions, ultimately leading to a form of "semantic constitutionalism" where legal norms exist in form but not in substance (Thamrin et al., 2025). In this context, concerns emerge that the rule of law may increasingly function symbolically rather than substantively, potentially contributing to democratic fragility and weakened institutional accountability (Santika et al., 2019).



What distinguishes the present study from previous research is its explicit focus on the intersection between the Pancasila rule of law and democratic backsliding through a critical legal perspective. Rather than treating Pancasila as a static normative ideal, this article interrogates how its interpretation and application are shaped by power relations, political interests, and institutional constraints. The study argues that the broad and interpretive nature of Pancasila enables competing political actors to selectively invoke its values in legitimizing policies that may weaken democratic accountability and constitutional restraint (Timbul et al., 2026). Consequently, Pancasila may function not only as a source of legal legitimacy but also as a tool for justifying deviations from democratic principles.

Furthermore, while prior comparative studies have examined the transformation of Pancasila before and after the Reformasi period, they tend to focus on macro-level institutional changes without sufficiently addressing contemporary patterns of democratic erosion (Thontowi et al., 2024; Santika., 2020). This article seeks to fill that gap by situating Indonesia within the broader discourse on democratic backsliding, thereby offering a more nuanced understanding of how ideological frameworks interact with evolving political realities.

The urgency of this inquiry is underscored by the increasing normalization of practices that contradict the core values of the Pancasila rule of law, such as the erosion of judicial independence, the expansion of executive power, and the restriction of civil liberties. While some scholars highlight the role of institutions like the Constitutional Court in mitigating democratic decline, others argue that these mechanisms are themselves vulnerable to political pressures (Baidhowah, 2021). This ambivalence reflects the broader dilemma facing Indonesia: whether its legal and constitutional framework can effectively resist democratic regression or whether it is gradually being reshaped to accommodate it.

In light of these considerations, this article advances the argument that the crisis of the Pancasila rule of law in Indonesia is not merely a matter of implementation failure, but a deeper structural issue rooted in the interplay between law, ideology, and power. By critically examining how democratic backsliding reshapes the interpretation and implementation of the Pancasila rule of law, this study contributes to critical legal scholarship on constitutionalism, ideological legitimacy, and institutional decline in contemporary Indonesia. It also seeks to provide a theoretical and analytical framework that moves beyond descriptive accounts, offering a more critical and reflective understanding of the challenges facing the Pancasila-based legal order.

METHODS

This study employs a qualitative research design using a Critical Legal Studies (CLS) framework to analyze how legal norms, constitutional discourse, and political power relations interact in shaping the implementation of the Pancasila-based rule of law in Indonesia (Buka et al., 2022). Rather than treating law as a neutral and autonomous system, the CLS perspective views legal norms as socially constructed and deeply embedded within political, economic, and ideological power structures. This approach is particularly relevant for uncovering how the normative ideals of Pancasila are interpreted, contested, and potentially instrumentalized within contemporary legal and political practices. By adopting this perspective, the research moves beyond doctrinal analysis to interrogate the broader socio-political context shaping the rule of law in Indonesia.



The research utilizes a normative-empirical hybrid method, combining doctrinal legal analysis with socio-legal inquiry. The normative component focuses on examining constitutional provisions, statutory regulations, and key judicial decisions, particularly those related to the principles of the rule of law, democracy, and Pancasila as the state ideology. Primary legal sources include the 1945 Constitution, laws concerning judicial authority and democratic governance, and Constitutional Court decisions issued between 2019 and 2025 that are directly related to judicial independence, executive authority, and civil liberties (Santika et al., 2019). These materials are analyzed using a conceptual and statutory approach to identify the formal articulation of Pancasila-based legal principles (Marzuki, 2017; Hutchinson, 2018).

The empirical analysis utilizes secondary qualitative data derived from academic publications, policy reports, and documented legal-political controversies related to democratic backsliding in Indonesia between 2019 and 2025, selected based on their relevance to institutional independence and constitutional governance. This includes data on issues such as judicial independence, electoral integrity, executive dominance, and civil liberties. The use of secondary data allows for a broader and more contextualized understanding of how legal norms operate in practice, particularly in relation to democratic backsliding (Levitsky & Ziblatt, 2018; Tushnet, 2015). The integration of these two methodological strands enables a more comprehensive analysis of the gap between legal ideals and empirical realities.

The data were analyzed through thematic critical interpretation by categorizing legal norms, institutional practices, and political narratives into themes related to judicial independence, executive dominance, and democratic accountability, followed by comparative evaluation between constitutional ideals and empirical realities (Santika, 2020b; Dewi, 2025). The discourse analysis focuses on legal documents, judicial reasoning, and political statements related to democracy and Pancasila, examining how particular narratives are constructed to justify institutional authority and legal policy decisions (Wodak, 2009; Kartika & Umbu, 2024). Through this lens, the study analyzes not only what the law states, but also how it is framed, interpreted, and applied in specific contexts.

To strengthen analytical clarity, the research also employs a comparative analytical framework, juxtaposing Indonesia's experience with broader theoretical models of democratic backsliding and rule-of-law erosion. This comparison is not intended to generalize Indonesia's case, but rather to situate it within a global discourse on constitutional decline and authoritarian legalism. By doing so, the study highlights both the unique features of the Pancasila-based system and its vulnerabilities within contemporary political dynamics (Ginsburg & Huq, 2018; Corrales, 2015). The following table 2.1 summarizes the methodological framework used in this study:

No.	Aspect	Description
1.	Research Approach	Qualitative with Critical Legal Studies (CLS) perspective
2.	Type of Research	Normative-empirical (doctrinal + socio-legal)
3.	Data Sources	Primary (constitution, laws, court decisions); Secondary (journals, reports)



4.	Data Collection	Document analysis and literature review
5.	Data Analysis Technique	Critical interpretation and discourse analysis
6.	Analytical Framework	Normative vs empirical comparison; global perspective on democratic backsliding

To enhance analytical validity, the study triangulates constitutional texts, judicial decisions, academic literature, and documented political developments, enabling cross-verification between normative legal principles and empirical patterns of democratic regression. Legal texts are interpreted alongside empirical findings and theoretical insights to avoid overly formalistic conclusions (Kandia., 2026). Additionally, the use of internationally recognized theories on democratic backsliding and legal critique enhances the robustness of the analysis. By integrating normative, empirical, and critical perspectives, this methodology provides a rigorous foundation for examining the complex and often contradictory dynamics of the Pancasila rule of law in the context of democratic regression in Indonesia.

RESULTS AND DISCUSSIONS

This study reveals a persistent and widening gap between the normative ideals of the Pancasila-based rule of law and the empirical realities of democratic practice in Indonesia. While Pancasila conceptually integrates legality, morality, and social justice into a unified legal framework, its operationalization is increasingly shaped by political contestation, institutional fragility, and elite-driven interests. The findings are organized into three interrelated dimensions: (1) normative coherence versus institutional practice, (2) patterns of democratic backsliding, and (3) the instrumentalization of Pancasila within legal discourse.

1. Normative Ideals versus Institutional Realities

At the normative level, the Pancasila rule of law emphasizes substantive justice, collective welfare, and moral governance. These principles are embedded in constitutional provisions and are often invoked as the philosophical foundation of Indonesia's legal system (Asshiddiqie, 2019; Latif, 2018). However, the empirical findings suggest that these ideals are not consistently reflected in institutional practices.

One major issue is the weakening of judicial independence, which undermines the credibility of legal institutions. Empirical evidence, including controversies surrounding Constitutional Court rulings and public criticism regarding judicial ethics and political intervention, indicates that judicial institutions in Indonesia are increasingly vulnerable to elite influence and declining institutional independence (Butt, 2012; Mietzner, 2020). This condition reflects a tendency toward rule by law, particularly when legal regulations and institutional procedures are utilized to strengthen executive authority and legitimize political interests rather than uphold constitutional accountability and democratic limitation of power (Hadiz, 2017).

Additionally, several law enforcement institutions continue to face allegations of corruption, inconsistent prosecution practices, and weak accountability mechanisms, contributing to unequal application of the law and declining public trust in legal institution



(Sujana & Santika., 2026; Muptiah., 2025). These issues not only erode public trust but also contradict the Pancasila principle of keadilan sosial (social justice), which demands equitable treatment before the law (Aspinall & Berenschot, 2019). The inconsistency between legal norms and enforcement practices highlights a structural gap that cannot be explained solely by implementation failure, but rather by deeper systemic constraints.

2. Patterns of Democratic Backsliding in Indonesia

The analysis identifies several indicators of democratic backsliding, characterized by the gradual erosion of democratic institutions and norms without overt authoritarian reversal. These patterns align with global trends but also exhibit context-specific features shaped by Indonesia's political and legal culture (Bermeo, 2016; Waldner & Lust, 2018).

First, there is evidence of executive aggrandizement through legislative intervention, regulatory expansion, and increased political influence over state institutions, which collectively weaken constitutional checks and balances in Indonesia. This includes the strategic use of legislation and regulatory authority to consolidate control over political and legal institutions (Power, 2018). Such developments weaken the system of checks and balances that is essential to the rule of law.

Second, electoral integrity has been increasingly questioned, particularly in relation to the role of political dynasties and oligarchic networks. Although elections in Indonesia remain procedurally competitive, the dominance of oligarchic networks, unequal campaign resources, and concentrated media ownership increasingly undermine substantive electoral fairness and democratic inclusiveness (Winters, 2011; Warburton & Aspinall, 2019). This creates a paradox where democratic procedures persist, but their substantive quality declines.

Third, restrictions on civil liberties, including freedom of expression and assembly, have become more pronounced. Several legal instruments, including electronic information regulations and defamation provisions, have been criticized for their broad interpretation and selective enforcement against activists, journalists, and public criticism, thereby limiting democratic participation and freedom of expression (Setijadi, 2021; Santika & Tripayana., 2025). These practices are inconsistent with the Pancasila commitment to human dignity and democratic deliberation. The following table summarizes the key indicators of democratic backsliding identified in this study:

No.	Dimension	Normative Ideal (Pancasila Rule of Law)	Empirical Reality (Findings)
1.	Judicial Independence	Independence, impartial judiciary	Political intervention and elite influence
2.	Executive Power	Balanced governance	Executive aggrandizement through legal mechanisms
3.	Electoral System	Fair and inclusive democracy	Oligarchic dominance and political dynasties
4.	Civil Liberties	Protection of human rights	Increasing restrictions and legal repression
5.	Law Enforcement	equality before the law	Corruption and selective enforcement



3. Instrumentalization of Pancasila in Legal and Political Discourse

One of the most critical findings of this study is the dual function of Pancasila as both a normative foundation and a political instrument. While Pancasila is often presented as a unifying and guiding ideology, its interpretive flexibility allows it to be selectively invoked to justify a wide range of legal and political actions.

Scholars have noted that this discursive ambiguity enables political actors to frame their policies as consistent with Pancasila, even when such policies undermine democratic principles (Bourchier, 2015). For example, restrictions on civil liberties are frequently justified in the name of social harmony and national unity values associated with Pancasila. This condition demonstrates that references to Pancasila are sometimes used within political and legal discourse to justify restrictive policies and reinforce institutional authority, despite potential contradictions with democratic accountability and constitutional freedom (Santika et al., 2026; Wambrauw et al., 2025; Sujana et al., 2025)).

Furthermore, the study finds that the symbolic dominance of Pancasila in legal discourse often masks substantive deficiencies in governance. Legal reforms and institutional changes are frequently framed in Pancasila terms, but lack meaningful alignment with its core values. This phenomenon can be understood as a form of ideological legitimation, where the appearance of normative consistency obscures underlying contradictions (Robison & Hadiz, 2004; Hidayat, 2025).

4. Comparison with Previous Studies and Research Novelty

Compared to previous research, this study offers a more integrated and critical perspective on the relationship between Pancasila and democratic backsliding. Earlier studies have tended to focus either on the normative strengths of Pancasila or on empirical indicators of democratic decline, without sufficiently linking the two (Fealy & White, 2016; Menchik, 2019). By contrast, this research explicitly examines how the interaction between ideology and power shapes legal outcomes.

Moreover, while prior scholarship often treats Pancasila as a stable and coherent framework, this study highlights its contested and dynamic nature, emphasizing the role of interpretation and political context. This approach aligns with recent developments in critical legal theory, which stress the importance of analyzing law as a site of struggle rather than a fixed set of rules.

5. Toward a Critical Reconstruction of the Pancasila Rule of Law

The findings suggest that addressing the crisis of the Pancasila rule of law requires more than technical legal reforms. It necessitates a critical reconstruction that reexamines the relationship between law, ideology, and power. This reconstruction requires strengthening judicial independence through transparent appointment mechanisms, improving oversight of executive authority, and encouraging broader participation from civil society and academic institutions in interpreting and implementing Pancasila within constitutional governance (Sujana et al., 2025).

Importantly, such reconstruction must also involve democratizing the interpretation of Pancasila, allowing for greater participation from civil society, academia, and marginalized



groups. Without this, Pancasila risks becoming an exclusive domain of political elites, detached from its original emancipatory purpose.

In sum, the results demonstrate that the Pancasila-based rule of law in Indonesia is currently at a critical juncture. While its normative foundations remain robust, its practical realization is increasingly compromised by democratic backsliding and political instrumentalization. By exposing the gap between ideals and realities, this study contributes to a deeper understanding of the challenges facing Indonesia's legal and democratic development, and underscores the need for a more critical and reflective approach to legal reform.

CONCLUSION

This study concludes that the Pancasila-based rule of law in Indonesia remains normatively robust but empirically fragile. The foundational ideals of justice, moral governance, and social harmony embedded in Pancasila continue to provide a strong philosophical framework for the legal system. However, these ideals are increasingly undermined by patterns of democratic backsliding, including the concentration of executive power, weakening judicial independence, and the restriction of civil liberties. As a result, there is an increasing concern that aspects of the rule of law in Indonesia may function more formally than substantively, particularly when legal institutions experience political pressure and weakened accountability.

A key finding is that the flexibility of Pancasila, while theoretically advantageous, has enabled its instrumentalization within political and legal discourse. This has allowed elites to selectively interpret its values in ways that justify practices inconsistent with democratic principles. Consequently, the gap between normative commitments and institutional realities is not merely a technical issue, but a structural problem rooted in the interaction between law and power.

To address this condition, reforms should focus on strengthening judicial independence, improving institutional oversight mechanisms, and encouraging participatory constitutional interpretation involving civil society, academia, and legal institutions to ensure that Pancasila is implemented consistently with democratic and human rights principles. Without such efforts, the future of Indonesia's democratic and legal order will remain vulnerable to continued erosion.

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