

IGCC ESSAY

The Defense of Judicial Independence: A Global Imperative

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A few weeks ago, I found myself wandering through the stunning dome of the German Parliament—the *Bundestag*—in Berlin. This architectural sight, cloaked in transparent glass, features a spiral ramp that gracefully winds along the outer edges, leading visitors to an observation deck offering breathtaking views of the sprawling cityscape below. The dome's design is accentuated by skylights at the cupola's base, casting natural light into the debating chamber beneath and forging a profound visual connection to what Sir Norman Foster, its visionary architect, envisioned as Germany's democratic forum.

The Bundestag's Exhibition on Parliamentary History, housed within the elegant confines of the nearby *Deutscher Dom* church, not only chronicles the historical evolution of democratic governance in Germany, but also serves as a poignant reminder of democracy's fragility and remarkable resilience. Visitors are guided through the vibrant epochs of German parliamentary history, from today's flourishing democracy in the Federal Republic to the era of imperial Germany and the Weimar Republic, then through the darkest days of the Nazi regime, the partition of Germany in the aftermath of World War II, and the transformative Peaceful Revolution that reunified the country under a democratic constitution.

Influenced by the building's architectural design, visitors explore the helical exhibition, which traces the journey from promulgating Germany's Basic Law of 1949—a foundational instrument promoting German unity, rights, and freedom—to the Peaceful Revolution in the German Democratic Republic (East Germany). During this pivotal period, as the exhibition notes, people gathered for peace prayers and public protests, advocating for freedom and democracy. After initial government resistance, the people's resolve prevailed, and the Berlin Wall came down on November 9, 1989, marking a new democratic era for the country.

The building of the *Bundestag*, like those in other nations that have faced similar challenges throughout history, serves as a reminder of democracy's essential standing. It highlights the significance of the separation of powers and respect for the rule of law, as well as the inherent vulnerabilities of these principles and the dangers of not defending them.

When the general doctrine of the division of powers was envisioned, it established a framework for governance and infused the idea of moderate government. Establishing a moderate government dictates a deliberate and nuanced amalgamation of state powers, intricately structured by a resilient framework of checks and balances that empowers each branch to counteract the others effectively.

This guiding principle, which has inspired democracies worldwide, asserts that the careful distribution of authority is crucial in thwarting any single branch from wielding power capriciously, particularly in instances where diverging interests may come into conflict. Cultivating this delicate equilibrium ensures that governance remains independent, accountable, and attuned to society's diverse and evolving needs. To safeguard against potential abuses of authority, power must serve as a counterbalance to power. An intricate system of checks and balances ensures that no single power becomes too dominant to the detriment of the others.

In *The Spirit of Law*, the French jurist Montesquieu concluded that the most effective form of government is one in which the legislative, executive, and judicial branches are distinct and operate independently, each capable of checking the power of the others. A separation of powers safeguards against the concentration of authority, which he believed could lead to tyranny if a single individual or group were to dominate all three branches. By ensuring that each branch possesses a degree of oversight over the others, Montesquieu envisioned a balanced system that protects individual rights and promotes justice, preventing the rise of despotism (National Constitution Center, 2025).

Nonetheless, the aspiration for a clear separation of powers frequently strays from the practical realities of many political systems today. In numerous regions worldwide, efforts have emerged to challenge the legitimacy of this foundational principle, especially in nations characterized by a robust presidential model. Regional experience has demonstrated that an overwhelming concentration of authority within the executive branch undermines the balance of power, leading to complex governance dynamics that can stifle democratic processes and civil liberties.

In recent decades, a notable trend has emerged whereby executive powers have exercised an increasingly disproportionate authority to sanction or amend legislation and even suspend constitutional provisions during times of emergency. This expanded reach of executive authority has yielded profound repercussions for political stability and the overall quality of democratic governance in numerous countries worldwide, raising concerns about the balance of power and the safeguards necessary to uphold democratic principles.

Nonetheless, the executive branch's growing dominance cannot solely be attributed to its capacity to propose legislation. Historically, presidents have wielded significant power in appointing or influencing the selection of key public officials within the government. This includes prominent roles such as ministries, supreme court justices, the attorney general, and various members of essential state institutions. As experience indicates, the executive branch shapes the foundation of governance through these appointments, ensuring its priorities and perspectives are reflected across the political landscape.

This leads us to two important questions. First, why is it essential to analyze the executive branch's role to understand the importance of the separation of powers? Second, why is it necessary to consider the principle of separation of powers in the context of the current state of democracy worldwide?

In 2024, the Economist Intelligence Unit released the latest edition of its global Democracy Index. This index reveals a troubling stagnation of democratic practices worldwide since 2006. The annual survey rigorously assesses the state of democracy in 167 countries, employing five key criteria—each scored from zero to a maximum of ten—to gauge the health of democratic governance: electoral process and pluralism; functioning of government; political participation; democratic political culture; and civil liberties. Each criterion serves as a lens through which the dynamics of democracy can be understood, reflecting both progress and challenges nations face in pursuing democratic values. The index classifies each country into one of four regime types: full democracies, flawed democracies, hybrid regimes, and authoritarian regimes (Democracy Index, 2024).

In 2024, the index revealed that only a small fraction of countries—just 37—managed to enhance their scores. For most of these nations, the improvements were minimal, and often from already-low starting points. By contrast, a far larger group of 83 countries experienced a decline in their scores, with some facing significant deteriorations that highlight a deepening democratic deficit. The scores for the other 47 countries were unchanged.

Overall, the report indicates that the quality of democracy either worsened or remained unchanged in a staggering 130 out of the 167 countries assessed by the index in 2024. As of 2024, there are only 25 full democracies globally and 60 authoritarian regimes. Only 6.6 percent of the world's population live in full democracies, while 39.2 percent live under authoritarian regimes.

The global score stood at a modest 5.29 out of 10, reflecting a slight uptick of just 0.01 from the previous year. The world is still in a democratic recession, and has been since 2016, but the state of global democracy is now stagnating rather than continuing to deteriorate. One of the bright spots in this otherwise concerning trend came with the easing of pandemic-related restrictions in 2022, which held promise for a potential recovery in democratic practices and civil liberties.

Democracy and the rule of law are facing unprecedented threats on a global scale, underscoring the urgent need for commitment to defend and fortify democratic values amidst an ongoing decline in democratic practices and institutions.

The most recent Democracy Index reports from 2024 and 2023 unequivocally reveal that democracy is facing significant dangers, particularly from authoritarian leaders and corrupt individuals who are conspiring to erode the foundational principles of democratic governance (Democracy Index, 2023). Insidious strikes emanate from state officials entrenched within various branches of government, attempting to sow division among the citizenry and foment confrontation between members of society. These forces strive to erode public trust and actively undermine confidence in and publicly denigrate crucial democratic institutions.

As articulated by the former administrator of the United States Agency for International Development (USAID), Samantha Power, during the 2023 Summit for Democracy, democratic nations come together in collaborative forums to share valuable insights and engage in meaningful exchanges of best practices. These gatherings aim to strengthen the foundations of democracy and uphold the rule of law, fostering a deeper understanding of the challenges and progress experienced across different nations as they embark on their democratic journeys (Power, 2023).

On the flip side, there is a troubling trend in contemporary governance: authoritarian and repressive leaders are not only tightening their grip on power, they are also engaging in a similar form of collaboration. These leaders are actively sharing strategies and best practices, seamlessly borrowing and replicating restrictive laws from one nation to another. This exchange is aimed at curbing the work of nongovernmental organizations and curtailing the fundamental rights of journalists, further undermining the freedom of speech and the press that allows democracy to flourish.

These leaders observe and absorb tactics from one another, honing their skills in amplifying propaganda and spreading disinformation. They meticulously replicate tried-and-true models designed to bolster corruption while also exchanging sophisticated surveillance technologies aimed at stifling free speech and quelling dissent. In this shadowy exchange of knowledge, they fortify their grip on power, systematically undermining the pillars of democracy, rule of law, and individual freedoms.

Amid a global democratic crisis, a window of opportunity emerges as autocratic regimes grapple with their inability to meet the needs and aspirations of their citizens. These governments are not only struggling domestically but are also experiencing a notable decline in support from the international community. History has shown that such a confluence of factors often ignites a fervent resistance among civil society. Across the globe, citizens are rising up, taking to the streets to voice their dissent against a backdrop of antidemocratic measures, embodying a powerful desire for change and accountability.

The narrative articulated by Power vividly illustrates a phenomenon that has emerged in numerous countries across the globe. In recent years, a disturbing trend has transpired in which autocratic leaders have systematically undermined the very foundations that allow democracy to thrive and take root. This erosion of democratic principles is evident in their relentless assaults on institutions designed to ensure accountability and monitor the actions of state power. This includes the media and journalists—who serve as watchdogs for the public interest—often facing intimidation or censorship. Civil society organizations, which play a crucial role in fostering civic engagement and upholding human rights, are increasingly stifled under oppressive regimes. Not to be overlooked are the state institutions themselves, particularly the judiciary, which, in a flourishing democracy governed by the rule of law, should act as vital checks on political authority. The attack on these institutions signifies not just a threat to democracy, but a broader assault on the principles of judicial independence and accountability that underpin a free society.

Several times, the United Nations has reported that the independence of the judiciary is being increasingly challenged worldwide, undermining its essential role in constitutional democracies (United Nations, 2018). Various tactics are used to hinder judges, including political interference, personal or physical threats, reductions in their compensation, and public campaigns aimed at discrediting them. Institutional assaults often involve legislative overrides of unilateral rulings and political meddling in judicial appointment and tenure processes, limitations to the judiciary's financial independence, and the use of technology to undermine the judiciary's legitimacy, ultimately compromising the integrity, confidence, and public trust in the justice system. These patterns not only threaten the foundational principles of justice but also erode the rule of law, leaving democracy vulnerable to authoritarian influences. Over the years, the world has witnessed the application of a consistent model of judicial erosion that has been systematically employed by other nations to undermine the crucial role of judges within democratic societies.

The European Parliament, for example, characterized Hungary's political trajectory as one of the foremost concerns facing the European Union, marking it as one of the longest-standing rule-of-law crises on the continent (European Parliament, 2022). The national-populist Fidesz party has been instrumental in reshaping Hungary's constitutional framework, steering it firmly towards an authoritarian governance model. This approach has involved a meticulous and strategic dismantling of the constitutional checks and balances that once safeguarded democratic accountability. This was achieved by repealing key laws designed to foster transparency and ethical governance, coupled with the strategic appointment of loyalists to critical positions within his administration.

In April 2010, following parliamentary elections, Fidesz secured a commanding majority and swiftly moved to dismantle the longstanding 1949 Constitution, instituting a new legal framework in its place. This bold action sparked intense debates and scrutiny, particularly regarding a series of controversial laws aimed at curtailing the independence of the Supreme Court and the judiciary at large. One notable measure was the immediate reduction of the retirement age for judges from 70 to 62, leading to the forced retirement of one quarter of the Supreme Court's judges and half of the presidents of the Court of Appeals. These changes raised alarms about the independence and authority of the judiciary as courts got packed with loyal judges unwilling to check political power.

Hungary's situation is a compelling illustration of what Power cited as the exchange of practices and insights among autocratic leaders. The measures implemented against the judiciary in Hungary have emerged as a blueprint for other leaders who are intent on eroding the independence of the judiciary and undermining the rule of law. Hungary's actions resonate far beyond its borders, inspiring similar initiatives among regimes seeking to consolidate power and diminish democratic institutions (Power, 2023).

The Hungarian playbook was closely mirrored by Poland. In late 2019, the Polish parliament, the *Sejm*, passed a controversial "muzzle law" which dramatically altered the structure and function of the judiciary by establishing a disciplinary chamber with sweeping powers to initiate punitive actions against judges who dared to rule against the ruling party's agenda (Wójcik, 2023). Under this law, the executive gained the authority to remove judges from their positions and curtail their salaries if they criticized changes in legislation affecting judicial operations or challenged the legitimacy of new judicial appointments that aligned with the government's ideology. Since the formation of the disciplinary chamber in 2017, the judiciary has faced unprecedented turmoil, with over 1,000 judges removed from their posts.

The wave of dismissals in Poland sparked serious concerns regarding the erosion of judicial independence and the rule of law. The Council of Europe fervently voiced its concerns about the reforms, which are reportedly bolstered by a state-sponsored campaign aimed at undermining the credibility of judges (Sobczyk, 2016). The Council considered that these actions to have significantly compromised the integrity and functionality of the nation's justice system, which encompasses not only the Constitutional Court but also the Judicial Council responsible for overseeing the judiciary. The Council of Europe also condemned the sweeping dismissal, replacement, and demotion of hundreds of court presidents and prosecutors, alongside the use of disciplinary measures against judges and prosecutors who speak out against these injustices (Council of Europe, 2017).

Following the alleged coup attempt of 2016, the Turkish government swiftly imposed a state of emergency, unleashing a wave of unprecedented political repression (Ward, 2016). This marked a pivotal moment in Turkey's history—a calculated effort to suspend the rule of law. More than 300 judges were summarily dismissed and imprisoned, branded as terrorists under the guise of national security laws, which became the pretext for these sweeping detentions. In the years since, the Turkish government's policies have adeptly reshaped the public perception of the judiciary in Turkey. By systematically appointing judges who are loyal to the regime, the executive transformed the judiciary into a mechanism for persecuting political adversaries. This strategic overhaul has seen experienced judges replaced with inexperienced individuals lacking the requisite legal acumen, leading to a profound crisis within Turkey's judicial system. The once-respected institution now bears the weight of political manipulation, raising serious concerns about the future of justice in the country.

In this situation, the Council of Europe expressed significant concern over the constitutional amendments related to Turkey's Council of Judges and Prosecutors, highlighting their stark contradiction to established European standards. Furthermore, the Council condemned the suspension of essential safeguards and procedures governing the dismissal, recruitment, and appointment of judges and prosecutors during the two-year state of emergency (Venice Commission, 2017).

Going back to the historical reminder of Germany's Peaceful Revolution, and the face of ongoing assaults against democracy and judicial independence across the globe, it is imperative to reflect on civil society's response. History shows that as political actors increasingly threaten the judiciary's integrity, the role of citizens, bar associations, judge's associations, and grassroots movements is essential in safeguarding judicial independence and the rule of law as the cornerstone of democracy.

In a steadfast demonstration of democratic resilience, recent years have witnessed a resounding global outcry against the curtailing of judicial independence. These attacks, denounced fervently by the associations of judges and lawyers and joined by civil society worldwide, underscore the critical importance of maintaining and safeguarding an independent judiciary as a cornerstone of the rule of law.

In January 2020, a remarkable and unprecedented event unfolded in the heart of Poland, as judges from 22 European countries joined forces with their Polish counterparts in a peaceful and silent demonstration known as the [“1000 Robes March.”](#) The streets of Warsaw came alive with the solemn procession of judges from Austria, Belgium, Bulgaria, Croatia, Czechia, Denmark, Estonia, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, the Netherlands, Norway, Portugal, Romania, Slovakia, Slovenia, and Spain (International Association of Judges, 2020). Clad in their robes, these European jurists stood shoulder to shoulder, conveying a compelling message of unity

and resilience in the face of escalating threats to the rule of law not only in Poland but around the world. Judges walked side by side for hours, traversing a path that led from the imposing Supreme Court to the Presidential Palace and culminating at the Sejm.

This peaceful march evinced a profound sense of unity and determination, as the participants stood in solidarity to demand the “right to judicial independence” and “right to Europe.” These slogans, echoing through the streets, highlighted the shared commitment to uphold the independence and integrity of the judiciary and the values that bind European nations together.

Public demonstrations have erupted across numerous countries worldwide, serving as powerful symbols of solidarity and a rallying cry for awareness in response to the decline of judicial independence. These gatherings highlight the shared commitment to safeguarding justice and amplify the urgent need to confront trends that threaten the rule of law.

In 2016, a wave of dissent swept through the streets of [Hong Kong](#) as hundreds of lawyers participated in a silent yet profound protest against an extradition bill that could allow individuals to be extradited to mainland China without respect for due process. The implications of such a measure extended far beyond legal frameworks, igniting fears of potential human rights violations and a chilling effect on civil liberties in the city. The silent procession of legal professionals clad in dark suits symbolized their unwavering commitment to justice and the rule of law, highlighting the critical impact of the erosion of judicial independence on civil rights and freedom (Cheung, 2016).

In 2019, the Philippines witnessed a dramatic turning point in its judicial history when the chief justice, Maria Lourdes Sereno, was ousted by a coalition of fellow judges. A vocal critic of the country’s authoritarian leadership, Sereno had garnered significant public and political attention for her staunch advocacy of the rule of law and human rights amid a climate of fear under then-President Rodrigo Duterte (Associated Press Manila, 2018). She courageously spoke out against the government's brutal crackdown on illegal drugs. This campaign inflicted widespread violence and resulted in the deaths of thousands of alleged offenders and arrests violating due process of law rights. This politically charged atmosphere culminated in a contentious impeachment bid against Sereno in the House of Representatives, a body heavily influenced by Duterte loyalists who also represented an overwhelming majority of his political party. The tensions reached a climax as approximately [1,800 peaceful protesters](#) gathered outside the court in Manila to call for justice and defend democracy. Sereno and her supporters decried her removal as unconstitutional, framing it as a significant threat to the democratic foundations of the nation.

In 2008, the remarkable Pakistani “[Lawyers’ Movement](#)” emerged as a response to escalating attacks on the independence of the judiciary. This movement saw thousands of members of the legal profession peacefully pour into the streets, united in their condemnation of government overreach (Phelps, 2009). On November 3, 2007, the executive authority declared a state of emergency nationwide, accompanied by the imposition of a provisional constitutional order. In a shocking twist, the chief justice was dismissed along with sixty other judges, actions which were regarded as illegal and unconstitutional, igniting a fervent call to action. More than 80,000 lawyers rallied together, determined to restore the rule of law and defend judicial independence.

Like in Germany, peaceful movements defending democracy, the rule of law, and judicial independence have also emerged across Africa, Asia, Latin America, and the Middle East. One of the most recent and noteworthy instances of such activism happened in Mexico and the United States.

In 2024, a movement unfolded across Mexico as federal judges initiated a nationwide strike, responding to the executive branch’s controversial proposal to overhaul the nation’s judicial system. This action saw judges allied with thousands of court employees embark on an indefinite strike, united in their opposition to the sweeping policy changes (PBS News, 2024). The proposed reforms, viewed by many as a blatant power grab, threaten to undermine critical checks and balances on the executive branch, particularly in the wake of the Supreme Court’s emergence as a bastion of judicial independence against the government’s political agenda.

In striking solidarity, over [1,400 judges and magistrates](#) joined their fellow court workers in walking off the job. Members of the Mexican Bar Association and civil society groups have widely supported these movements. As this unfolds, all justices on the Supreme Court and thousands of other federal and state judges are compelled to step down by 2025, marking a profound shift in Mexico’s judicial appointment process. Unlike the United States’ appointment process, which involves the executive branch and the Senate, this reform now mandates that all judges—both federal and Supreme Court justices—must run for election. Critics are concerned that this could politicize the judicial branch and undermine its independence. This is another indication of democratic decay in the country.

In May 2025, Bret Parker, the executive director of the New York City Bar Association, delivered a poignant message regarding the collective stand of American lawyers nationwide on Law Day, celebrated on May 1. This day, established by President Dwight D. Eisenhower in 1958 as a tribute to the foundational principle of the rule of law, took on a more profound significance this year (Parker, 2025). Parker highlighted that while attorneys typically voice their arguments within the confines of courtrooms and through meticulously crafted documents, a wave of unprecedented activism brought them onto

the streets. Parker expressed a sense of urgency, stating that this was not about politics. The rallying cry echoed through the crowds, underscoring the reality that American judges and lawyers, whose commitment to justice is essential for a functioning democracy, are increasingly targeted simply for executing their duties with honesty, integrity, and good faith.

This was recently confirmed by Chief Justice John Roberts of the United States Supreme Court. While speaking before 600 lawyers and judges, Roberts defended the independence of the judiciary and condemned any attempts to impeach judges for disagreements with their rulings, stating, “impeachment is not how you register disagreement with a decision” (VanSickle, 2025). This remark was made less than a week after Supreme Court Justice Ketanji Brown Jackson raised concerns about attacks on the judiciary during a conference for judges in Puerto Rico (Pérez Sánchez, 2025). Remarkably, despite these comments and the May 1 nationwide mobilization of bar associations, the American movement has received little media coverage and national debate.

These examples illustrate that safeguarding democracy, upholding the rule of law, and ensuring judicial independence are not responsibilities confined to the judicial sector. Instead, these principles demand the dedicated efforts of a diverse array of political opposition actors who embrace the duty to protect the constitution and the rule of law. Equally important is the role of civil society, the media, professional associations, and the academic community, all of whom must stand resolutely in defense of these tenets whenever they are threatened by external actors. Through their commitment and vigilance, these groups can foster an environment where democratic values are not only preserved but also flourish.

In 2007, former U.S. Supreme Court Justice Sandra Day O’Connor articulated a compelling message about safeguarding judicial independence. She emphasized that “judicial independence does not happen all by itself. It is hard to create, and it is easier than most people imagine to damage or destroy” (Day O'Connor, 2007). As various governments and influential political figures increasingly encroach upon the judiciary, upholding its independence is a complex yet achievable endeavor. It demands unwavering effort and meticulous diligence. Thus, it is imperative that democracies not lose sight of this foundational principle and ensure that the justice system remains a steadfast pillar of the rule of law and democracy worldwide.

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