



Analysis of Constitutional Court Decision Number 114/PUU-XX/2022 Regarding the Judicial Review of the Proportional System in General Elections

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Article	Abstract
Keywords: Constitutional Court; Elections; Proportional System	<i>This study analyzes Constitutional Court Decision Number 114/PUU-XX/2022 concerning the judicial review of Law Number 7 of 2017 on the general election proportional system in Indonesia. The issue arises from a perceived constitutional inconsistency between the open-list proportional system adopted in the law and the 1945 Constitution, particularly in how it diminishes the institutional role of political parties in elections. The petitioners argued that the current system undermines party functions, promotes individualism, and facilitates money politics. The objective of this study is to critically assess the Constitutional Court's decision, which rejected the petition on the grounds of open legal policy and lack of legal reasoning. It also aims to evaluate whether the Court should have adopted a judicial activism approach in reviewing the proportional electoral system. Using a normative juridical method, the research relies on primary and secondary legal sources, including statutory regulations and constitutional principles, to analyze the legal reasoning behind the Court's decision and its broader implications. The findings suggest that although the Court emphasized legislative discretion, it missed an opportunity to assert its role as a negative legislator to address the legal and moral inconsistencies of the open-list system. The study concludes that a limited open proportional system may serve as a more balanced alternative—preserving voter choice while reinforcing political party roles. Strengthening party cadre systems is also recommended to ensure democratic integrity and effective political representation.</i>

INTRODUCTION

Indonesia is a unitary state in the form of a republic, wherein sovereignty lies in the hands of the people, and all aspects of governance are regulated by prevailing legal norms (Hananto Widodo, Muh. Ali Masnun, Intan Lovisonnya, Dicky Eko Prasetyo,

2026). This principle is explicitly stated in the Constitution of the Republic of Indonesia of 1945, Chapter I Article 1 on the Form and Sovereignty of Indonesia, which reads: “(1) The State of Indonesia is a Unitary State in the form of a Republic. (2) Sovereignty is in the hands of the people and is exercised in accordance with the Constitution. (3) The State of Indonesia is a state based on the rule of law.”

In its constitutional political system, Indonesia adheres to a democratic framework, where the term "democracy" derives from the Greek words *demos* (people) and *kratos* (government) (Prasetio, 2022). Thus, democracy implies a government in which supreme power resides with the people, exercised either directly or indirectly through a representative system. Accordingly, democracy is inseparable from General Elections (Pemilu), wherein the people play a direct role (Iasulaitis et al., 2025). As noted by Ibnu Tricahyono, the expression of public interest and the formation of a legitimate government based on people's sovereignty can be realized through the mechanism of general elections.

General elections are a tangible embodiment of democratic values, whereby democratic countries, including Indonesia, conduct elections as a means of ensuring leadership succession within the government—ranging from the President and Vice President to members of the House of Representatives (DPR) and Regional Representative Councils (DPRD)—who are elected directly by the people (Hairun et al., 2023). This concept signifies that people's sovereignty is a fundamental element in the implementation of democracy. People's sovereignty, as reflected in the execution of elections, creates a fair competitive arena for political parties to contribute, dedicate themselves, and serve the electorate who have chosen them through elections by fulfilling their responsibilities, duties, and functions (Prasetio, Masnun, & Widodo, 2025). This is governed under Article 1 point 1 of Law Number 8 of 2012 on General Elections, which states: “General elections are a means of implementing the sovereignty of the people which are conducted directly, publicly, freely, confidentially, honestly, and fairly within the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution.”

In general elections, two systems are recognized: the closed-list proportional system and the open-list proportional system. The open-list proportional system, as proposed by the government and codified in Law Number 8 of 2012, is stipulated in Chapter 2 Article 5 paragraph (1), which states: “Elections to elect members of the DPR, provincial DPRD, and regency/municipal DPRD are conducted using the open proportional system.” In this system, the electorate has full control over selecting the candidates nominated by political parties. Voters can identify those who represent their interests and can hold them accountable for voicing their aspirations in parliament. In contrast, the closed-list proportional system dictates that the seats won by political parties are filled by candidates according to a list determined by the party. This system, used prior to the Reform Era, granted political parties full authority to nominate

candidates, whereby voters cast their ballots for the party rather than individuals. This was governed by Law Number 3 of 1999 Article 1 paragraph (7), which states: “General elections are conducted using the proportional system based on a list system.”

General elections using the closed-list proportional system were implemented in the 1955, 1971, 1977, 1982, 1987, 1992, 1997, and 1999 elections. In the 1999 election, a proportional counting system was employed wherein the number of seats won by a party was proportionally determined based on the performance and competence of party candidates in each provincial electoral district (MD, 2012). In this system, candidate rankings were set by the party leadership, as voters were only required to mark the party symbol. As a result, candidates had no power if they were not elected—even those with significant public appeal or influence. The legal foundation for the 1999 election can be found in Article 1 paragraph (3) of Law Number 3 of 1999 on General Elections, which states: “General elections are conducted using a proportional system based on a list system. This means that the seats won by political parties are filled by candidates according to the list determined by the party.”

The open-list proportional system began to be implemented in the 2004 general election, in accordance with Article 6 paragraph (1) of Law Number 12 of 2003 on the general election of members of the DPR, DPD, and DPRD. In 2004, there was a slight variation in the implementation of elections, particularly for DPD members, who were elected under a district system as stipulated in Article 6 paragraph (2) of Law 12/2003. Subsequently, in 2009, the election procedures were governed by Article 5 paragraphs (1) and (2) of Law Number 10 of 2008 concerning the election of DPR, provincial DPRD, and regency/municipal DPRD members. The open proportional system was applied to these elections, while the DPD elections continued to use a multi-member district system (Tinambunan & Prasetyo, 2019). The 2009 election did not follow the previous implementation of the electoral system, as it transitioned into a pure open-list proportional system. This change resulted from the Constitutional Court Decision Number 22-24/PUU-VI/2008, which annulled Article 214 of Law Number 10 of 2008. The decision led to the enactment of a new law, Law Number 8 of 2012, which established the open-list proportional system for the 2014 election.

Debate over the two systems has persisted. In 2023, a judicial review was filed with the Constitutional Court challenging the legislative provisions concerning the 2024 electoral system. Among the points raised was a request to change the electoral system from open-list proportional to closed-list proportional, based on restoring constitutional principles outlined in Article 22E of the 1945 Constitution, which states that “The participants in the general election for members of the House of Representatives and the Regional People’s Representative Council shall be political parties.” However, according to Constitutional Court Decision Number 114/PUU-XX/2022, this request was denied. Of the four judges presiding, one judge issued a

dissenting opinion—Prof. Dr. Arief Hidayat, S.H., M.S.—who argued that there should be consideration for implementing a Limited Open Proportional System in the 2029 election. In this proposed system, voters would retain the ability to recognize legislative candidates listed on the ballot paper. Nevertheless, political parties would still have the right to determine the legislative candidates and assign ranking numbers as the basis for determining who is elected. In other words, the limited open proportional system pays attention to the interests of political parties in performing their functions of political recruitment and cadre development through democratic internal mechanisms to select their best legislative candidates. Simultaneously, the system also considers the interests of voters in recognizing the legislative candidates nominated by political parties.

METHOD

The research method used in this study employs a normative juridical approach, also known as legal literature research, in which the researcher collects and analyzes literature materials or secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials (Masnun, Muh. Ali, Prasetyo, Dicky Eko, 2025). This study emphasizes legal norms and secondary sources such as statutory regulations and legal theories, as well as the application of theoretical and scientific legal principles as the basis for analyzing the issues discussed. In this research, the author adopts a normative legal research type, namely legal research conducted by examining legal literature that constitutes primary legal materials (Mamudji, 2005). The author will conduct an analysis of the Constitutional Court Decision Number: 114/PUU-XX/2022, by examining the judges' legal reasoning and the legal implications arising from the decision for the parties involved.

The research approach employed is the statutory approach. The legal materials used in this research consist of primary and secondary legal materials. The technique for collecting legal materials is conducted through library research.

RESULTS AND DISCUSSION

1. Research Findings

The Constitutional Court Decision Number 114/PUU-XX/2022, the petition was filed by the following applicants: Riyanto (Petitioner I), Nono Marijono (Petitioner II), Ibnu Rachman Jaya (Petitioner III), Yuwono Pintadi (Petitioner IV), Demas Brian Wicaksono (Petitioner V), and Fahrurrozi (Petitioner VI). The applicants submitted a request to the Constitutional Court to review several provisions of Law Number 7 of 2017 concerning General Elections, namely: Article 168 paragraph (2), Article 342 paragraph (2), Article 353 paragraph (1) letter b, Article 386 paragraph (2) letter b, Article 420 letters c and d, Article 422, and Article 426 paragraph (3).

Article 168 paragraph (2) states: "Elections to elect members of the DPR, Provincial DPRD, and Regency/Municipal DPRD shall be conducted using an open proportional system."

Article 342 paragraph (2) stipulates: "The ballot paper as referred to in Article 341 paragraph (1) letter b for candidates of the DPR, Provincial DPRD, and Regency/Municipal DPRD includes the party's symbol, serial number, and name of the legislative candidates for each electoral district."

Article 353 paragraph (1) letter b regulates the voting process: "Voting for the General Election shall be carried out by making a single mark on the party symbol or serial number and/or the name of the legislative candidate for the DPR, Provincial DPRD, and Regency/Municipal DPRD."

Article 386 paragraph (2) letter b explains: "A vote is deemed valid for the DPR, Provincial DPRD, and Regency/Municipal DPRD elections if the mark is placed on the party symbol and/or the name of a legislative candidate in the designated column."

Article 420 letters c and d state: "The determination of the number of seats acquired by each Political Party Contestant in an electoral district shall be carried out as follows: c. The results of the allocation as referred to in letter b are ranked based on the highest number of votes. d. The highest value receives the first seat, the second highest receives the second seat, the third highest receives the third seat, and so on until all seats in the electoral district are filled."

Article 422 states: "The determination of elected candidates for DPR, Provincial DPRD, and Regency/Municipal DPRD from Political Party Contestants in an electoral district shall be based on the number of seats obtained by each party and the individual vote totals of each legislative candidate listed on the ballot."

Article 426 paragraph (3) further stipulates: "Elected legislative candidates of the DPR, Provincial DPRD, and Regency/Municipal DPRD as referred to in paragraph (1) shall be replaced by the General Elections Commission (KPU) with the next highest vote-getting candidate from the same party in the same electoral district."

Based on the above provisions, the electoral system in Indonesia, as stipulated in Article 168 paragraph (2) of Law Number 7 of 2017, adopts the Open Proportional System. The petitioners argued that the open proportional system facilitates money politics, weakens the institutionalization of political parties, creates complexity in election implementation, and gives rise to multidimensional problems. Additionally, the petitioners asserted that the open proportional norm, which prioritizes individual vote counts in electing DPR/DPRD members, deviates from the intent of constitutional norms.

According to constitutional provisions contained in Article 1 paragraph (1), Article 18 paragraph (3), Article 19 paragraph (1), and Article 22E paragraph (3) of

the 1945 Constitution of the Republic of Indonesia, which states that “Participants in the general election to elect members of the House of Representatives and Regional People's Representative Council shall be political parties,” there is no clear or explicit mention that DPR/DPRD elections must be conducted using an Open Proportional System. Therefore, the petitioners claimed that the substantive content of the aforementioned articles clearly contradicts the principles enshrined in the Constitution by enforcing the Open Proportional System. The petitioners argued that their constitutional rights had been infringed by the enforcement of the disputed articles, as it resulted in the diminished role of political parties in educating the public politically, with electoral interests being reduced to a matter of individual competition alone.

In this case, the Constitutional Court justices presented several considerations, among which are the following:

“The unconstitutionality of the provisions challenged by the Petitioners includes eight provisions as stipulated in Article 168 paragraph (2), Article 342 paragraph (2), Article 353 paragraph (1) letter b, Article 386 paragraph (2) letter b, Article 420 letters c and d, Article 422, and Article 426 paragraph (3) of Law Number 7 of 2017. However, all these provisions being tested for their constitutionality rest upon the provision of Article 168 paragraph (2) of Law Number 7 of 2017, particularly the word 'open'. This implies that the other provisions submitted for review are logical consequences and further elaborations of the norm regulated in Article 168 paragraph (2) of Law Number 7 of 2017.”

“In accordance with the provisions of Article 22E paragraph (3) of the 1945 Constitution, which designates political parties as participants in the general election of DPR/DPRD members, within reasonable interpretation, political parties continue to hold a central role with full authority in the selection and determination process of prospective candidates, including the determination of the candidates' serial numbers.”

“Article 22E paragraph (3) of the 1945 Constitution should not be interpreted in isolation without relating it to other provisions within the Constitution. At the very least, the interpretation of Article 22E paragraph (3) must be connected to Article 1 paragraph (2) of the 1945 Constitution, which declares: ‘Sovereignty is in the hands of the people and is exercised in accordance with the Constitution.’ The Court’s stance is to interpret Article 22E paragraph (3) of the 1945 Constitution in conjunction with Article 1 paragraph (2) of the 1945 Constitution.”

“The arguments of the Petitioners, which essentially claim that the open-list proportional system as stipulated in Article 168 paragraph (2) of Law Number 7 of 2017 is contrary to the 1945 Constitution, are legally unfounded in their entirety.”

In this judicial review of the law against the 1945 Constitution, the Constitutional Court Justices provided their legal reasoning, commonly known as

ratio decidendi, for the case in question (a quo). Within the decision, there was also a dissenting opinion expressed by one of the justices. This dissenting view became a focal point in the Court's ruling, which ultimately rejected the Petitioners' request in its entirety.

2. Discussion

Judicial Considerations on the Implementation of a Limited Open Proportional Electoral System for the Selection of DPR and DPRD Candidates

2.1 Constitutional Court's Authority over the Electoral System

The authority of the Constitutional Court is stipulated in the 1945 Constitution, particularly in Article 24C paragraphs (1) and (2), which state that the Court holds specific powers and duties. These include: (1) Reviewing laws against the 1945 Constitution, (2) Resolving disputes between state institutions whose powers are granted by the Constitution, (3) Dissolving political parties, and (4) Deciding electoral result disputes (Adam Ilyas, 2022). Additionally, one of its responsibilities is to decide on the House of Representatives' (DPR) opinion regarding alleged constitutional violations committed by the President and Vice President.

With respect to judicial review, both the 1945 Constitution and the Constitutional Court Law confirm that the Constitutional Court's authority is limited to assessing whether a law, in whole or in part (including words or phrases), contradicts the Constitution (Prasetio, Masnun, & Noviyanti, 2025). The Court may not exceed its constitutional jurisdiction and intrude into the domain of legislative policy (Kurniawati and Liany, 2019).

Furthermore, the Court has the authority to resolve disputes between state institutions whose powers are defined in the 1945 Constitution, and it maintains institutional relations with all such bodies. Since the 20th century, Constitutional Courts in several countries have been assigned the role of "Guardians of the Constitution," ensuring that constitutional norms are upheld. Even in the absence of explicit constitutional mention, such authority is often implied.

Decision Number 004/SKLN-IV/2006 of the Constitutional Court provides important clarification regarding the objectives of inter-institutional authority disputes, and has served as a reference for subsequent rulings. In its legal reasoning, the Court emphasized that to determine whether an institution qualifies as a state institution under Article 24C paragraph (1), one must first examine the constitutional basis of its authority (*objectum litis*) and the institution endowed with such authority (*subjectum litis*) (Prasetio, 2023a).

The Constitutional Court asserted that in determining the scope and substance of authority in disputes between state institutions, it does not rely solely on the textual interpretation of the Constitution. It also considers implicit authority that derives from core or necessary powers, which may be regulated through legislation.

The Court's third authority is to decide on the dissolution of political parties. The Constitutional Court Law explains that the Court's task is to adjudicate constitutional cases to ensure that the Constitution is implemented responsibly and in accordance with the will of the people and democratic principles. This duty is carried out under the authority granted by the 1945 Constitution, particularly as outlined from Articles 68 to 73(2), which govern the procedure for submitting a request to dissolve a political party. Under these provisions, only the Government may file such a request—not other political parties (Saragih, 2023).

The Constitutional Court may dissolve and revoke the legal status of political parties whose ideology, principles, goals, or programs are deemed unconstitutional under the 1945 Constitution. Provisions regarding the consequences of such dissolution are stipulated in Article 10 paragraph (2) of Constitutional Court Regulation Number 12 of 2008 concerning the Procedures for Dissolving Political Parties. However, as of now, there has been no formal request submitted to the Constitutional Court for the dissolution of any political party. Should such a case arise, it would be of considerable legal interest—especially if the Court grants the request and declares the party in conflict with the 1945 Constitution.

The Court's fourth authority involves resolving disputes over election results. Elections are closely linked to constitutional matters, thereby falling under the Court's jurisdiction. During the constitutional amendment process, the framers explicitly added to the Court's authority the power to decide election result disputes. However, the Constitutional Court does not act solely as an electoral court or an appellate body for Bawaslu (Election Supervisory Agency) rulings. Rather, it functions as a first-instance judicial body with final decisions, covering disputes over the election of DPR, DPD, the President and Vice President, and DPRD members, as stated in Article 22E paragraph (2) of the 1945 Constitution.

The central issue here is that the judicial review of electoral laws against the 1945 Constitution falls under the Court's authority. Nevertheless, in Decision Number 114/PUU-XX/2022, the Court ruled that the proportional electoral system itself is not subject to constitutional review, as it falls within the realm of legislative policy. However, the Court maintains its right to evaluate whether the implementation of a chosen electoral system results in injustice. The Court affirmed that there are no limitations regarding the choice of electoral system, and that any system adopted by lawmakers is not inherently unconstitutional. Instead, the Court may assess whether such a system is just for all parties involved. As the electoral system is an inseparable part of elections, the Constitutional Court has the authority to provide fair legal certainty in this regard.

Revisiting the legal provisions under review—namely, Article 168 paragraph (2), Article 342 paragraph (2), Article 353 paragraph (1) letter b, Article 386 paragraph (2) letter b, Article 420 paragraph (2), Article 353 paragraph (1) letter b,

Article 386 paragraph (2) letter b, Article 420 letters c and d, Article 422, Article 424 paragraph (2), and Article 426 paragraph (3) of Law Number 7 of 2017 on General Elections—these articles outline the Open Proportional System. The applicants argued that this system clearly contradicts the 1945 Constitution as it obstructs constitutional guarantees, undermines the function of political parties, weakens their role and voter decision-making capacity, and diminishes the quality of the electoral process. The Constitution clearly states that participants in DPR and DPRD elections are political parties, while DPD elections are reserved for individual candidates. Hence, the Open Proportional System must be deemed unconstitutional and subject to Constitutional Court review.

Although the issue of selecting an electoral system is commonly regarded as part of open legal policy, such policy choices do not prevent the Constitutional Court from assessing the constitutionality of the system. Open legal policy may also be reviewed and evaluated by the Court if it is found to be clearly in conflict with morality, rationality, or causes intolerable injustice. Legislative abuse of power (*detournement de pouvoir*) could result in policies that violate the 1945 Constitution.

Therefore, the Constitutional Court should serve as a judicial institution capable of offering constitutional and legal responses, including those related to grounds for presidential impeachment by the DPR or the legal basis for electoral system decisions made by the legislature. It is worth noting that neither the 1945 Constitution nor the Constitutional Court Law provides detailed regulations regarding the review process of the DPR's opinions. The Constitutional Court Law only outlines the procedural mechanism through which the DPR may file a petition (Saragih, 2023).

2.2 Implementation of Open Legal Policy by the Legislator in the Constitutional Court Decision

In the reviewed case, the Constitutional Court rejected the petition on the basis of open legal policy. The Court emphasized that the matter falls under the authority of the legislator and not within the Court's jurisdiction to interfere or intervene in determining the electoral system.

Referring to the mandate of the 1945 Constitution of the Republic of Indonesia, particularly Article 22E paragraph (3), which focuses on the open proportional system that emphasizes individual vote counts in the election of DPR and DPRD members, the election is considered to have deviated from and contradicted constitutional norms. The relevant constitutional text reads: "(3) Participants in general elections to elect members of the House of Representatives and Regional People's Representative Council shall be political parties." and "(6) Further provisions regarding general elections shall be regulated by law."

These provisions clearly stipulate that political parties are the only legitimate participants in DPR and DPRD elections. However, in practice, the role and

function of political parties have been reduced and distorted by a voting system that prioritizes “the highest number of votes based on candidate serial numbers and names.” The petitioners argued that this undermines the party’s constitutional role in the electoral process.

According to the Indonesian House of Representatives (DPR), Article 22E paragraph (6) of the 1945 Constitution grants the legislator the authority to regulate the detailed mechanisms and procedures of elections via electoral laws. As such, the Constitution allows legislative discretion, reflecting the application of open legal policy.

The term open legal policy is frequently referenced in judicial reviews, particularly in Constitutional Court decisions. It refers to the legislature’s discretion to establish legal norms in areas where the Constitution or laws provide no specific, detailed regulation. It can also be interpreted as the legislator's authority to define legal subjects, objects, acts, events, and consequences within statutory norms. The word “open” signifies the broad discretion granted to lawmakers in developing legal policies. Furthermore, open legal policy reflects the Constitution’s intention to delegate detailed rulemaking to legislators through general clauses such as “further provisions shall be regulated by law.”

Open legal policy can be exercised under two conditions:

1. In organic laws, where certain legal phrases or norms are interpreted to have become unconstitutional due to their effects or implementation.
2. In non-organic laws, where the legislator has broader freedom to formulate norms and legal standards aligned with contemporary developments and legislative interests.

However, such discretion must meet key requirements: it must not conflict with the 1945 Constitution and must not exceed the legislature's authority (e.g., altering or amending the Constitution itself).

In Decision Number 114/PUU-XX/2022, the petitioners claimed that the current electoral system diverges from the traditional understanding of the proportional model. During the 2016–2017 legislative session, at the 19th working meeting of the Special Committee on the Draft Law on General Elections (held on Thursday, July 13, 2017), lawmakers agreed that both open and closed proportional systems have distinct strengths and weaknesses. This legislative deliberation is a manifestation of open legal policy in practice.

In this context, the Constitutional Court positioned itself as a judicial reviewer of legislation, respecting the balance of powers and acknowledging the legislature’s domain in formulating electoral laws (Hananto Widodo, 2021). However, there is concern that the Court’s application of open legal policy might become binding jurisprudence, generating final and legally enforceable decisions.

This issue becomes more complex when contrasted with Constitutional Court Decision Number 90/PUU-XXI/2023, which granted the petition concerning the minimum age requirement for presidential and vice-presidential candidates in Law Number 7 of 2017. In that ruling, the Court permitted individuals under 40 years old to run for office if they had previously served in elected positions (e.g., DPR/DPD members, governors, or mayors). This marked a clear application of judicial activism, where the Court adapted and responded to evolving social dynamics by developing constitutional principles and applying precedent-based reasoning to implement core constitutional values in a progressive manner.

That case exemplified how the Constitutional Court, as a final decision-maker, exercised its normative power to issue binding rulings—even though such decisions may present philosophical, legal, social, or political controversies (Dicky Eko Prasetyo, 2022). Despite perceptions of injustice, no legal remedies are available to challenge these final decisions.

Moreover, the Court's reasoning and ruling in that case bypassed the legislator's open legal policy, binding all parties involved through judicial interpretation. Such matters should have remained under legislative discretion.

Therefore, the Constitutional Court should have also applied a judicial activism approach in Decision Number 114/PUU-XX/2022 concerning the proportional electoral system, leveraging its authority under Article 24C paragraph (1) of the 1945 Constitution. As a judicial body within the judicial branch, one of the Court's key powers is judicial review, including both formal and substantive reviews of legislation. As a negative legislator, the Court holds the authority to declare a legal norm unconstitutional if it is in conflict with the Constitution—especially when such legal policies violate morality, rationality, or result in intolerable injustice, including cases where the legislature abuses its power (*detournement de pouvoir*).

3. Legal Implications of the Electoral System in the Constitutional Court Decision

3.1 The Meaning of Implementing the Open Proportional System in Elections

The open proportional system is an electoral method that allows voters to cast their ballots for individual candidates from political parties, with representation determined by vote totals. In this system, each political party submits a pre-established list of candidates, and voters choose the individual they prefer from that list.

One of the key advantages of the open proportional system is that it gives voters a wide range of options to select candidates they believe will best represent them in parliament. Moreover, the system allows for the emergence of high-quality candidates who can fulfill voter aspirations. However, a major drawback is that it may encourage the rise of independent candidates not closely affiliated with political

parties, thereby reducing the parties' control over their representatives in parliament.

This proportional system has several distinctive characteristics compared to previous electoral systems, including:

Candidate Selection: Voters have direct influence in choosing individual candidates from any political party. This strengthens voter control over political representation and allows voters to directly evaluate candidates put forward.

Proportionality: This system is grounded in the principle of proportionality, where seat allocation is based on the proportion of votes received. As a result, voters retain independent authority in determining how political viewpoints are represented in the legislature.

Inclusive Representation: The system can foster more inclusive representation, including from minority groups and independent candidates. This reduces political party dominance and creates greater opportunities for underrepresented communities to gain parliamentary representation.

Calculation Complexity: The vote-counting process in this system is significantly more complex than in previous systems.

Some provisions in the Election Law that adopt the open proportional system have been deemed inconsistent with the values of Pancasila democracy as envisioned by Indonesia's founding fathers. Therefore, the Constitutional Court was called upon to rule on the matter. The justices reviewed the implementation of the system through the lens of Pancasila, which emphasizes that democracy should be guided by wisdom and deliberation. If the Court determines that the system contradicts the principles of Pancasila democracy, it may find that the system does not reflect the values of prudence and collective wisdom that are foundational to the Indonesian constitutional framework.

In evaluating the open proportional system, the Constitutional Court considers various elements, including the quality of representation, inclusive participation, wise decision-making, and the practical application of Pancasila values in political life (Prasetio, 2023b). It assesses whether the system effectively represents diverse perspectives, facilitates participation from all segments of society, enables thoughtful political decisions, and promotes pluralism. The Court's rulings are essential in ensuring that the electoral system aligns with the core principles of Pancasila and guides the evolution of democracy in line with Indonesian values.

If the system is found not to meet these standards, the Court may assess whether it is in conflict with the fundamental tenets of Pancasila. From a socio-legal perspective, a comparison of the closed and open proportional systems in practice from 1999 to 2019 reveals that the closed system was used only in 1999, while the open system has been applied in elections from 2004 to 2019. The open

proportional system presents both strengths and weaknesses compared to its closed counterpart.

Key areas of difference include the candidate registration process, voting procedure, determination of elected candidates, voter-representative relationships, potential for corruption, and overall electoral implementation. Advantages of the open proportional system include allowing voters to directly elect candidates, facilitating fulfillment of gender and minority quotas, and reducing operational costs. On the other hand, the system fosters emotional ties between voters and individual candidates rather than political parties as institutions, which can diminish the party's role and elevate personal popularity.

Issues such as corruption, unfulfilled campaign promises, conflicts of interest, lack of transparency and democratic principles, political scandals, and ideological and interest-based fragmentation have eroded public trust in political parties. Meanwhile, reverting to a closed proportional system is not necessarily a viable solution, as it may also promote transactional politics and fail to address existing issues.

Therefore, when deciding between an open or closed proportional system, these considerations must be thoroughly evaluated in light of the objectives of Pancasila democracy and the broader welfare of the Indonesian people.

3.2 Reduction of the Role of Political Parties

The concept of Indonesia as a unified political entity under a centralized and authoritative government is known as a unitary state. This structure is seen as a means to preserve national integrity and unity amid the country's ethnic and cultural diversity. Guided democracy emphasizes a strong role for the president or head of state in determining government policies. Although general elections exist, the president holds greater authority in making decisions and taking strategic actions to achieve national goals.

To achieve political and social stability and to guide national development, the unitary state and guided democracy have been seen as effective mechanisms. It is important to note, however, that Sukarno's perspective on state structure and governance is one among many political views in Indonesia. Each era and political leadership brings its own vision of governance, which continues to evolve with the times and the nation's needs. Debates over the form of government in Indonesia have developed in line with political and social changes.

On the other hand, Mohammad Hatta believed that the foundation of democracy should draw from Western socialism, Islamic democracy, and communal society (Latif, 2025). This combination reflects the complex and unique identity of Indonesian society, striving for justice and welfare by incorporating diverse social, political, and cultural values. According to Hatta, a communal society can be seen as one possessing its own political organization.

In Constitutional Court Decision Number 114/PUU-XX/2022, the Court rejected the petition for a judicial review of Law Number 7 of 2017 on General Elections. The petitioners challenged several articles, particularly those related to the open proportional system, arguing that this system has diminished the role and function of political parties.

According to Constitutional Justice Arief Hidayat, the Fourth Principle of Pancasila—"Democracy guided by the inner wisdom of deliberations among representatives"—is a foundational statement by the country's founders that differentiates Indonesian democracy from the Western model. This principle underlines that Indonesia's democracy is rooted in deliberation and wisdom, and that representation must embody these values.

Political parties are entrusted with the responsibility to ensure that democracy is guided by wisdom. They play a crucial role in shaping policy based on those values, nominating competent candidates for public office, and fulfilling a representative function with consideration of deliberative principles in political decision-making. In this context, political parties serve as the engine of democratic realization.

Political parties are a vital part of implementing democratic ideals in line with Indonesia's national identity and principles. They serve strategically as platforms for expressing public aspirations and ideas, enabling political participation, and holding government policy accountable. For the election of members of the DPR and DPRD at the provincial, regency, and municipal levels, Indonesia adopts a proportional electoral system.

The duties of political parties include raising awareness of citizens' political rights and obligations, conveying public interests in policymaking, preparing citizens to participate in governance, and nurturing potential leaders for political office. Political parties also act as channels for expressing support or demands. Democratic general elections must be conducted in a direct, public, free, confidential, honest, and fair manner. In a democratic state, political parties fulfill several key functions, including serving as instruments of political communication.

According to Law Number 2 of 2011 (the third amendment to Law Number 2 of 2008 on Political Parties), Article 10 sets out the goals of political parties as follows:

- a. Realizing the national ideals of the Indonesian nation as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia;
- b. Maintaining and preserving the integrity of the Unitary State of the Republic of Indonesia;
- c. Developing democratic life based on Pancasila while upholding the people's sovereignty;
- d. Promoting the welfare of all Indonesian people;

- e. Increasing political participation of members and the public in political and governmental activities;
- f. Advocating for the party's goals in national life; and
- g. Building political ethics and culture in society, the nation, and the state.

The functions of political parties include:

- a. Providing political education to members and the public to foster civic awareness of rights and responsibilities;
- b. Creating a conducive environment for national unity and public welfare;
- c. Absorbing, gathering, and channeling public political aspirations in policy formulation;
- d. Encouraging political participation of Indonesian citizens; and
- e. Conducting political recruitment for filling public offices through democratic mechanisms while considering gender equality and justice.

However, the role and function of political parties are increasingly diminished and blurred under the implementation of an open proportional electoral system that prioritizes "the highest number of votes based on candidate serial numbers and names." Consequently, political parties are sidelined and unable to function optimally, despite Article 22E paragraph (3) of the 1945 Constitution mandating that political parties are the participants in elections: "Participants in general elections to elect members of the DPR and DPRD shall be political parties."

Political parties, as election participants and pillars of democracy, are responsible for enhancing political participation, advocating for their ideological values in society, and cultivating political ethics and culture. These goals and functions directly influence party members' political education and preparation as prospective DPR/DPRD candidates, regional heads, and even presidential and vice-presidential candidates. This highlights the essential role of political parties in strengthening their internal systems.

The core functions of political parties include political socialization, political recruitment, and facilitating political participation. However, the open proportional system increases the distance between legislative candidates and the parties that nominate them. Another weakness is the poor political education conducted by parties, which tend to play a minimal role in educating voters. As a result, political parties have lost focus in providing voters with accurate information and meaningful understanding of political issues.

3.3 Proposal for Implementing a Limited Open Proportional System in Elections

The open proportional system, which has been implemented in four general elections—2004, 2009, 2014, and 2019—must be evaluated, improved, and revised

after five election cycles. It is crucial to transition from the open proportional system to a limited open proportional system. From sociological and philosophical perspectives, the open proportional system has been grounded in a fragile democratic foundation. Legislative candidates often compete unethically, justifying any means to win public votes. Consequently, this has led to conflict within communities due to differing candidate preferences—particularly between candidates and their campaign teams, even within the same political party. Internal conflicts between legislative candidates of the same party are also common.

The Court concurred with expert Mada Sukmajati, who argued that transitioning from the open proportional system is necessary for several reasons. First, the open-list system encourages a phenomenon known as personal vote, where voters focus on individual candidates rather than the political party, potentially causing horizontal conflict after elections. Second, this electoral system is more efficient in terms of budget, time, and labor, as explained by the General Elections Commission (KPU) in its written testimony.

However, any changes must incorporate the strengths of both open and closed proportional systems through a prismatic concept, resulting in an electoral system that suits national needs. The proposed solution is a limited open proportional system.

In addition, it is essential to strengthen political party cadre development by implementing tiered political training programs lasting at least three (3) years for prospective candidates for provincial, regency, and municipal DPRD, and five (5) years for national DPR (House of Representatives) candidates. This ensures that the elected candidates truly emerge from a mature party cadre process. It also aims to prevent "political jumping" during candidate nominations for provincial and regional DPRs, ensuring that party members can fully absorb and represent party ideology. Ultimately, this approach is expected to produce legislative members of high integrity who genuinely represent the aspirations of the public.

Several alternatives are proposed for the determination of elected candidates under the limited open proportional electoral system:

- a. The ballot would display the party's logo and a list of legislative candidates. However, for the 30% women's quota, candidate selection and determination would be based on party sovereignty through the serial number system, with female candidates placed at higher rankings. This allows political parties to play a significant role in selecting qualified legislative candidates while still allowing the public to support these candidates.
- b. Ballots would include both the party logo and candidate names with corresponding serial numbers. However, candidate ranking would be determined through a process that is objective, participative, transparent,

and accountable—assessing qualities such as potential, leadership, integrity, teamwork, communication skills, commitment to quality, and national loyalty.

- c. The ballot would display the party's logo and candidate names with their serial numbers. The method would follow the approach used in the 2004 general election, where candidates who reach the Electoral Quota (Bilangan Pembagi Pemilih or BPP) are declared elected. Those who do not meet the BPP threshold would be elected based on their serial number within the candidate list of the relevant electoral district. This model ensures that voters retain the ability to elect their representatives if the candidate achieves the BPP threshold, while also allowing the party to select candidates when that threshold is not met.

CONCLUSION

The proportional electoral system as outlined in Article 168 paragraph (2) stipulates that elections for members of the DPR, Provincial DPRD, and Regency/Municipal DPRD shall be conducted using an open proportional system. This effectively positions individual candidates as participants. However, Law Number 7 of 2017 states that participants in DPR and DPRD elections are political parties, which creates a constitutional inconsistency. Based on Constitutional Court Decision Number 114/PUU-XX/2022, the Constitutional Court rejected the petition challenging the electoral system, particularly the proportional system used for DPR and DPRD elections. Ideally, the Court should have applied a judicial activism and negative legislator approach in declaring any legal provision or norm that contradicts the Constitution and causes injustice—especially for political parties that have prepared their cadres as prospective legislative candidates.

Although the issue of the electoral proportional system falls under open legal policy, this principle does not override the Constitutional Court's authority to assess the constitutionality of the proportional system. Open legal policy can potentially give rise to moral violations, injustice, and abuse of power. Therefore, the Court must explicitly affirm when a statutory norm is inconsistent with the 1945 Constitution.

The open proportional system tends to reduce the role of political parties in political socialization, recruitment, and participation. Under this system, political parties are often reduced to mere vehicles for candidates who gain the most votes, rather than functioning as institutions responsible for selecting professional and competent cadres. This undermines public trust in political parties, shifting it instead toward individual candidates.

The idea of implementing a limited open proportional system, as proposed by Constitutional Justice Arief Hidayat, requires further study to assess the strengths and weaknesses of both the open and closed proportional systems. Such a reform would

restore the role of political parties that has been diminished and reaffirm the constitutional role of electoral laws. It also necessitates the strengthening of cadre development through structured political education, to ensure the emergence of trustworthy and capable party cadres, thereby reinforcing democratic governance in the Republic of Indonesia.

Based on the implementation of the Constitutional Court decision, Constitutional Justices must uphold the dignity and integrity of the institution as guardians of the Constitution by establishing concrete regulations concerning the Court's authority. This is expected to safeguard the constitutional rights of all citizens and ensure that constitutional supervision continues to function according to the principles of justice, morality, and rationality.

A more in-depth examination is needed to evaluate the strengths and weaknesses of each proportional system. This would support the idea of a limited open proportional system as a viable solution for parties adversely affected by the current system and restore the role of political parties as institutions for political education and cadre development.

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