Research Article

Diagnosing Electoral System Performance: A Juridical Analysis of Open-List Proportional Representation in Indonesia

Fifiana Wisnaeni[1], Mujiono Hafidh Prasetyo[1*], Madaskolay Viktoris Dahoklory[2], Jihyun Park[3]
[1]Faculty of Law, Universitas Diponegoro, Indonesia
[2]Faculty of Law, Universitas Kristen Indonesia Maluku, Indonesia
[3]Legal Affairs and Business Management Department, Youngsan University, South Korea
[*]mujionohafidhprasety@lecturer.undip.ac.id

ABSTRACT

Indonesia has used an open-list proportional representation system since the 2009 election to strengthen voter-representative linkage and internal party democratization. Yet persistent issues such as money politics, vote-buying, intra-party fragmentation, and low accountability of legislators question whether the system effectively converts voter choice into representative governance. This research diagnoses the performance of Indonesia's open-list PR system through juridical analysis, focusing on its legal framework, implementation challenges, and compatibility with constitutional principles of popular sovereignty and fair representation. This research is normative juridical research using statutory, conceptual and case approach. The main sources are the Constitution 1945, Law No. 7/2017 on Elections and rulings of the Constitutional Court. Secondary Materials include academic literature and election reports 2009-2024. The results indicate that although the system legally broadens the choice of the voter, its effectiveness is compromised by the inadequate party institutionalisation, the loopholes in the regulation of campaign finance and the inconsistent jurisprudence of the Constitutional Court on election thresholds. It prioritizes individual popularity over party ideology, resulting in weak legislative cohesion. Conclusions that can be drawn are that the open-list system in Indonesia requires substantive reform through stricter campaign finance regulation, stronger internal party mechanisms, and a coherent constitutional interpretation to improve electoral accountability and systemic performance.

Keywords: Open-list Proportional Representation; Electoral System, Juridical Analysis, Indonesia, Election Law.

A. INTRODUCTION

The institutionalization of democracy as a system of governance grounded in popular sovereignty has long been a central aspiration of the Indonesian constitutional order. In constitutional democracies, elections function as the principal institutional mechanism through which popular sovereignty is translated into representative government. However, the effectiveness of an electoral system cannot be assessed solely by its formal constitutional design (Van Ham & Garnett, 2019). Electoral institutions must also deliver legislative representation that is a true reflection of voter preferences and that provides for accountable governance. Thus, the issue of how electoral systems transform constitutional ideals into political outcomes has remained an essential issue in the study of democratic governance.

Indonesia is now thought to be undergoing a steep democratic decline. Chronic democratic decline is happening especially in some countries attempting to realise and practise democratic norms including Indonesia. This democratic recession is occurring due to the failure of political parties to enforce reforms. Furthermore, another major contributing factor is the impact of the ongoing modification of authority in Indonesia. Leaders naturally make various political promises, which ultimately lead to feelings of captivity, resulting in a government that is unable to solidify (Hapsari & Saraswati, 2023).

The agreement to choose a presidential system was ultimately followed up with various efforts to purify the presidential system. The seriousness of these purification efforts is evident in every amendment to the 1945 Constitution that has ever been made (Sa'adah, 2019). Indonesia has implemented an open-list proportional representation system since the 2009 legislative elections, marking a shift from the closed-list system used in 1999 and 2004. The system was designed to strengthen voter-candidate linkage, enhance electoral accountability, and promote the personalization of politics as mandated by Law No. 7 of 2017 on General Elections. In principle, open-list PR allows voters to directly choose candidates within a party list, thereby reducing party oligarchy and increasing representativeness. However, after three election cycles, empirical evidence shows persistent problems such as high political costs, transactional politics, weak party institutionalization, and fragmentation of legislative performance. This condition raises a fundamental question regarding whether the open-list PR system in Indonesia has achieved its normative objectives or instead generated unintended juridical and political consequences.

The difficulty is complicated by constitutional debates about the validity of the open-list system. The open-list approach has been ratified through the Constitutional Court Decision Number 22-24/PUU-VI/2008. However, following legal evaluations and political dynamics reveal a persistent contradiction between electoral design and democratic substance. Thus, a juridical study is necessary to assess the performance of open-list PR system within the constitutional framework of Indonesia and whether its performance is in alignment with the values of popular sovereignty, legal certainty, and electoral justice.

These examples demonstrate that unclear legal provisions and conflicting interpretation by different agencies greatly impair the ability of Indonesia to properly implement electoral law. These ambiguities need to be resolved through better drafting, standardised procedures and tougher fines to preserve the legitimacy, openness and fairness of Indonesia's elections (Huda, 2025).

This study is based on three interrelated concepts in its theoretical framework. First, the

electoral system theory by Arend Lijphart and Dieter Nohlen gives an analytical lens to evaluate the mechanical and psychological consequences of open-list PR on party systems, proportionality and voter behaviour. Second, the theory of legal effectiveness created by Lawrence M. Friedman is used to examine the gap between legal substance, legal structure and legal culture in the execution of the open-list system. Third, the doctrine of constitutionalism and electoral justice, as articulated by Jimly Asshiddiqie, underpins the normative evaluation of whether the system fulfills the constitutional mandate of Article 1 paragraph 2 and Article 22E of the 1945 Constitution. These theories will be applied in the Results and Discussion section to examine the normative-empirical dissonance in Indonesia's electoral practice.

The principle of popular sovereignty is explicitly realised in the Indonesian constitutional system as stated in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (UUD 1945), which reads that sovereignty is in the hands of the people and is exercised according to the Constitution. Article 22E also states that general elections shall be held for the election of members of the People's Representative Council (DPR), Regional Representative Council (DPD), President and Vice President, and Regional People's Representative Councils (DPRD). These constitutional provisions position elections as the central institutional mechanism through which democratic governance is implemented in Indonesia (Syafei & Darajati, 2020).

The legislative electoral system used to elect members of the DPR and DPRD has undergone significant transformation throughout Indonesia's political development. The system evolved from the multi-party proportional representation model used in the 1955 election to the closed-list proportional representation system implemented during the New Order period and subsequently to the open-list proportional representation system introduced during the Reformasi era and currently regulated under Law Number 7 of 2017 concerning General Elections (Aminuddin, 2016); (Hamudy & Rifki, 2019).

Under the open-list proportional system, voters cast ballots directly for individual candidates nominated by political parties. This institutional design enables voters to influence not only the partisan composition of the legislature but also the selection of individual representatives, thereby strengthening voters' role in determining legislative outcomes.

As a result of this open legal policy decision, the parliamentary threshold remained in effect until the last election in 2019. In fact, through this open legal policy, the Constitutional Court has given freedom to legislators to interpret and formulate a parliamentary threshold that has the potential to limit the political rights of Indonesian citizens. The real evidence was seen in the simultaneous

elections in 2019. Where political parties officially registered in the Ministry of Law and Human Rights (Kementerian Hukum dan HAM/KemenkumHAM) are as many as 73 political parties. However, not all of them registered as political parties participating in the elections. There are only 27 political parties that have registered with the General Election Commission of the Republic of Indonesia (Al-Fatih, 2021).

But these democratic aspirations have caused significant structural obstacles in the execution of the open proportional election system, casting doubt on its efficiency to produce democratic representation. Open-list competition tends to lead to fierce competition among candidates of the same political party, which then translates into increased campaign costs and increased reliance on financial resources as a factor of election success (Cheibub & Sin, 2020). Furthermore, the continuing influence of money politics and the selection of candidates according to personal popularity rather than legislative ability have prompted questions about the substantive quality of representation produced by the democratic system. These difficulties were notably apparent in the judicial review petition submitted to the Constitutional Court in Case No. 114/PUU-XX/2022, which questioned the validity of the open-list election system and suggested a return to a closed-list form.

The Court ruled the open proportional system to be constitutional, but the case brought to light ongoing arguments about whether the existing electoral architecture truly reflects the constitutional principle of popular sovereignty.

The normative standard of the Indonesian electoral system can be seen from the difference between das sollen (what the law should achieve) and das sein (the actual reality of its execution) (Christiani, 2016). The Constitution and electoral legislation offer explicit democratic ideals on the normative level. Article 1 paragraph (2) of the 1945 Constitution states that sovereignty belongs to the people. Article 22E states that elections must be carried out directly, publicly, freely, secretly, honestly and fairly. Law Number 7 of 2017 operationalises these principles by adopting the electoral system of open proportional, which aims to improve the control of the voter on the selection of candidates. Law Number 2 of 2008 concerning Political Parties also assigns crucial democratic functions to political parties, such as political education, aggregation of public desires and democratic recruitment of political candidates. Empirical electoral practice, however, exposes a large gap between these normative values and political reality, including increasing campaign costs, the continuance of money politics, and the domination of politicians with financial muscle.

In order to assess this normative–empirical gap, this study puts up a diagnostic paradigm that

combines two complementary theoretical views. The first is Gustav Radbruch's idea of the fundamental values of law, which states that legal systems must concurrently realise justice, legal certainty, and social utility (Radbruch, 1950). In the context of electoral law justice is equal opportunities in electoral competition, legal certainty requires clear and consistently applied electoral rules and social utility requires electoral institutions to produce representatives capable of performing legislative functions effectively.

The second theoretical approach is the theory of the legal system of Lawrence M. Friedman, which describes the operation of law as a combination of legal structure, legal substance, and legal culture (Friedman, 1975). Legal framework means the entities that are responsible for the enforcement of election legislation, such as the General Election Commission (KPU), the Election Supervisory Body (Bawaslu), and other election administration agencies. Legal Substance means the provisions of the Constitution and the Statutes regulating elections. Legal culture is the set of societal attitudes and behavioural patterns that affect how electoral regulations are put into reality on the ground – including how voters behave, how parties function, and how money politics endures.

Previous scholarship on Indonesia's electoral system can be largely divided into three categories. First, doctrinal and institutional studies investigate the constitutional and regulatory matrix of elections, taking special account of the consequences of open-list proportional representation for party competition and campaign dynamics (Al-Hamdi, 2024); (Arif, 2019); (Dettman, Pepinsky, & Pierskalla, 2017). Second, empirical studies of electoral practice explore the persistence of money politics, clientelism, patronage networks, and media influence, underlining the role of informal practices and resource disparities in shaping political outcomes (Haryanto, 2025). Third, comparative research explores how differences in electoral system design impact party institutionalisation, accountability, and democratic stability in various contexts (Ekayanta, 2024); (Kristiyanto, Arinanto, & Ghafur, 2023).

While these studies give valuable insights, they often treat normative legal ideas, institutional arrangements, and empirical practices in isolation. As a result, the relationship between constitutional design and electoral outcomes is often treated in a fragmented manner, limiting the ability to explain why formally valid electoral systems may fail to produce substantive democratic representation. In particular, relatively little research has developed an integrated analytical framework that systematically links normative legal evaluation with institutional and sociological conditions.

This study addresses that gap by developing a diagnostic framework that integrates Radbruch's theory of legal values with Friedman's theory of the

legal system. Bringing these approaches together moves the study beyond a descriptive or single-framework analysis and gives a structured way of understanding the impact of mismatches between legal rules, institutional capacity and electoral practices on the workings of electoral systems.

Following this analytical approach, the study argues that Indonesia's open proportional electoral system creates a situation of formalistic justice, where formally equal electoral rules are accompanied by structural inequalities in candidate competition arising from the weaknesses of political party institutionalisation and electoral governance. via recognising these structural tensions, the study develops a diagnostic methodology to assess the translation of constitutional ideals into democratic outcomes via election systems. Accordingly, this study addresses two main research questions. First, to what extent does the legislative electoral system currently applied in Indonesia realize the constitutional principle of popular sovereignty as mandated by the 1945 Constitution? Second, what institutional conditions are necessary to improve the quality of democratic representation within the open proportional electoral system?

The remainder of this article is organized as follows. Section B explains the research methodology. Section C presents the results and discussion, including the historical development of Indonesia's electoral system, comparative analysis of electoral systems in several democratic countries, and theoretical evaluation using the frameworks of Radbruch and Friedman. The last section contains the conclusions and implications of the study.

The open-list PR system in Indonesia leaves a big gap between the das sollen and das sein. In theory, the system is supposed to provide proportional representation, to promote the sovereignty of the voter and to reduce the power of parties over the choice of candidates. The legal doctrine underlying the system emphasizes individual accountability, transparency, and the minimization of money politics. Empirically, however, the implementation has resulted in candidate-centric campaigns that escalate campaign costs, intra-party competition that weakens party coherence, and a persistent dominance of money in candidate nomination and voter mobilization. This gap indicates a malfunction in the juridical performance of the electoral system. Previous research has mostly dealt with political behaviour, campaign strategy, and party institutionalisation, but few have provided a detailed juridical evaluation of the extent to which the open-list PR system conforms to constitutional principles and legal doctrine. The novelty of this study is the attempt to combine the theory of electoral systems with the legal effectiveness and constitutional analysis to detect systemic failures and propose juridical solutions. Accordingly, the objective of this research is to analyze the performance of the open-

list PR system from a juridical perspective and to formulate legal recommendations for improving electoral accountability and justice in Indonesia.

Recent studies have examined various dimensions of Indonesia's open-list PR system but have not fully addressed its juridical performance. First, Ufen in The Pacific Review 2008 analyzed party institutionalization under open-list PR and concluded that the system weakens party cohesion due to internal candidate competition. Ufen analyzed the weakening of party institutionalization caused by internal candidate competition within the open-list system. Their study is political in nature and focuses on elite party behavior in Southeast Asia (Ufen, 2008). In contrast, this article does not examine political behavior but instead evaluates whether the legal construction of the open-list system aligns with the constitutional principles of popular sovereignty and fair representation under the 1945 Constitution. Second, Mikola & Santos in Democratization 2026 argued that democratic erosion leads opposition parties in two directions. First, they are encouraged to run together in ideologically diverse coalitions. Second, they are more likely to incorporate social movement-like characteristics. Furthermore, we argue that these changes go in line with the preferences of their electorates. Mikola & Santos highlighted as delved into how democratic backsliding affects the electoral strategies of opposition parties and the attitudes of their voters, focusing on the strategy adopted by Hungarian opposition parties in the run-up of the 2022 general elections, and in response to the democratic backsliding witnessed since Viktor Orbán's return to power in 2010. As Hungary's democracy transitioned from a full democracy to an electoral autocracy, opposition parties faced significant challenges in competing against the incumbent. To maximize their chances of success, they formed a coalition under the United for Hungary ticket and utilized open primaries to select their candidates (Mikola & Santos, 2026). This research does not replicate empirical testing. Instead, it identifies normative gaps in Law Number 7 of 2017 that enable such practices, thereby offering recommendations for regulatory reform. Third, Faiz & Winata in Jurnal Konstitusi 2019 evaluated the constitutional implications of open-list PR and found persistent tensions between voter sovereignty and party autonomy. Faiz & Winata examined the constitutional implications of the open-list system and identified tensions between voter sovereignty and party autonomy (Faiz & Winata, 2019). This article goes further by applying Lawrence Friedman's legal effectiveness theory to assess how legal structure, substance, and culture support or hinder the system's performance. Fourth, Jazilah et al., in Yurijaya: Jurnal Ilmiah Hukum 2024 assessed election general election for candidates for Regency/Municipal DPRD members is carried out by system open porpotional. The 2019 general election and the previous elections that took place

there some of the problems arising from the application of this open proportional system. This general elections system basically needs to be re-evaluated in its application. There is changes regarding the culture and political patterns that occur within the political party itself as well as in society. Jazilah et al., evaluated the effectiveness of electoral law and found weak enforcement of campaign finance regulations (Jazilah, Ariesta, & Sukron, 2024). The novelty of this study lies in elected candidates for Regency/Municipal DPRD members to advance is a qualified candidate. But in its application there are advantages and deficiencies in the application of this proportional system in the next general election. Fifth, Mone in Jurnal Hukum Bisnis 2023 examined the appropriate system to be applied in Indonesia for the 2024 election is the open-list proportional system. The reason is that in an open-list proportional system, voters can directly choose legislative candidates according to their own preferences without being determined by political parties. This means that the relationship between candidates and voters will become closer. Mone et al., examined the open-list proportional representation system works by allowing voters to directly elect their legislative representatives. The weakness of this system is that campaign costs become very high (Mone, Yohanes, & Udju, 2023). This article differs by not focusing solely on jurisprudence but by using it as one variable to diagnose the overall performance of the system. Compared to these studies, this article offers a novel contribution by conducting a systematic juridical diagnosis that integrates constitutional doctrine, legal effectiveness theory, and electoral system analysis. While prior research emphasizes political or sociological outcomes, this study focuses on the normative-empirical gap within the legal framework itself, thereby providing new insights for electoral law reform in Indonesia. Accordingly, the novelty of this article is its systematic juridical diagnosis, which closes the normative-empirical gap within the electoral legal framework and provides relevant input for the 2029 electoral policy reform.

B. RESEARCH METHODS

This study employs a normative juridical research method with a descriptive–analytical specification. The normative juridical approach is used because the primary object of analysis consists of legal norms and principles governing Indonesia's electoral system, including constitutional provisions, statutory regulations on elections and political parties, and relevant legal theories. Normative juridical research examines the coherence, interpretation, and application of legal norms in relation to constitutional principles, particularly the realization of popular sovereignty and democratic representation.

The descriptive–analytical specification indicates that the research not only interprets legal norms doctrinally but also describes how those norms operate within the broader institutional and political context of the electoral system. In this sense, the study combines doctrinal legal analysis with contextual examination of institutional practices, allowing the research to identify discrepancies between the normative objectives of electoral law and its empirical implementation within Indonesia's democratic system. To support the normative analysis, the study applies three analytical approaches: the statute approach, the historical approach, and the comparative approach.

The statute approach was used to analyse the legal framework governing elections and political parties including the 1945 Constitution of the Republic of Indonesia, Law Number 7 of 2017 concerning General Elections, Law Number 2 of 2008 concerning Political Parties and electoral legislation that existed before Law Number 7 of 1953. This method allows to systematically study the legal rules that govern electoral institutions and democratic representation.

This paper takes a historical approach to review the evolution of Indonesia's electoral legal system across different political eras, from the 1955 election to the 2024 election. The paper explores the historical eras of electoral regulation, parliamentary democracy and the New Order and Reformasi periods, in order to contextualise the current open-list proportional representation system.

The comparative approach is employed to assess the election system of Indonesia with selected democratic countries, namely Brazil, the Philippines, South Korea, and Germany. The reason for selecting these cases is because they operate under democratic political systems with multi-party competition and use proportional or mixed election methods, which might provide useful comparative insights for the Indonesian environment. Brazil is a presidential system with open-list proportional representation, as Indonesia. The Philippines is a case of candidate-centered electoral competition in a presidential system. South Korea is a mixed model of electoral system in a presidential democracy. Germany is a comparative case of strong party institutionalisation in a proportional electoral system.

The research is mostly based upon legal materials gathered by studying the literature. Primary legal materials such as constitutional provisions, statutes and decisions by the Constitutional Court on the electoral system; secondary legal materials such as scholarly books, peer-reviewed journal articles and academic studies on electoral systems, political parties and democratic governance; and tertiary legal materials such as legal dictionaries and reference works.

Qualitative analysis is done of the acquired legal materials through doctrinal legal analysis with

the support of theoretical evaluation. Two distinct theoretical frameworks are taken as the analytical instruments in the analysis. The institutional design of the electoral system is analysed in the light of the normative requirements of democratic law, especially in relation to fairness in electoral competition, predictability and consistency of electoral regulation, and the capacity of electoral institutions to generate representatives capable of serving the public interest, using the theory of legal values developed by Gustav Radbruch.

This paper applies Lawrence M. Friedman's theory of legal system to understand the working of these normative principles in the institutional setting of Indonesia's electoral system. This concept is relevant to the relationship between electoral institutions, the regulatory framework of elections and behavioural practices that form the electoral competitiveness. Through this dual analytical approach, the study evaluates both the normative coherence of electoral law and the institutional conditions that influence its practical implementation.

By integrating these analytical frameworks, the study evaluates both the normative coherence and the institutional performance of Indonesia's open proportional electoral system in realizing the constitutional principle of popular sovereignty.

C. RESULTS AND DISCUSSIONS

The analysis in this section evaluates Indonesia's electoral system by examining the relationship between *das sollen* (the normative principles embodied in the Constitution and electoral legislation) and *das sein* (the empirical realities of electoral practice). The paper evaluates, via historical, comparative and theoretical analysis, the extent to which Indonesia's election system has been able to transform these normative principles into effective democratic representation.

1. Electoral Systems in Indonesia: A Historical Review

Since independence, there has been an extensive process of institutional reform of Indonesia's electoral system, a continuing process of balancing the needs of representative inclusiveness, political stability and the constitutional ideal of popular sovereignty (Fossati, 2020). Broadly, such growth may be classified into three phases: early parliamentary democracy, regulated electoral competition in the New Order period, and democratic consolidation in the Reformasi era.

The 1955 general election was Indonesia's first attempt to institutionalise democratic representation. The election was held under Law No. 7 of 1953, employing proportional representation in such a highly pluralistic multi-party system with more than 30 parties competing (Aris, 2022). The system allowed for wide political

inclusion but also resulted in considerable party fragmentation and unstable coalition governments. The Constituent Assembly's failure to build a durable constitutional framework led to the Presidential Decree of 5 July 1959, highlighting the contradiction between the need for broad representation and the requirement for governmental stability in divided party systems.

A different approach developed in the New Order period (1971-1997), when electoral institutions were reorganised to promote political stability. Elections were still held under Law No. 15 of 1969 but political rivalry was strictly regulated by the consolidation of political organisations into three groups: Golkar, PPP and PDI (Budi, 2020). The system was based on closed-list proportional representation, with party leadership determining candidate rankings. In fact, this system supported Golkar, and restricted meaningful electoral competition, turning elections into weapons of political control rather than mechanisms for democratic representation.

The post-1998 Reformasi era revived competitive electoral politics and promoted political involvement. No less than 48 political parties contested the 1999 election. The electoral process, however, showed the continued limitations of party institutionalisation. Reforms thereafter accordingly focused on improving the influence of voters and the accountability of legislators.

One significant institutional change was that the Constitutional Court Decision No. 22–24/PUU-VI/2008 ordered that seats in the legislature be allocated according to the highest number of votes for an individual, instead of the party-list priority that had been practiced. This decision de facto institutionalised the Open-List Proportional Representation (OLPR) system that was later codified in Article 168 (2) of Law No. 7 of 2017 (Artina, Saragih, & Lailam, 2024). In Decision No. 114/PUU-XX/2022, the Court reaffirmed the OLPR framework as a constitutional requirement for Indonesian democracy, despite continuing legal challenges to return to a closed-list system.

The current open-list system enhances the sovereignty of voters in that it is possible to elect candidates directly but at the same time it increases intra-party competition and election expenses. Its effectiveness therefore also depends on electoral design, but also on the institutional capacity of political parties and integrity of electoral governance.

2. Electoral Systems In Democratic Presidential Systems: A Comparative Perspective

Comparing Indonesia's electoral system with wider trends in other democracies provides a more textured picture of its institutional architecture. The paragraph compares Indonesia's open-list proportional representation system with that of Brazil, the Philippines, South Korea and Germany along three analytical variables, namely, voter

representation, stability of party system and electoral accountability.

The closest institutional analogue is the Brazilian system of open-list proportional representation in a presidential system. This approach allows people to vote for individual candidates therefore, boosting the diversity of representatives and the number of choices for voters (Desai & Frey, 2023). But it also fosters very individualised and resource-intensive electoral competition, with candidates competing against and within party lists. Empirical studies reveal that in Brazil campaign costs are among the highest in comparative democratic systems and that intra-party competition substantially increases the marginal cost of votes (Castro, 2024). The dynamics are extremely similar to Indonesia, particularly regarding the development of campaign expenditure and candidate-centred competitiveness.

For example, the Philippines has a different structural problem. Weak party institutionalisation constrains the impact of the mixed electoral system that integrates district representation with a party-list element meant to provide representation to marginalised groups (Bionat, 2021). In actuality, political parties are typically vehicles for elite networks and political dynasties still influence electoral outcomes. This case indicates that election design alone cannot assure democratic representation without robust party institutions.

In contrast, South Korea offers an example of how institutional design and governance can strengthen election performance. It has a hybrid electoral system that combines district representation and proportional allocation (Mobrand, 2019). Reforms after democratisation enhanced election management agencies and campaign finance regulation. Effective electoral governance is important as such institutional arrangements have helped to raise the level of transparency of elections and administrative integrity.

Germany provides an example of steady proportional representation sustained by robust party institutionalisation. Its mixed-member proportional system combines constituency representation with proportional allocation, while a five percent electoral threshold limits excessive fragmentation (Weinmann & Grotz, 2022). The constitution acknowledges political parties and demands them to have a democratic internal organization and financial transparency. This institutional framework supports programmatic competition and reduces the candidate-centered dynamics common in open-list systems.

Across these cases, three comparative insights emerge. First, open-list proportional systems provide strong voter representation but tend to generate candidate-centered competition and high campaign costs. Second, party system stability depends less on electoral design alone

than on institutional constraints such as thresholds and party organization. Third, electoral accountability is shaped not only by voter choice mechanisms but also by the broader institutional environment, including party institutionalization and electoral governance.

Taken together, these comparisons indicate that the challenges observed in Indonesia, particularly money politics, intra-party competition, and weak party institutionalization, reflect broader structural patterns associated with open-list proportional systems in fragmented multi-party contexts. The comparative evidence, therefore, reinforces the central argument of this study: the performance of Indonesia's electoral system depends not only on its formal design but also on the institutional capacity of political parties and on electoral governance mechanisms. The comparative findings are summarized in Table 1.

Table 1. Comparative Electoral Systems and Institutional Lessons for Indonesia

Country	Electoral System	Key Institutional Strength	Structural Weakness	Lesson for Indonesia
Brazil	Presidential; Open-list PR	Strong voter choice and representational diversity	High campaign costs and severe party fragmentation	Open-list systems require strong campaign finance regulation
Philippines	Presidential; Mixed system (district + party-list)	Mechanism for sectoral representation	Political dynasties and weak party institutionalization	Electoral design alone cannot prevent elite capture
South Korea	Presidential; Mixed-member system	Balance between proportional representation and constituency accountability	Moderate fragmentation	Institutional regulation and electoral governance improve system performance
Germany	Parliamentary; Mixed-member proportional	Strong party institutionalization and stable proportional representation	Electoral threshold may limit small parties	Institutionalized political parties support democratic stability
Indonesia	Presidential; Open-list PR	Strong expression of voter sovereignty	Money politics and intense intra-party competition	Strengthening party institutions and campaign finance regulation

Source: Authors' compilation.

3. Indonesia's Open Proportional System

a. Constitutional and Institutional Framework

Indonesia's legislative elections are held using an open-list proportional representation system as specified by Law No. 7 of 2017. The system enables voters to vote directly for individual candidates nominated by political parties and the seats are distributed equally between the parties based on the total votes obtained in the districts. (Wartoyo & Tungga, 2019). The candidates with the most number of personal votes within each party's allotment are declared elected. The system mixes proportional party competition with direct voter input on the selection of candidates.

This system's constitutional basis is based on the principle of people sovereignty in Article 1 paragraph (2) of the 1945 Constitution and the obligation to hold periodic elections in Article 22E. The open-list system was institutionalised by Constitutional Court Decision No. 22–24/PUU-VI/2008, which mandated that parliamentary seats must be distributed based on individual votes, not on the order of the party-list. This view was reiterated in Decision No. 114/PUU-XX/2022 which emphasised that limiting the choice of voters to party lists would reduce the constitutional manifestation of the public sovereignty.

Open-list combines the representation function of political parties with the direct election of candidates by voters, thus increasing electoral accountability.

b. Competition Among Candidates and Voter Sovereignty

The open-list system gives rise to two types of competition, i.e. inter-party competition over the proportional allocation of the seats and intra-party competition among the candidates of the same party for personal votes. This dual structure is the signature of open-list proportional representation and the source of both democratic virtues and institutional difficulties.

The method increases voter agency and enhances the bond between residents and elected officials by allowing voters to choose not only party representation, but also individual candidates. But intra-party competition changes incentives from programmatic party competition to individualised marketing of candidates. In this context, campaign finance, personal connections, and media presence are playing an increasing role in helping candidates win electoral support (Groshek & Koc-Michalska, 2017).

Such processes generate structural inequities in electoral competition. Whoever has more money or name recognition may have a big edge over whoever may know more about the issues but has less campaign resources. Thus, the extension of voter sovereignty may entail hazards of clientelistic campaigning and money politics.

The Constitutional Court has confirmed the legitimacy of the open-list system in Decision No. 114/PUU-XX/2022, but its democratic function

needs to be complemented by other safeguards, such as stronger regulation of campaign finance, increased transparency of electoral funding, and more effective political education (Risky, Al-Fatih, & Azizah 2023).

c. Political Parties and the Open Proportional System

Voters ultimately determine electoral outcomes, but political parties remain structurally decisive because they control access to parliamentary candidature. Law No. 7 of 2017 says parties put forward candidates for elections and seats go to parties first, then to individual candidates. Political parties thus act as institutional gatekeepers, determining the pool of candidates available for voters.

Political parties are given essential democratic duties under Law No. 2 of 2008, such as political education, aspiration aggregation, and candidate recruiting (Dinarto & Ng, 2021). In essence, these functions place parties in the role of intermediary institutions between popular sovereignty and representative governance.

But in fact, the performance of Indonesian political parties remains inconsistent. Political education typically takes a back seat to short-term electoral mobilisation. Candidate recruitment generally focuses on financial resources and public visibility at the expense of policy competence. Legal provisions necessitate gender inclusion in candidate lists, however these have not always led to representative outcomes.

These constraints do not invalidate the constitutional legality of the open-list system , but point to the fact that its efficacy hinges upon the institutional capabilities of political parties. Therefore, to improve the quality of democratic representation, it is crucial to reinforce internal party democracy, to better recruitment processes, and to enhance political education.

4. Normative Evaluation: Radbruch's Legal Values

Radbruch's theory gives a normative perspective to examine whether Indonesia's open proportional electoral system transforms the constitutional principle of popular sovereignty into democratic representation. The assessment is based on three aspects: the fairness of electoral competition, the uniformity of electoral rules and the ability of electoral results to promote the public interest.

First, the open-list system ensures justice through the formal equality of the candidates. Each candidate has equal legal potential to win a seat in the legislature by personal votes. The idea was strengthened in the Constitutional Court Decision No. 22–24/PUU-VI/2008 which disallowed the closed-list method which gave preference to candidates depending on the party ranking (Rahim et al., 2025). The Court's focus on the count of

individual votes increased the control voters had over the choice of legislators.

However, this formal equality does not mean substantive equality. Candidate-centred competition is expensive, hence structurally advantageous for candidates with more resources or better political networks. As a result, the struggle for elections occurs within formally equal rules but uneven conditions. To address this gap, there should be stronger regulation of campaign money and increased institutional assistance from political parties (Dirkareshza, Simanjuntak, & Zaifa, 2024).

Secondly, legal certainty calls for the uniform execution of electoral regulations. Law No. 7 of 2017 provides a thorough legal framework for the candidate registration and voting process and seat allotment (Irawan, 2024). These regulations give procedural clarity, but their execution has been inconsistent.

The empirical electoral results show this discrepancy. Indonesian legislation mandates political parties to include at least 30% women in the list of candidates, however, women only formed around 22.1% of the DPR members (128 of 580) after the 2024 legislative election (Subarkah, 2024). Similarly, studies on the 2024 election predict increasing campaign spending and continuous practice of vote-buying, both of which threaten uniform execution of electoral norms (Sukmajati et al., 2025). Such tendencies point to a wider gap between normative legal requirements (das sollen) and electoral practice (das sein). Improving legal certainty therefore requires strengthening enforcement mechanisms and establishing operational standards.

Finally, social utility asks whether election institutions generate representatives who can serve the public interest. It also promotes voter responsiveness since voters are able to actively select candidates in the open-list system. But when election victory is mostly a function of financial resources or personal popularity, the quality of representation may be degraded.

Thus, achieving social value is not solely a matter of electoral design, but also of the institutional capacity of political parties to recruit qualified candidates and to foster programmatic competition. Without this institutional backing, electoral outcomes are at risk of emphasising electability over capability. These results combined point out that whilst the open proportional system satisfies the formal criteria of fairness, legal certainty and social utility, its substantial satisfaction is restrained by structural and institutional factors.

5. Legal System Theory: Friedman's Institutional Evaluation

Friedman's methodology extends the analysis from normative principles to institutional conditions under which election law is implemented. In the Indonesian context, it shows how electoral results are determined not just by formal laws but

also by the capacity of institutions and the behaviours that define political competition.

Indonesia's election system is handled by the KPU and overseen by entities such as the Bawaslu and the Honorary Council of Election Organisers (DKPP). The KPU is an autonomous constitutional body, which has built significant technical capacity over consecutive electoral cycles. This administrative skill is evident in the organization of the 2024 simultaneous elections, despite unequal enforcement (Jarodi, Khafid, & Yulianto, 2024).

Political parties are more powerful because they control who can run. Under Article 22E paragraph (3) of the Constitution, parties are the only ones that can propose candidates, making them the main gatekeepers of electoral competition. Yet institutionalisation of the party is still limited. Many parties behave as vehicles of elite networks rather than programmatic organisations, therefore reducing their ability to execute essential responsibilities such as political education and meritocratic recruiting.

Oversight institutions further exemplify the difference between formal authority and practical efficacy. Bawaslu and DKPP provide means for monitoring and disciplining infractions of the election process, but their impact is restricted by insufficient capacity in enforcement, especially in dealing with informal practices such as money politics.

Indonesia's election system is well-developed in terms of formal regulation. Constitutional provisions protect popular sovereignty and democratic elections , and Constitutional Court decisions have supported the open-list system by giving primacy to individual vote totals . Statutory regulations under Law No. 7 of 2017 and Law No. 2 of 2008 further specify electoral procedures and the obligations of parties.

However, numerous provisions are still weakly working. The regulations of campaign finance are difficult to police and the needs of political education and democratic recruiting are stated as general responsibilities without concrete compliance measures. This means that the legal framework better articulates institutional objectives than it guarantees them are carried out.

The impact of informal rules can also be observed in electoral practice. Voting behaviour is typically based not on programmatic judgement, but on candidate acquaintance, personal visibility, and local networks. More importantly, money politics remains a permanent component of election struggle. Survey statistics from the 2019 parliamentary election show that 19.4% of voters said they were offered bribes to vote, indicating that clientelistic practices remain relevant (Ghaliya, 2019). While lower than in prior election cycles, the result demonstrates that such behaviours remain ingrained in electoral behaviour. These patterns suggest that voting outcomes are determined not

just by formal legal procedures but also by ingrained norms (Dichio & Logvinenko, 2024).

Open-list systems' emphasis on individual vote totals further fosters candidate-centered competition. Candidates concentrate on exposure and personal branding. Parties are less adept at filtering candidate quality. In this scenario, winning elections can be a function of resources and recognition rather than policy skill.

Taken together, these observations suggest that the efficacy of Indonesia's electoral system depends not just on its formal design, but also on the congruence of institutional capacity, regulatory enforcement, and electoral behaviour. Where these elements are misaligned, formally well-designed rules may produce outcomes that diverge from their intended democratic objectives.

6. The Interaction between Radbruch and Friedman in the Reform Agenda

The preceding subsections examined Indonesia's open proportional electoral system through Radbruch's normative framework and Friedman's institutional perspective. This study integrates both approaches into a unified analytical model (the Radbruch–Friedman Electoral Diagnostic Framework) designed to identify structural misalignments between normative legal principles and institutional realities.

Rather than treating these frameworks as separate lenses, their interaction reveals how formally valid legal systems may fail to produce substantive democratic outcomes. In particular, the integrated framework reveals conflicts that develop when normative expectations of justice, legal clarity and social usefulness are not met by appropriate institutional capability and social practices. Three cross-framework tensions are identified here that constrain the ability of electoral systems to realise constitutional objectives in effective democratic representation.

The first tension arises between legal certainty (*Rechtssicherheit*) and legal culture. Radbruch's concept of legal certainty presupposes that clearly formulated legal rules are applied consistently so that legal outcomes become predictable. Friedman's concept of legal culture questions this premise, emphasising that the success of legal laws depends on behavioural norms and practices of actors functioning inside the legal system. In the Indonesian election setting, the relevant legal norms are not absent or vague. Law No. 7 of 2017 specifically forbids vote-buying and regulates campaign money. Law No. 2 of 2008 requires political parties to hold democratic candidate recruiting. But informal electoral practices often work in conjunction with formal compliance to avoid such rules.

This disparity between formal regulations and practical enforcement is evidenced empirically by electoral oversight. During the 2024 election campaign, the Bawaslu received 130 allegations of alleged money-politics crimes but less than 10

cases were formally sanctioned (Media Indonesia, 2024). This gap between breaches recorded and sanctions imposed indicates how informal election procedures can be detrimental to the successful realisation of legal certainty. Therefore, the election system is characterised by a state of formal legal certainty and empirical unpredictability.

This tension points to the fact that legal certainty is not only a quality of written rules, but also depends on the cultural environment where those rules function. Where informal behaviours such as money politics are socially allowed, precise statutory standards may create the illusion of certainty without requiring compliance. Therefore, to strengthen legal certainty in Indonesia's election system is not just to have better legislation but also to have stronger enforcement mechanisms and a broader reform of electoral legal culture.

The second tension is between justice (Gerechtigkeit) and legal structure. Radbruch's idea of justice is the equal treatment of everyone in the sense of law, i.e. each candidate has an equal chance to compete and each voter has the equal right to participate. The basis of the Constitutional Court's rejection of the closed-list system in Decision No. 22-24/PUU-VI/2008 was the concept of formal equality. But Friedman's structural view draws attention to the institutional boundaries of this equality. Electoral institutions like as the KPU and Bawaslu apply electoral rules impartially, but do not directly intervene to alleviate underlying inequities shaping political competitiveness.

Empirical research shows this discrepancy between legal equality and substantive outcomes. Indonesia's election legislation mandates that political parties must include at least 30% women on their candidate lists, however the share of women elected to the national parliament is much lower. The official results of the 2024 parliamentary election released by the KPU revealed that women only fill around 22.1% of the seats in the DPR, which demonstrates the gap between the statutory quota requirement and the real representation (Subarkah, 2024). This difference reflects deeper structural inequalities in electoral competition such as discrepancies in campaign resources, political networks and party support.

Thus, effective institutional administration can lead to what has been called formalistic justice, a situation in which electoral laws are enforced equally in a procedural sense but structural disparities continue to determine electoral outcomes. Electoral justice is therefore not only about the impartial management of institutions, but also about regulatory tools that can confront structural disparities that impact the competitiveness of candidates.

The third conflict is between social usefulness (Zweckmäßigkeit) and legal substance. Radbruch's idea of social utility demands that legal systems eventually serve the larger public interest.

In electoral systems, such a value is realised when elections generate representatives who are able to successfully perform legislative functions. Indonesian election statute explicitly spells out this purpose. Law No. 2 of 2008 assigns political parties' responsibilities for political education, aspiration aggregation, and the recruitment of democratic candidates, all of which are intended to support effective democratic representation.

However, many of these statutory provisions remain aspirational rather than operational. While the law defines the purposes of political parties, it often lacks specific procedural standards, compliance indicators, or enforceable sanctions. There is also empirical evidence of the limited implementation of these statutory tasks. In 2024, the Central Information Commission undertook monitoring and determined that just one political party got the top prizes for transparency and information disclosure, with 10 awards as the most innovative and informative public institution (Hapsoro, 2024). This limited institutional engagement suggests that the obligation to provide political education and report on the use of state funds in a transparent manner remains weakly implemented in practice, although parties are required to account for every rupiah of public funds used for political education, recruitment and consolidation activities (Mamonto et al., 2024).

From Friedman's point of view, this is a shortcoming in legal substance: the normative purposes of election legislation are clearly expressed, but the procedures required to ensure their implementation are underdeveloped. Hence, for social value to be achieved, it is necessary to have clear legal objectives, but also operational regulatory systems to assure institutional compliance and responsibility.

Together, these three tensions are the foundation of the Radbruch – Friedman Electoral Diagnostic Framework, which identifies gaps between normative legal concepts and institutional reality in electoral systems. The research indicates that the major shortcomings of Indonesia's electoral system are not mainly due to the formal structure of the open proportional representation model nor the absence of necessary legislative requirements. Rather, they are the result of mismatches between the normative expectations encoded in election legislation and the institutional and cultural contexts within which those rules function.

Under such circumstances a legal system may formally comply with the concepts of justice, legal clarity and social value but may not actually implement them. The analytical value of combining Radbruch's normative framework with Friedman's institutional perspective, therefore, lies in revealing how tensions between legal structure, legal substance, and legal culture can undermine the translation of constitutional principles into effective democratic outcomes. Table 2 summarizes the

principal cross-framework tensions identified in this analysis.

Table 2. Cross-Framework Tensions: Radbruch's Values and Friedman's Components in Dialogue

Radbruch Value	Friedman Component	Cross-Framework Tension	Analytical Implication
Legal certainty (*Rechtssicherheit*)	Legal culture	Clear legal rules coexist with informal electoral practices such as money politics, producing certainty in formal law but unpredictability in practice.	Legal certainty requires transformation of legal culture and enforcement norms, not merely clearer statutory drafting.
Justice (*Gerechtigkeit*)	Legal structure	Strong electoral institutions administer formally neutral rules while financial disparities between candidates create unequal practical opportunities.	Institutional structure alone cannot ensure substantive justice; reforms must address effective equality of electoral competition.
Social utility (*Zweckmäßigkeit*)	Legal substance	Electoral legislation articulates democratic objectives but often lacks operational standards or enforceable compliance mechanisms.	Achieving social utility requires converting aspirational legal provisions into specific, enforceable institutional obligations.

Source: Authors' compilation.

7. Institutional Reform for Strengthening Political Parties

The preceding analysis demonstrates that the principal limitations of Indonesia's open proportional electoral system arise not from its constitutional design but from weaknesses in the institutional environment in which it operates. The reform priorities proposed in this section correspond directly to the cross-framework tensions identified in the previous analysis. Improving political recruitment addresses the tension between justice and legal structure by reducing structural inequalities in candidate competition. Strengthening campaign finance regulation addresses the tension between legal certainty and legal culture by curbing informal financial practices that undermine the consistent enforcement of electoral rules. Expanding political education initiatives addresses the tension between social utility and legal substance by strengthening the societal conditions necessary for informed electoral participation. In this way, the proposed reforms translate the theoretical insights derived from Radbruch's legal values and Friedman's legal system theory into practical institutional strategies for improving the democratic performance of Indonesia's electoral system.

Although the open-list system allows voters to select legislative representatives directly, the democratic quality of electoral outcomes ultimately depends on the institutional capacity of political

parties and the effectiveness of electoral governance. Political parties, therefore, occupy a central position in this framework because they function as gatekeepers of legislative candidacy (Carey & Shugart, 1995). Under Article 22E paragraph (3) of the 1945 Constitution and Law No. 7 of 2017, only candidates nominated by political parties may contest legislative elections. Consequently, party recruitment and selection practices play a decisive role in shaping the quality of democratic representation.

One of the most important areas for reform concerns political recruitment. The choice of candidates must be based on competence, integrity and programmatic commitment and not on financial resources or individual popularity. To ensure that the selection of candidates is guided by democratic principles rather than elite patronage networks, it would be useful to increase transparency in nomination processes, create merit-based recruitment systems and strengthen internal party democracy.

A second reform objective is the control of political finance. Candidate-centered competition in open-list systems sometimes produces high campaign costs and temptations to money politics. Enhancing the supervisory authority of electoral oversight organisations, improving campaign money disclosure regulations, and improving enforcement procedures could help to address the structural disparities of political competition.

Finally, political education is an important long-term strategy for enhancing democratic accountability. Federal Law No. (2) of 2008 shall impose on political parties the duty to carry out political education for their members and the public. Expanding civic education initiatives through political parties and programs run by electoral management bodies and civil society organizations can encourage voters to evaluate candidates based on policy competence rather than on personal familiarity or material incentives (Mvukiyehe & Samii, 2017); (Shomer, Put, & Gedalya-Lavy, 2016).

Strengthening political party institutionalization, improving campaign finance regulation, and expanding political education initiatives would enhance the capacity of Indonesia's open proportional electoral system to translate the constitutional principle of popular sovereignty into effective democratic representation. The principal institutional weaknesses affecting political parties, along with the corresponding reform priorities identified in this study, are summarized in Table 3.

Table 3. Political Party Institutional Deficits in Indonesia

Party Function	Legal Basis	Institutional Problem	Electoral Consequence	Reform Direction
Political Recruitment	Art. 11(1)(e) Law No. 2/2008	Weak cadre development and elite-driven nomination	Candidates selected based on wealth and popularity	Transparent nomination procedures and merit-based recruitment
Political Education	Art. 11(1)(a) Law No. 2/2008	Limited civic education and programmatic communication	Voters rely on familiarity or material incentives	Sustained political education and public accountability
Aspiration Aggregation	Art. 11(1)(c) Law No. 2/2008	Weak party programmatic platforms	Candidate-centered politics dominates electoral competition	Strengthening party platforms and policy development
Gender Representation	Art. 245 Law No. 7/2017	Candidate quotas not reflected in election outcomes	Women remain underrepresented in legislatures	Improved quota mechanisms and institutional support
Internal Party Democracy	Art. 29 Law No. 2/2008	Opaque nomination procedures and elite control	Limited accountability in candidate selection	Transparent internal party governance and oversight

Source: Authors' compilation based on Law No. 2 of 2008 on Political Parties and Law No. 7 of 2017 on General Elections.

D. CONCLUSION

This study demonstrates that the open-list proportional representation system currently applied in Indonesia is constitutionally consistent with the principle of popular sovereignty established in Article 1 paragraph (2) of the 1945 Constitution. By allowing voters to select individual legislative candidates directly, the system strengthens the democratic relationship between citizens and their elected representatives. Constitutional Court jurisprudence, particularly Decision No. 22–24/PUU-VI/2008 and Decision No. 114/PUU-XX/2022, further confirms the constitutional legitimacy of voter-direct candidate selection within Indonesia's democratic framework.

At the same time, the analysis shows that the principal challenges affecting the quality of Indonesia's electoral democracy do not arise primarily from the design of the open proportional system itself but from weaknesses in the broader institutional environment in which it operates.

The combination of Radbruch's concept of legal principles and Friedman's theory of the legal system suggests that problems such as money politics, unequal campaign resources, and insufficient institutionalisation of political parties continue to restrict the effective realisation of democratic representation. These conditions demonstrate the enduring gap between the normative goals of electoral legislation (das sollen)

and the empirical reality of electoral practice (das sein).

In addition to the Indonesian scenario, this paper offers a diagnostic approach to assess performance of electoral systems through the interaction of normative legal principles and institutional variables. The analysis finds three cross-framework tensions (legal certainty versus legal culture, justice versus legal structure, and social utility versus legal substance) as potential barriers for electoral systems to translate constitutional ideas into democratic outcomes. The Radbruch-Friedman Electoral Diagnostic Framework combines Radbruch's normative view with Friedman's institutional analysis to develop a systematic tool for discovering discrepancies between electoral law and electoral practice.

Therefore, in order to improve the democratic performance of the Indonesian electoral system, reforms to increase the institutional conditions that enable the functioning of the open proportional system are needed. Priority reforms include more political party institutionalisation, regulation and enforcement of campaign funding, political education, and candidate recruiting transparency. These actions will enable political parties to better perform their constitutional function as intermediary entities that connect popular sovereignty with representative government.

In the final analysis, the success of electoral systems rests not only on their formal constitutional design but also on the institutional and cultural factors that influence their functioning. The diagnostic methodology developed in this research can thus be a useful analytical tool for assessing similar difficulties in other proportional representation systems and for suggesting institutional modifications essential for strengthening democratic representation.

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