

Quo Vadis: Legal Certainty and Justice in Indonesia's 2024 Elections Amidst Electoral Law Reform

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Abstract

General Elections (Pemilu) are fundamental to Indonesia's democratic system. However, their implementation continues to face challenges that hinder the realisation of a balanced relationship between substantive justice and legal certainty. This study offers a comprehensive examination of electoral issues, particularly emphasising the presidential threshold system, which has triggered multiple inequities in electoral practice. The objective of this research is to analyse the legal framework governing elections by critically assessing the validity of the presidential threshold, the complexities of the multi-party system, and the implementation of simultaneous elections, ultimately proposing a structured solution to the legal challenges of Indonesia's electoral system. The study adopts a normative juridical approach, complemented by a conceptual framework and comparative legal analysis, and is further supported by empirical data drawn from the 2019 and 2024 elections. The study employs legal interpretation and conceptual comparison methods, which indicate that the presidential threshold requires reformulation one that emphasises political inclusivity, leadership regeneration, and institutional refinement to ensure fairness and legal certainty in electoral governance.

Keywords: electoral law reform, justice, legal certainty, presidential threshold

Abstrak

Pemilihan Umum (Pemilu) merupakan instrumen fundamental dalam sistem demokrasi Indonesia. Namun, pelaksanaannya masih menghadapi berbagai tantangan yang menghambat tercapainya hubungan yang seimbang antara keadilan substantif dan kepastian hukum. Penelitian ini menyajikan telaah komprehensif terhadap problematika pemilihan dengan penekanan khusus pada sistem presidential threshold yang telah memicu berbagai ketimpangan dalam praktik elektoral. Tujuan dari penelitian ini adalah untuk menganalisis kerangka hukum penyelenggaraan Pemilu dengan menelaah validitas sistem presidential threshold, kompleksitas sistem multipartai, serta implementasi Pemilu serentak guna menawarkan solusi struktural terhadap persoalan hukum dalam sistem Pemilu Indonesia. Penelitian ini menggunakan pendekatan yuridis normatif yang didukung kerangka konseptual dan studi hukum perbandingan, serta diperkuat oleh data empiris dari Pemilu 2019 dan 2024. Analisis dilakukan melalui metode interpretasi hukum dan komparasi konseptual, yang menunjukkan bahwa sistem presidential threshold perlu direformulasi dengan mempertimbangkan inklusivitas politik, regenerasi

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kepemimpinan, dan penguatan kelembagaan demi mewujudkan keadilan dan kepastian hukum dalam tata kelola Pemilu.

Kata kunci: *keadilan, kepastian hukum, reformasi hukum pemilu, presidential threshold*

1. INTRODUCTION

The three fundamental values that are the law's goals, according to Gustav Radbruch, include justice, expediency, and certainty.¹ Many studies have stated that these three fundamental values tend not to be achieved simultaneously. Achmad Ali even said there would be problems if all three were realised simultaneously.² Gustav Radbruch and Achmad Ali consider that the principle of priority must be used in realising the legal objectives, but there are differences between the two experts. Gustav makes the three fundamental values hierarchical, with 'justice' as the highest value, while Achmad thinks that the priority of these basic values is determined casuistically. In the context of election law, the priority-casuistic principle approach presented by Achmad Ali is more relevant because politics is a dynamic discourse following shifts in society's legal-political culture.

The presidential system is a constitutional mandate through the Body of the 1945 Constitution (UUD 1945) Articles 4 to 16. Law Number 7 of 2017 concerning General Elections (UU Election) strengthens the presidential system by introducing a presidential threshold system in presidential elections (Pilpres). Presidentialism becomes less effective in the multiparty system in Indonesia because the president has difficulty ensuring support in parliament. Hence, the basis of the coalition formed to fill the cabinet becomes transactional and tends to avoid opposition to maintain power.³

The tendency for transactional political negotiations is also mentioned in Constitutional Court Decision No. 14/PUU-XI/2013, so the Constitutional Court granted the implementation of simultaneous elections.⁴ The provisions regarding the presidential threshold support the value of legal certainty. Still, in practice, they ignore the values of

¹ Rahadjo, S. (2006). *Membedah Hukum Progresif*. Penerbit Buku Kompas.

² Achma Ali, A. (2002). *Menguak Tabir Hukum (Suatu Kajian Filosofis dan Sosiologis)*. Jakarta: Chandra Pratama. Hlm. 95.

³ Yudha, H. (2010). *Presidensialisme Setengah Hati: Dari Dilema ke Kompromi*. Jakarta: Gramedia Pustaka.

⁴ Putusan Mahkamah Konstitusi No.14/PUU-XI/201

justice, especially for non-parliamentary political parties to participate in the presidential election contestation, as in Constitutional Court Decision No. 62/UU-XII/2024.⁵ Not only that, the MK also considered that the presidential threshold contributed to the degradation of the quality of political party regeneration and various other problems it caused. Hence, the MK decided to abolish the presidential threshold.

Policyholders formulating constitutional engineering after the a quo decision must carefully develop a replacement for the system without losing its essence. Nevertheless, the elimination of the presidential threshold has implications for the electoral system itself, such as the potential for a large number of candidates to be nominated, which could cause continuous political polarization, increased political costs, and even the degradation of people's political awareness due to massive exposure to practical politics amidst the development of the digital world. In this context, the discourse between justice and legal certainty faces difficulties in balancing them. Therefore, a study of the balance of justice and certainty using a priority-casualty approach needs to be carried out, by first analysing the existing problems to answer the root of the problem that impacts justice or legal certainty.

2. RESEARCH METHODS

This research is normative legal research using several approaches, namely statutory, case study, comparative, and conceptual approaches, all obtained through literature study. A statutory approach is used to examine the provisions in the Election Law and relevant Constitutional Court decisions, especially regarding the presidential threshold. A case study approach was applied to analyse the implications of implementing simultaneous elections and the dynamics of the multiparty system in the 2024 elections. Meanwhile, a comparative approach was used to compare the practice of presidential candidacy thresholds in other countries such as Brazil and France. The conceptual approach examines legal theories, especially in balancing justice and legal certainty through the perspective of Gustav Radbruch and Achmad Ali.

All data was analysed descriptively and qualitatively by systematically describing

⁵ Putusan MK Nomor 62/PUU-XII/2024.

and compiling it based on the problem's focus and research objectives. The analysis is conducted through legal interpretation techniques and normative argumentation to produce applicable and relevant recommendations for policymakers in formulating fair and certain election legal norms.

3. RESULTS AND DISCUSSION

3.1. Unpacking the Priority Issues in the Amendment of the Electoral Law

3.1.1. Redefining the Presidential Threshold Arrangement as an Alternative Post-Constitutional Court Decision No. 62/PUU-XII/2024

In recent years, political parties have increasingly prioritized electability due to the high costs of attaining political power. It is important to note that this phenomenon illustrates a shift in the function of political parties from instruments of articulating and aggregating public interests to mechanisms of power-based transactional politics. This concern was highlighted by Prabowo Subianto, as conveyed during the presidential debate by Anies Baswedan, who referred to Prabowo's assertion that the cost of politics is excessively high, thereby compelling politicians to attain power to recover their political capital.⁶ In other words, political elites are forced to secure power through all available means, particularly by leveraging technological advancement and modernization, to ensure the return on their political investments. Such orientation among political parties has led to the erosion of opposition spirit especially among major parties and has hindered political regeneration within the democratic system.

The dominance of a single political party or a coalition in electoral contests can serve as a precursor to democratic decline. Several indicators of constitutional regression or constitutional retrogression include the following:⁷ (1) constitutional amendments; (2) the weakening of checks and balances; (3) politicization and centralization of executive power; (4) the narrowing of participatory social control; and (5) the elimination of political competition. When examining the current landscape of political contestation

⁶ Puspita, M. D. (2023). Sindiran Keras Anies ke Prabowo yang Tidak Tahan Oposisi Karena Tak Bisa Berbisnis.

⁷ Huq, A., & Ginsburg, T. (2018). How to lose a constitutional democracy. *UCLA Law Review*. <https://doi.org/10.2139/ssrn.2901776>.

within Indonesia's constitutional system, it becomes evident that political parties often prioritize preserving their interests while neglecting essential functions such as checks and balances, participatory oversight, and accountability. This tendency, coupled with a growing inclination toward executive centralization, reflects a pattern of constitutional democratic backsliding.⁸

The limited public participation in the 2024 General Election can be observed through increased abstention rates, particularly among citizens who chose not to exercise their right to vote.⁹ This decline in voter participation also stems from inadequate political education, which has overshadowed the dominance of practical and interest-driven politics. As a result, there is an urgent need to strengthen civic and political education among the public. The presidential threshold (PT) system has contributed to this decline in participation by narrowing the pool of viable candidates, effectively restricting electoral competition particularly for smaller political parties. This concern was addressed in Constitutional Court Decision No. 62/PUU-XII/2024, which emphasized that such limitations contradict the principles of electoral justice. Accordingly, the Court urged policymakers to develop an alternative mechanism following the abolition of the presidential threshold.

From a comparative international perspective, most modern democratic countries like Brazil and France do not impose a presidential threshold. Instead, in cases where no candidate secures a majority vote, a second-round runoff is conducted to determine the winner.¹⁰ In Indonesia's electoral system, the two-round voting mechanism is already accommodated under the Electoral Law and the regulations issued by the General Elections Commission (Peraturan Komisi Pemilihan Umum or PKPU). This demonstrates that broadening the eligibility criteria for presidential candidacy does not necessarily disrupt political stability but may enhance substantive democracy. Nevertheless,

⁸ Fitri, A. (2022). *Presidential Threshold Dalam Pemilihan Umum Serentak: Kemunduran Demokrasi Konstitusional?* UPN Veteran Jakarta. Retrieved from <http://repository.upnvj.ac.id/id/eprint/16165%0A>.

⁹ Shofa, G. Z., Widiarti, R. T., Lestari, R. I., & Hasanah, N. (2024). Kenaikan Angka Golput pada Pemilu 2024 : Menurunnya Partisipasi Masyarakat dalam Menggunakan Hak Pilih, 2(1), 112–120.

¹⁰ Putusan MK No 62/PUU-XII/2024.

eliminating the presidential threshold may also produce further implications, such as the potential for prolonged political polarization particularly in a context where political education remains underdeveloped and a multiparty system is in place. To address the question of electoral justice especially ensuring inclusivity for non-parliamentary political parties (commonly referred to as minor parties) there is a pressing need to establish clear legal boundaries that promote certainty, alongside inclusive policies that uphold fairness. Affirming the principle of electoral justice is crucial in this regard, particularly in light of Article 22E paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which guarantees free, fair, and honest elections.

3.1.2. The Dynamics of Indonesia's Multiparty System

Indonesia's multiparty electoral system emerged in the post-reform era as part of an effort to promote electoral justice by providing space for a broad spectrum of political actors to participate in democratic competition. This principle is enshrined in Article 28D Paragraphs (1) and (3) of the 1945 Constitution of the Republic of Indonesia, which guarantees every citizen the right to recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law. Adopting a multiparty system serves as a mechanism to ensure equal political standing among diverse political groups. However, implementing a multiparty system within a presidential form of government presents challenges, particularly in coalition-building. These challenges reflect deeper constitutional issues, especially when there is a lack of coordination or legislative-executive immobility. Initially, political party coalitions were intended to safeguard the effectiveness and stability of presidential governance amid multiparty fragmentation, as such stability and effectiveness are difficult to achieve when:¹¹ 1) the elected president comes from a minority party in parliament, making political negotiations between the executive and legislative branches difficult; 2) coalitions are not permanent; and 3) political parties often face internal conflicts of interest.

However, a parliamentary majority supporting the president does not necessarily translate into practical and stable governance. This condition illustrates that numerical

¹¹ Tarina, Ulfa, et al. "Efektivitas Penyerapan Anggaran Belanja Negara Dalam Pemilihan Umum." *Journal of Law, Administration, and Social Science* 4.5 (2024): 21.

strength in parliament does not always equate to a healthy and democratic consolidation of power, particularly when driven by cooptation and patronage politics. This was evident during the administration of President Joko Widodo, when the House of Representatives (DPR) exercised its right of inquiry (*hak angket*) against the Corruption Eradication Commission (KPK) about the e-KTP corruption scandal, which implicated members of the DPR itself.¹² In that case, although numerous factions opposed the inquiry, the Deputy Speaker of the House, Fahri Hamzah, approved the motion. It was widely perceived as hasty and coercive. The decision was seen as a political maneuver that interfered with the internal affairs of an independent institution such as the Corruption Eradication Commission (KPK). Such a phenomenon gives rise to at least two conditions that undermine meaningful stability and effective governance: first, substantial support from coalition parties does not guarantee the expected quality of governmental dynamics; and second, the situation becomes even more problematic when a coalition intended to reflect political stability is instead used as a vehicle for executive maneuvering through parliamentary strength, thereby enabling transactional politics.

The design of political coalitions must receive serious attention within a multiparty presidential system. One possible approach is establishing permanent alliances based on shared ideology and long-term political vision. This has not materialized in Indonesia, where coalition-building tends to be pragmatic, driven primarily by power-oriented interests. This reflects the absence of institutionalized mechanisms for long-term coalition formation in Indonesia's presidential system mechanisms that ideally should be grounded in ideological platforms and public accountability. In addition to fostering permanent coalitions, regulatory frameworks governing party coalitions in a multiparty system should also address political equilibrium by encouraging inclusive coalitions while limiting the excessive accumulation of power. For example, an alliance with at least one major party defined as holding more than 65 parliamentary seats and one or more minor parties should propose nominating presidential and vice-presidential candidates. This

¹² Tempo, K. (2024). Kilas Balik Hak Angket KPK pada Era Presiden Jokowi. Retrieved from <https://www.tempo.co/politik/kilas-balik-hak-angket-kpk-pada-era-presiden-jokowi-84151>.

threshold is based on the political configuration of the 2024 election, in which the major parties include PDI-P, Gerindra, and Golkar.

3.1.3. Challenges in the Implementation of Simultaneous Elections

The implementation of simultaneous elections in Indonesia is fundamentally aimed at advancing an effective democratic system. One of its intended objectives is to enhance state budgeting efficiency and reinforce the existing presidential system. According to Prof. Jimly Asshiddiqie, simultaneous national elections combining both executive and legislative elections offer various benefits that strengthen the governance structure, such as ensuring a proper political separation between the executive and legislative branches, which should function as mutual counterbalances.¹³ However, in practice, implementing simultaneous elections in Indonesia has frequently encountered numerous challenges ranging from issues faced by the government, election organizers, and voters, to broader concerns over national political stability.

This complexity can be observed through several key dimensions, as outlined below. First, from the government's perspective, simultaneous elections reinforce the presidential system by preventing a divided government and mitigating legislative-executive gridlock.¹⁴ In this context, the government acts as a catalyst in implementing simultaneous polls. It holds a highly strategic role in ensuring the continuity of the electoral process, particularly through its capacity for cross-sectoral coordination at a more advanced level. In other words, simultaneous elections directly affect the government as the institution responsible for administering the state apparatus. One such implication is the need to uphold the neutrality of public institutions, as the synchronization of executive and legislative elections increases the potential for political interference with the civil service (Aparatur Sipil Negara, or ASN).¹⁵ At the same time,

¹³ Junaidi, V. (2014). Dampak Pemilihan Umum Serentak bagi Pembangunan Demokrasi Indonesia. *Jurnal Media Hukum*, 255.

¹⁴ Prasetyo, R. B., & Sianipar, F. (2021). The Relevance of the Application of the Presidential Threshold and the Implementation of Simultaneous Elections in Indonesia. *Jurnal Penelitian Hukum De Jure*, 267. <https://doi.org/10.30641/dejure.2021.v21.267-284>.

¹⁵ Dairani, D., & Fadlail, A. (2023). Konsep Pengaturan Netralitas Asn Dalam Pemilu Dan Pilkada Serentak Tahun 2024. *Lisan Al-Hal: Jurnal Pengembangan Pemikiran Dan Kebudayaan*, 55. <https://doi.org/10.35316/lisanalhal.v17i2.251-266>.

this dynamic has not been accompanied by effective oversight and enforcement mechanisms regarding civil servants' involvement in practical politics, thereby creating a dilemma concerning bureaucratic professionalism. This issue was clearly illustrated during the 2018 simultaneous regional elections (Pilkada), in which 507 reports or complaints were filed concerning violations of civil servant neutrality across 171 participating regions. In the 2019 simultaneous general elections, 299 reports of similar abuses were recorded as of July 2019. Most recently, in the 2024 election, the Deputy Chairperson of the Civil Service Commission (Komisi Aparatur Sipil Negara, KASN), Tasdik Kinanto, stated that 183 civil servants approximately 45.4% of the 403 individuals reported were found to have violated the principle of neutrality.

Budgetary and logistical management also remains a significant challenge due to the substantial and rising fiscal demands of simultaneous elections. In the 2024 election, the Ministry of Finance allocated IDR 71.3 trillion, reflecting a 57.3% increase compared to the 2019 simultaneous election budget of IDR 45.3 trillion.¹⁶ A similar trend occurred in the United States during its simultaneous elections, where election-related expenditures rose significantly from USD 11 billion to USD 14 billion, equivalent to approximately IDR 139 trillion highlighting the substantial financial demands associated with large-scale democratic exercises.¹⁷ Accordingly, simultaneous elections demand systemic preparedness from the government and test the capacity for inter-agency coordination. The central government is expected to collaborate effectively with the General Elections Commission (KPU), the Election Supervisory Board (Bawaslu), the Election Organizers Ethics Council (DKPP), and security forces across regulatory frameworks, institutional capacity, and adherence to democratic principles. Without full support and a robust evaluation of mechanisms to safeguard civil service neutrality, simultaneous elections will not yield a high-quality electoral process. They may even pose a risk of political instability that could hinder the broader democratization process. Second, the success of the democratic process cannot be separated from the contributions of various elements of

¹⁶ Tarina, Ulfa, et al. Efektivitas Penyerapan Anggaran ..., op.cit., hlm. 786

¹⁷ Nadialista Kurniawan, R. A. (2021). Studi Komparasi Efisiensi Sistem Pemilu Serentak 2019 di Indonesia Dengan Sistem Pemilu Di Amerika Serikat 2020. *Industry and Higher Education*.

the election management body, particularly the Voting Organizing Groups (Kelompok Penyelenggara Pemungutan Suara, KPPS), which serve as the frontliners in the technical implementation of polling operations. Both the 2019 and 2024 simultaneous elections revealed recurring logistical problems. In 2019, 10,520 polling stations (TPS) nationwide experienced shortages in election logistics. In addition, 6,474 polling stations received ballot boxes that were not sealed, while 3,411 polling stations encountered ballots being swapped between constituencies or among polling stations. Similar issues arose in the 2024 elections. Of the 478 regencies/municipalities, ballot box damage was reported in 177. Regarding voting booth distribution across 497 regions, damage was recorded in 61. Although ink and cable ties reached 494 regions, defective ink was found in 124. Meanwhile, election seals were distributed to 484 areas, with seal damage identified in 30. On the other hand, election logistics must be delivered in a timely and accurate manner, as the precision of ballot and equipment distribution significantly affects the smooth execution of the voting process.¹⁸

In addition, the issue of professionalism and credibility among election organizers has emerged as a critical concern. During the 2019 simultaneous elections, 3,227 election officials representing approximately 44.6 percent were subject to sanctions.¹⁹ Meanwhile, in the 2024 simultaneous elections, data from the Election Supervisory Board (Bawaslu) of the Republic of Indonesia recorded 2,264 reports or findings related to alleged violations. Of these, 1,562 were public complaints, while 702 were direct findings by election supervisors. This data underscores the persistent and significant challenges faced by election organizers in ensuring the integrity of simultaneous elections. Third, from the voters' perspective, public participation in a democracy is closely linked to the political policies adopted by the government. Simultaneous elections require Indonesian voters to process five different ballots at once president/vice president, the national legislature (DPR RI), the Regional Representative Council (DPD), the provincial

¹⁸ Ardipnananto, A. (2019). Permasalahan Penyelenggaraan Pemilu Serentak Tahun 2019. *Bidang Pemerintahan Dalam Negeri Singkat Kajian Singkat Terhadap Isu Aktual Dan Strategis*, 11(11), 27.

¹⁹ Pangestu, A. (2022). Upaya Meminimalisir Potensi Pelanggaran Kode Etik Penyelenggara Pemilu Pada Pemilu Serentak 2024. *Jurnal Bawaslu Provinsi Kepulauan Riau*, 4(1), 33. <https://doi.org/10.55108/jbk.v4i1.97>.

parliament (DPRD Provinsi), and the municipal/regency legislature (DPRD Kabupaten/Kota). This condition increases the risk of ballot fatigue, where the cognitive burden of voting across multiple levels leads to increased invalid votes due to technical confusion or inattention.²⁰ A study conducted in the Philippines demonstrated that when voters are confronted with more than 20 candidates simultaneously, the rates of abstention and invalid ballots increase significantly.²¹ In the 2024 simultaneous elections, a significant challenge emerged through systematic disinformation disseminated through organized trolls and political buzzers. The General Elections Commission (KPU) documented how provocative narratives and deliberately fabricated hoaxes were strategically crafted to manipulate voters' perceptions of candidates or political issues.²² This phenomenon reached a polarization tipping point, wherein disinformation triggered deep social polarization that is difficult to reverse and severely undermines public trust in the democratic process. Accordingly, civic education and outreach efforts must be prioritized particularly in remote areas and among first-time voters, as both groups are closely linked to the overall quality of electoral participation.²³ In this context, a democracy-based literacy approach becomes essential to inform citizens about electoral procedures and cultivate critical civic awareness about their political choices.

3.2. The Effectiveness of Electoral Law Reform

Electoral politics is inherently dynamic; therefore, its legal norms must be approached with a responsive legal framework. A responsive legal product is outcome-oriented and examines the underlying values embedded within regulations and policies, assessing whether they align with societal needs.²⁴ One key parameter of responsive law

²⁰ Rajagukguk, K. J., Aripin, S., & Wahyudi, H. (2021). Simultaneous General Election: It Is Fair for Democracy in Indonesia. *JIP (Jurnal Ilmu Pemerintahan) : Kajian Ilmu Pemerintahan Dan Politik Daerah*, 6(1), 56–64. <https://doi.org/10.24905/jip.6.1.2021.56-64>.

²¹ Solihah, R. (2018). Peluang dan tantangan pemilu serentak 2019 dalam perspektif politik. *Jurnal Ilmiah Ilmu Pemerintahan*, 3(1), 73–88. <https://doi.org/10.14710/jiip.v3i1.3234>.

²² Nurdin, R. (2024). Trolls, Disinformasi, Dan Strategi Kampanye: Tantangan Demokrasi Digital Dalam Pemilu 2024, Electoral Governance. *Tata Kelola Pemilu Indonesia*, 6(1), 1–26.

²³ Aisyah, T. N., Aurellia, R. S., Sartika, R. D., Aisharani, N., & Londo, K. (2025). Analisis Kerawanan Pemilu Indonesia Tahun 2024 di Malaysia dan Dampaknya bagi Hak Demokrasi Pekerja Migran. *Pubmedia Social Sciences and Humanities*, 2(4), 1–12.

²⁴ Thohari, A. A. (2011). Reorientasi Fungsi Legislasi Dewan Perwakilan: Upaya Menuju Undang-Undang Responsif, *Jurnal Legislasi Indonesia*. *Legislasi Indonesia*, 8(4), 569.

is the presence of a participatory lawmaking process, in which the formulation and amendment of legislation from the stages of planning, deliberation, and enactment to the evaluation of its implementation require the active involvement of the public.²⁵ The primary objective of public participation is to gather constructive input and valuable perspectives from citizens and stakeholders to enhance the quality of policymaking. By involving affected and interested groups, policymakers are better positioned to understand the public's aspirations, needs, and concerns, which can then be internalized into the policy formulation process.²⁶

The urgency of public aspirations is formally recognized under Law No. 12 of 2011 on the Formation of Laws and Regulations, which defines the public as individuals or groups interested in the substance of a Draft Regulation or Law. Furthermore, the Elucidation of Article 96 Paragraph (4) of the said Law specifies that such groups may include civil society organizations, professional associations, non-governmental organizations (NGOs), and indigenous communities. The Constitutional Court, as the guardian of the Constitution, has reinforced the imperative of participatory lawmaking through Constitutional Court Decision No. 91/PUU-XVIII/2020. In this ruling, the Court emphasized that meaningful public participation must meet at least three essential criteria: the right to be heard, the right to have one's views considered, and the right to receive an explanation or response to the input provided.

An inclusive, substantive, and structured participatory approach is key to producing legislation that is not only legally valid but also possesses strong social legitimacy and high practical relevance.²⁷ The effectiveness of a legal product lies in its ability to bridge the gap between societal aspirations and public policy formulation.²⁸ A participatory approach's effectiveness should ideally begin before drafting a bill, through

²⁵ Jati, R. (2012). Partisipasi Masyarakat Dalam Proses Pembentukan Undang-Undang Yang Responsif. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 1(3), 329–342. <https://doi.org/10.33331/rechtsvinding.v1i3.88>.

²⁶ Mahendra Putra Kurnia, et al. (2007). *Pedoman Naskah Akademik Perda Partisipatif (Urgensi, Strategi, Dan Proses Bagi Pembentukan Perda Yang Baik)*. Yogyakarta: Kreasi Total Media.

²⁷ Damayanti, R. A., Syarifuddin, S., & Haerial, H. (2020). Meningkatkan Partisipasi Masyarakat Dalam Perencanaan Pembangunan Guna Mengurangi Kemiskinan Di Desa Je'netallasa Kabupaten Gowa. *Jurnal Terapan Abdimas*, 5(2), 155–162. <https://doi.org/10.25273/jta.v5i2.5593>.

²⁸ *Ibid.*

comprehensive problem mapping and in-depth identification of societal needs.²⁹ In the context of Electoral Law (Undang-Undang Pemilu) reform, participation must go beyond formalistic consultation and instead be embedded substantively at the pre-legislative stage. Mapping should include the concerns of key stakeholders such as voters, election organizers, political parties (especially smaller or non-parliamentary ones), and civil society groups whose lived experiences reflect the practical challenges of electoral governance. Empirical evidence from Indonesia suggests that when participation is introduced only after a draft is prepared, it often becomes symbolic and lacks transformative power. By contrast, early and inclusive involvement enables the formulation of legal norms that are not only legally valid but also socially legitimate, context-sensitive, and capable of addressing systemic electoral issues meaningfully.

A participatory approach must also include post-enactment evaluation mechanisms. Independent monitoring of the implementation of new electoral laws in subsequent elections conducted by academics, civil society organizations (CSOs), and the broader public, alongside rapid assessments by electoral management bodies is essential to determine whether the reforms genuinely address real needs and function effectively in practice. The findings of such evaluations should serve as strategic inputs for shaping future amendments to the Electoral Law. This evaluative cycle should be treated as a prerequisite in every normative reform process, ensuring that legislative changes are not reactive or elitist, but grounded in measurable empirical experience. Accordingly, an adaptive and sustainable legislative mechanism can be established, ensuring that every legal reform is based on concrete evidence and society's actual needs.

Such a framework would not only enhance the democratic quality of electoral governance but also foster greater public trust and compliance with the law. In the long run, embedding participatory mechanisms both before and after the enactment of electoral legislation contributes to the creation of a legal culture that is responsive, inclusive, and reflective of evolving democratic aspirations. This reinforces the normative mandate that electoral laws must not merely be

²⁹ Muhiddin, A. (2013). Partisipasi Masyarakat Dalam Pembuatan Peraturan Daerah (PERDA). *Otoritas: Jurnal Ilmu Pemerintahan*, 3(2), 3. <https://doi.org/10.26618/ojip.v3i1.53>.

instruments of procedural legitimacy, but also vehicles for substantive justice in a pluralistic and dynamic political society.

CONCLUSION AND SUGGESTION

The General Election (Pemilu), as a manifestation of formal democracy, continues to face dynamic legal and institutional challenges particularly in reconciling legal certainty with justice within the prevailing regulatory framework. The core problem in Indonesia's electoral system lies in the imbalance among the principles of justice, utility, and legal certainty, which, according to Achmad Ali's casuistic approach, must be systematically inventoried to enable policymakers to identify and prioritize key issues. Three critical challenges observed in the 2024 General Election include: the annulment of the presidential threshold provision by Constitutional Court Decision No. 62/PUU-XII/2024, which necessitates the formulation of a more inclusive threshold; the pragmatic nature of the multiparty system, which requires a more structured coalition design in future electoral regulations; and the complexities surrounding the implementation of simultaneous elections, involving government institutions, election organizers, and voters. Accordingly, the reformulation of the Electoral Law must adopt a responsive legislative approach grounded in justice and legal certainty, while ensuring meaningful public participation throughout the law-making process.

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