

Electoral Law Reform in the Perspective of Responsive Justice: Comparative Law Between Indonesia, India, and Thailand

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Abstract

Introduction: Elections are a vital democratic mechanism in channeling people's voices, electing leaders, and determining policies, with the principles of transparency, fairness, and effective oversight. Although there are still challenges in citizen participation, elections play a crucial role in peaceful transitions of power and socio-political stability.

Purposes of the Research: This study aims to analyze efforts to reform electoral law from a responsive justice perspective by comparing laws between Indonesia, India, and Thailand.

Methods of the Research: This research is a normative legal research with a conceptual, legislative, and comparative approach.

Results of the Research: Election law reform, which includes the implementation of the principles of direct, free, and fair, is needed to create a more democratic system that is responsive to social needs. In Indonesia, India, and Thailand, election law reform focuses on improving the quality of democracy, justice, and voter participation through system changes and revisions to laws. The role of the Constitutional Court and the Supreme Court in each country is very important in ensuring more transparent and fair elections, and reflecting the will of the people.

Keywords: Responsive Justice; Election; Legal Comparison.

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INTRODUCTION

General elections have an important role as an identity of democracy and reflect how countries manage people's participation in the political process.¹ In many countries, elections are considered a cornerstone of democratic systems, providing citizens with the opportunity to express their voices and contribute to the decision-making process of a nation. Thomas Paine, a prominent thinker and writer in the 18th century, held strong views on elections and democratic governance.² In his famous work, "Common Sense," Paine emphasized the importance of democracy as a form of government that represents the will of the people.³ In the context of democracy, Paine emphasized that elections must be

¹ Christopher Linebarger and Idean Salehyan, "Electoral Integrity and Election-Related Conflict," *Democracy and Security* 16, no. 3 (July 2, 2020): 260–80, <https://doi.org/10.1080/17419166.2020.1787158>.

² Elisabeth Kramer, Thushara Dibley, and Antoni Tsaputra, "Choosing from the Citizens' Toolbox: Disability Activists as Political Candidates in Indonesia's 2019 General Elections," *Disability and Society* 1, no. 1 (2022): 1–20, <https://doi.org/10.1080/09687599.2022.2060800>.

³ Kharisatul Janah, Siti Fatimah, and Hajar Salamah Salsabila Hariz, "The Role of Aceh Local Parties in The 2024 General Election in Realizing Democratization," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 1 (2023): 33–47, <https://doi.org/10.24090/volksgeist.v6i1.7532>.

conducted freely and fairly.⁴ He believed that every individual should have the right to choose their leaders, who reflect the will of the people.

Elections allow people to participate in government, which is the essence of democracy.⁵ Through elections, citizens can choose their representatives and determine the direction of public policy. Transparent and fair election processes provide legitimacy to the elected government. This is crucial for maintaining political stability and public trust in government institutions. Elections also serve as a means of political education, where citizens are encouraged to understand their rights and actively participate in the democratic process.⁶ This helps build political awareness and improve the quality of voters.⁷ While elections are a vital instrument in democratic systems, challenges such as identity politics, vote manipulation, and lack of transparency persist. Therefore, it is essential for every nation to continuously improve its electoral system to ensure it accurately and fairly reflects the will of the people. Overall, elections are not merely a tool for selecting leaders but also a manifestation of democratic values that must be respected and upheld by all parties involved.⁸

Efforts to improve electoral systems worldwide generally involve amending election-related legislation. In Indonesia, for example, Law Number 7 of 2017 concerning General Elections (General Election Law) codifies various election regulations and represents an update to previous electoral laws. Furthermore, judicial decisions play a significant role in electoral reform. Court rulings on election-related matters often provide crucial legal and constitutional guidance on ideal electoral regulations.⁹ This confirms that legal reforms relating to elections can be carried out either through changes to laws or through court decisions.¹⁰

In countries like Indonesia, both legislative amendments and judicial decisions play a crucial role in electoral law reform. In some countries, such as India, judicial decisions hold significant importance.¹¹ As India operates under a common law system, judicial rulings serve as a key driver for electoral law reform.¹² Despite various efforts to reform electoral law through legislative amendments and judicial decisions, these endeavors are fundamentally aligned with the concept of responsive justice. Developed by Philippe Nonet and Philip Selznick, responsive justice is a legal approach that emphasizes the importance of law as a response to societal needs and public aspirations.¹³ This concept emerged as a critique of the traditional legal model which focused too much on rules and procedures without paying attention to the broader social context.

⁴ Stefanie Reher, "Do Disabled Candidates Represent Disabled Citizens?," *British Journal of Political Science* 52, no. 2 (2022): 520–34, <https://doi.org/10.1017/S0007123420000733>.

⁵ Moch. Nurhasim, "Potensi Pelanggaran Etik Pada Pemilu Paralel 2024," *Etika Dan Pemilu* 7, no. Juni (2021): 25–45.

⁶ Mauli Kurnia Cahyani, Arizka Warganegara, and Tabah Maryanah, "Political Parties and Swing Voters in the 2014 and 2019 Elections in Indonesia," *Mimbar: Jurnal Penelitian Sosial Dan Politik* 11, no. 2 (2022): 128–44.

⁷ Ida Wahyuni Iskandar, "Women'S Political Participations in East Kalimantan," *Psychology and Education Journal* 58, no. 1 (2021): 3175–83, <https://doi.org/10.17762/pae.v58i1.1223>.

⁸ Khoiro Ummatin, "Demokratisasi Dalam Politik Kepartaian Islam," *Poros Onim: Jurnal Sosial Keagamaan* 1, no. 1 (2020): 19–30, <https://doi.org/10.53491/porosonim.v1i1.23>.

⁹ Muhammad Misbahudholam Ar, Rofik Rofik, and Ahmad Hanafi, "Expensive Political Costs in the 2024 Simultaneous Elections," *Jurnal Hukum Dan Sosial Politik* 1, no. 1 (2023): 1–20, <https://doi.org/10.59581/jhsp-widyakarya.v1i1.144>.

¹⁰ Fradhana Putra Disantara et al., "The Integralistic State Idea: Reconstruction of Administrative Efforts Perspective," *Jurnal Daulat Hukum* 6, no. 2 (July 4, 2023): 130, <https://doi.org/10.30659/jdh.v6i2.30982>.

¹¹ Fradhana Putra Disantara, "Perspektif Keadilan Bermartabat Dalam Paradoks Etika Dan Hukum," *JURNAL LITIGASI (e-Journal)* 22, no. 2 (2021): 205–29.

¹² Pan Mohamad Faiz, *Amandemen Konstitusi: Komparasi Negara Kesatuan Dan Negara Federal*, 1st ed. (Jakarta: Rajawali Pers, 2019).

¹³ Philip Selznick Philippe Nonet, *Law and Society in Transition*, 1st ed. (London: Routledge, 2017).

This research aims to analyze electoral law reform efforts from the perspective of responsive justice through a comparative legal analysis of Indonesia, India, and Thailand. The comparison with India is due to its common law system, allowing for an examination of the role of judicial decisions in electoral law reform. Additionally, Indonesia and India share similarities in electoral dynamics, particularly concerning identity politics. The legal comparison with Thailand, a civil law country in Southeast Asia, is relevant due to the shared importance of judicial roles in elections. Both the Thai and Indonesian Constitutional Courts play significant roles in elections. This research seeks to answer two legal questions: (i) The dimensions of responsive justice in electoral law reform, and (ii) Responsive justice-based electoral law reform: a comparative legal analysis of Indonesia, India, and Thailand.

METHODS OF THE RESEARCH

This research, focusing on electoral law reform efforts from the perspective of responsive justice through a comparative legal analysis of Indonesia, India, and Thailand, is a normative legal study.¹⁴ The primary legal materials for this research include the Indonesian General Election Law and various election-related regulations in India and Thailand. Secondary legal materials include journal articles, books, and research findings related to elections and comparative law. Non-legal materials include dictionaries. The research employs conceptual, legislative, and comparative approaches. Qualitative analysis of legal materials involves analyzing existing materials in relation to the legal issues to formulate conclusions that address the research objectives.¹⁵

RESULTS AND DISCUSSION

A. Dimensions of Responsive Justice in Electoral Law Reform

Elections in various countries worldwide are a fundamental manifestation of democracy. They function as a mechanism to channel the voice of the people and determine leaders and the policies they will implement.¹⁶ Here are some important aspects of elections as a manifestation of democracy in the world. Elections reflect the principle of popular sovereignty, where citizens have the right to elect their representatives.¹⁷ This is a key element in a democratic system, as political power originates from the people and is exercised by the representatives they choose. Elections provide a platform for broad political participation, enabling society to engage in the decision-making process.¹⁸ This is important to ensure that the decisions taken reflect the will and needs of the community.

Elections must be conducted with principles of transparency and fairness, where all candidates have an equal opportunity to compete. This includes the protection of human rights and fair competition among electoral participants. For elections to be considered democratic, there needs to be an effective oversight mechanism to prevent fraud and ensure the integrity of the electoral process. This includes oversight by independent institutions

¹⁴ J. Ibrahim J. Efendi, *Metode Penelitian Hukum Normatif Dan Empiris* (Jakarta: Kencana, 2016).

¹⁵ Suteki and Galang Taufani, *Motodologi Penelitian Hukum (Filsafat, Teori, Dan Praktik)*, Cetakan 3 (Depok: RajaGrafindo Persada, 2020).

¹⁶ Rohaidah Nordin Hind Sebar, "Rights of the Indigenous Peoples to Self-Government: A Comparative Analysis between New Zealand and Canada," *Journal of Dinamika Hukum* 21, no. 1 (2021): 432–45, <https://doi.org/10.20884/1.jdh.2021.21.1>.

¹⁷ Susi Ramadhan Amancik, Putra Perdana Ahmad Saifulloh, Zainal Amin Ayub, Sonia Ivana Barus, "Choices of Law for Democratic Regional Head Election Dispute Resolution Institutions in Indonesia," *Jambura Law Review* 6, no. 2 (2024): 304–38.

¹⁸ Amancik, Putra Perdana Ahmad Saifulloh, Zainal Amin Ayub, Sonia Ivana Barus.

and active participation from civil society.¹⁹ While elections provide an opportunity for public participation, there are still challenges regarding citizen engagement. Many individuals are not registered to vote or do not exercise their right to vote, diminishing the representativeness of election results.

The success of elections also depends on a country's political culture. Political education and awareness of the importance of participation in elections are crucial for building a strong democratic culture.²⁰ Elections as a manifestation of democracy worldwide play a crucial role in ensuring that governance aligns with the will of the people. To achieve this goal, it is essential for every country to maintain the quality of election administration through transparency, fairness, and active public participation. This way, elections are not merely a formality but truly reflect fundamental democratic values.

Elections as a peaceful succession of power are a fundamental concept in modern democratic systems. Elections are not merely a mechanism for choosing leaders but also serve as a means to ensure an orderly and peaceful transition of power within society.²¹ Elections are defined as a process that allows for the peaceful transfer of power, unlike other methods such as coups or war. In this context, elections become a democratic instrument that must be implemented based on applicable norms and principles, so that there is no abuse of power.²² In other words, elections are the safest way to carry out leadership succession, creating legitimacy for leaders who are elected by the will of the people.

The peaceful conduct of elections is crucial for maintaining social and political stability.²³ Declarations of peaceful elections, as done in various regions in Indonesia, are a strategic step to build awareness of the importance of a peaceful atmosphere during the election process. In this regard, all parties—from the government, election organizers (KPU and Bawaslu), to the community—must be committed to creating a conducive and harmonious environment.²⁴ The community plays a crucial role in ensuring the peaceful conduct of elections. Collective awareness to avoid conflict and support the democratic process is essential. This includes respecting differences of opinion and avoiding hate speech that can divide national unity. Democratic intelligence, the ability to accept and appreciate differences without violence, is key in creating a peaceful atmosphere during elections.

Overall, elections as a peaceful succession of power are a vital element in maintaining democracy and national stability. Through the fair and honest conduct of elections, society can actively participate in determining the direction of their leadership without having to resort to harmful methods. Therefore, joint efforts from all elements of society are needed to realize safe, successful, and peaceful elections. One important aspect of elections is the effort to improve the electoral system through electoral law reform. Reform in the Indonesian context refers to significant and fundamental changes in a system, whether in

¹⁹ Abdul Kadir Patta et al., "Women and Parliament: (Political Sociological Analysis of Women's Strategies for Legislative Parliament Election in Central Sulawesi for the Period 2019-2024)," *Asian Journal of Management Entrepreneurship and Social Science* 3, no. 2 (2024): 537–44.

²⁰ Osbin Samosir, "Serious Challenges To The 2024 Indonesian National General Election From The Serious Challenges To The 2024 Indonesian National General Election From The Aspect Of Election Organizer Behavior," *International Journal of Current Research* 15, no. 1 (2024): 23186.

²¹ Muhammad Misbahudholam Ar, Rofik Rofik, and Ahmad Hanafi, "Expensive Political Costs in the 2024 Simultaneous Elections."

²² Dian Fitri Sabrina and Rosa Ristawati, "The Implementation of Good Governance In The Presidential Election In Indonesia," *Yuridika* 36, no. 2 (2021): 281, <https://doi.org/10.20473/ydk.v36i2.21096>.

²³ Fradhana Putra Disantara et al., "Ekstentifikasi Kewenangan Majelis Kehormatan Mahkamah Konstitusi Dalam Memperkuat Gagasan Constitutional Ethics," *Litigasi* 1, no. 24 (April 30, 2023): 40–63, <https://doi.org/10.23969/litigasi.v24i1.7232>.

²⁴ Dicky Eko Prasetyo Hananto Widodo, "Penataan Kewenangan KPU Dan Bawaslu Dalam Melakukan Pengawasan Dan Menangani Sengketa Proses Pemilu," *Perspektif Hukum* 21, no. 2 (2021): 17–38.

the social, political, or religious spheres. According to the Big Indonesian Dictionary, reform is defined as "drastic changes for improvement" in society or the state.²⁵ In this context, electoral law reform is any planned and systematic effort to drastically improve any electoral system to ensure the fulfillment of the principles of elections.

The principles of elections are generally divided into several principles which include²⁶:

- a) The Direct Principle states that voters cast their votes directly without intermediaries, ensuring that their votes reflect their personal will; b) The General Principle that all eligible citizens have the right to vote, without discrimination based on ethnicity, religion, race, gender, or social status; c) The principle of freedom means that every voter has the freedom to determine their choice without pressure or coercion from any party; d) The principle of secrecy means that every voter has a guarantee that their choice will not be known to anyone else, maintaining the secrecy of the vote; e) The principle of honesty means that all parties involved in organizing elections must act honestly in accordance with applicable laws; f) The principle of fairness means that every voter and election participant must be treated equally and free from all forms of fraud in the election process; g) The Periodic Principle states that elections must be held within a certain period of time to ensure legal certainty in the implementation of leadership succession.

These principles aim to strengthen the democratic system in Indonesia and ensure that elections are conducted fairly and with integrity. In the Indonesian context, elections are not only based on the principles of elections, but must also be conducted in accordance with the principles of elections. The Election Law actually states 11 principles of election administration that must be adhered to to ensure the implementation of democratic, fair, and transparent elections, which include²⁷:

- a) Independent. Elections must be held independently by the organizing institutions, namely the General Election Commission and the Election Supervisory Body, without interference from other parties; b) Honest. The implementation of elections must be carried out with integrity, free from fraud or manipulation of results; c) Fair. All election participants must receive equal treatment without discrimination, ensuring equal opportunity to compete; d) Legal Certainty. The election process must be carried out based on applicable laws with clear provisions that can be understood by all parties; e) Orderly. Elections must be carried out in an orderly manner and maintain security throughout the process; f) Open. The election process must be transparent, providing an opportunity for all parties to obtain the necessary information; g) Proportional. Elections must reflect the diversity of community interests proportionally in the representation of political parties and the general public; h) Professional. Election organizers must act professionally, comply with the established code of ethics and work standards; i) Accountable. Organizers are responsible for the actions and decisions taken in organizing the election; j) Effective. The implementation of elections must be effective in achieving the stated objectives, including voter participation and election integrity; k) Efficient. The election process must be carried out efficiently, utilizing existing resources optimally.

²⁵ KBBI, "Kamus Besar Bahasa Indonesia Online" (KBBI, 2022).

²⁶ Teguh Prasetyo, Muhammad Muhammad, and Ida Budhiati, *Filsafat Pemilu Berbasis Teori Keadilan Bermartabat* (Yogyakarta: Penerbit K-Media, 2021).

²⁷ Jessica Bulman-Pozen and Miriam Seifter, "Countering the New Election Subversion: The Democracy Principle and the Role of State Courts," *Wisconsin Law Review* 2022, no. 5 (2022): 1337–65.

These principles are the foundation for creating a system of government based on the will of the people and upholding democratic principles in Indonesia. The fulfillment of the principles and principles of election administration is intended so that elections can be carried out optimally and become a means of realizing the sovereignty of the people.²⁸ This underscores the relevance of the principles and principles of election administration to the idea of responsive justice.

Responsive justice is a concept developed in the context of law that aims to respond to the needs and aspirations of society. This concept stems from the theory of responsive law introduced by Philippe Nonet and Philip Selznick, which emphasizes the importance of law as a social institution that is adaptive to social change and justice.²⁹ Some characteristics of responsive justice include: first, functional and pragmatic, where the law must function effectively in meeting social needs, not just as a rigid set of rules. This means that the law must be able to adapt to dynamic social situations and conditions. Second, goal-oriented, where responsive justice emphasizes the importance of social goals in the formation and application of law.³⁰ Law is not only viewed from the perspective of compliance with rules, but also from the results and impact it has on society. Third, based on substantive justice. Justice is not only procedural, but also substantive, ensuring that the results of the law reflect justice for all parties, especially marginalized groups.³¹ Fourth, prioritizing public participation. The public must be given access to participate in the legal process, so that their aspirations and needs can be accommodated in legal policies.³² Fourth, the use of discretion. In the application of the law, the use of discretion by law enforcement officials is highly encouraged to achieve better justice, as long as it remains oriented towards social goals. Responsive justice encourages the legal system to be more inclusive and responsive to social change. This creates space for innovation in law enforcement and public policy, and allows the law to function as a tool of emancipation for society. Thus, responsive justice seeks to make the law a means of achieving social welfare and broader justice. Overall, the idea of responsive justice invites us to see the law not only as a set of norms, but as an integral part of social life that must always be ready to respond to societal changes and demands.

The importance of responsive law to elections in Indonesia is highly significant in creating a better and more participatory democratic system. Responsive law focuses on public involvement in the legislative process, so that the resulting legislation can reflect the needs and aspirations of the people.³³ By implementing responsive law, the public is not only a passive participant in elections, but also actively plays a role in determining the direction of policies and regulations that govern elections. This is important for building public trust in the democratic process. High legal awareness among the public can help

²⁸ Anifatul Kiftiyah, "Upaya Rekonsiliasi Politik Identitas Pasca Pelaksanaan Pemilu 2019 Di Indonesia Reconciliation Efforts of Identity Politics Post of Election 2019 in Indonesia," *Jurnal Analis Kebijakan* 3, no. 1 (2019): 63–75.

²⁹ Agam Ibnu Asa, Misnal Munir, and Rr. Siti Murti Ningsih, "Nonet and Selznick'S Responsive Law Concept in a Historical Philosophy Perspective," *Crepido* 3, no. 2 (2021): 96–109, <https://doi.org/10.14710/crepido.3.2.96-109>.

³⁰ Rr Rina Antasari, "Telaah Terhadap Perkembangan Tipe Tatahan Hukum Di Indonesia Perspektif Pemikiran Nonet-Selznick Menuju Hukum Yang Berkeadilan," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 19, no. 1 (2019): 103–18, <https://doi.org/10.19109/nurani.v19i1.3344>.

³¹ Eny Sulistyowati Muh. Ali Masnun, Dicky Eko Prasetyo, Mohd Badrol Awang, "Reconstructing Indonesia's Trademark Registration System through the Lens of General Principles of Good Governance to Realize Substantive Justice," *Journal of Law and Legal Reform* 5, no. 3 (2024): 891–912.

³² Hanne Jensen Haricharan, Maria Stuttford, and Leslie London, "Effective and Meaningful Participation or Limited Participation? A Study of South African Health Committee Legislation," *Primary Health Care Research and Development* 22 (2021), <https://doi.org/10.1017/S1463423621000323>.

³³ Rahni Andeka Pertiwi et al., "Prospect of Mineral and Coal Mining Policy," *Commune Journal* 1, no. 2 (2023): 101–14, <https://doi.org/10.22437/commune.v1i2.25879>.

prevent conflicts that often occur during general elections. With responsive law, the public better understands their rights and obligations, as well as the existing dispute resolution mechanisms. Responsive electoral law reform can strengthen the integrity of political institutions and increase public confidence in election results. Legal uncertainty that often occurs can be minimized with clear and firm regulations. Responsive law demands accountability from election officials and legislative candidates, so they are more responsible for their actions during the electoral process.³⁴ The idea of responsive law is crucial in the context of elections in Indonesia because it can increase public participation, reduce social conflict, and strengthen integrity and accountability in the democratic process. Therefore, the implementation of the principles of responsive law in the formation of electoral legislation should be a priority to ensure that the democratic system functions properly and meets the expectations of the people.

From the above discussion, it can be concluded that elections are the main manifestation of democracy that allows people to choose leaders and policies. As a mechanism for channeling voices, elections reflect the principle of popular sovereignty, granting voting rights to citizens, and enabling broad political participation. Elections must be conducted with transparency, fairness, and effective oversight to prevent fraud. Despite providing opportunities for participation, challenges remain in increasing citizen participation. Elections also play an important role in peaceful power transitions and maintaining socio-political stability. In the Indonesian context, elections must be conducted in accordance with principles such as direct, free, secret, and honest, as well as principles that prioritize independence, fairness, and accountability. Electoral law reform is necessary to improve the electoral system towards a more democratic and integrity-based one. The principles and principles of election administration are essential for creating better popular sovereignty. In addition, responsive justice, which focuses on public participation and the adaptation of law to social needs, is highly relevant in improving the quality of elections in Indonesia. Responsive law can strengthen the democratic system, reduce conflict, and increase public trust in the electoral process.

B. Responsive Justice-Based Electoral Law Reform: A Comparison of Laws Between Indonesia, India, and Thailand

Electoral law reform in Indonesia is a crucial aspect in enhancing the quality of democracy and legal certainty in the electoral process. The Electoral Law itself is one form of electoral law reform in Indonesia that is codified, thus regulating all aspects of elections in one law.³⁵ The law has been challenged in the Constitutional Court more than 155 times, showing many provisions that need to be improved. Some of the articles that have been revoked or interpreted differently include the definition of campaigning, the authority to form electoral districts, and the parliamentary threshold.

The Election Law as an amendment to the previous law has actually made changes from a closed proportional system to an open proportional system. This system gives voters more freedom to directly elect legislative candidates, not just to elect political parties. Several changes to the political party threshold, such as the parliamentary threshold, are adjusted to create fairer representation and reduce political party fragmentation.³⁶ Some changes also

³⁴ Muhammad Asrul Maulana and Java Putri Avrillina, "Kesehatan Sebagai Hak Asasi: Perspektif Filosofis Tentang Hukum Kesehatan," *Journal of Contemporary Law Studies* 2, no. 1 (February 2024): 42–54, <https://doi.org/10.47134/lawstudies.v2i1.2075>.

³⁵ Ni'matul Huda Imam Nasef, *Penataan Demokrasi Dan Pemilu Di Indonesia Pasca Reformasi*, 1st ed. (Jakarta: Kencana, 2017).

³⁶ Saldi Isra, *Lembaga Negara : Konsep, Sejarah, Wewenang, Dan Dinamika Konstitusional* (Jakarta: Rajawali Pers, 2020).

focus on term limits for certain officials, to prevent abuse of power and ensure a healthy succession of power. In Indonesia, electoral law reforms also often occur through Constitutional Court decisions. Constitutional Court decisions often become the basis for changes to the electoral system in Indonesia. For example, in several cases, the Constitutional Court has decided to change or affirm important aspects in the implementation of elections, such as voting rights, fair elections, and equality of votes. One example is the Constitutional Court decision regarding the regulation of the parliamentary threshold which can affect the representation of political parties in parliament. The Constitutional Court also strengthens the protection of voters' rights, including fighting for political rights for minority groups and ensuring that there is no discrimination in the electoral process.³⁷ For example, in several of its rulings, the Constitutional Court has issued decisions that lead to increased accessibility for voters with physical disabilities. Overall, electoral law reform in Indonesia through amendments to the Electoral Law and Constitutional Court rulings aims to improve the quality of democracy, reduce fraud, increase public participation, and strengthen electoral integrity. This process is also important for creating more inclusive elections that can more accurately and fairly reflect the will of the people.

Electoral law reform through changes to legislation and court rulings has also occurred in India. The Indian government is currently pushing for reforms in the electoral system through an initiative known as "One Nation One Election" (ONOE).³⁸ This plan aims to align general elections for the lower house of parliament (Lok Sabha) with elections for state assemblies, municipalities, and village councils, so that all elections can take place simultaneously every five years. The ONOE initiative is expected to reduce public funds waste, increase voter participation, and provide better governance. The government, led by the Bharatiya Janata Party, believes that simultaneous elections will address voter fatigue and simplify the election process.

Electoral law reform in India reflects an effort to improve efficiency in the democratic process, although this has also sparked debate about the implications for federalism and local representation. The Supreme Court of India plays a very important role in electoral law reform in the country. As the highest judicial body, the Supreme Court of India not only oversees the implementation of the law, but also often engages in the interpretation and amendment of electoral laws to ensure that the electoral process is fair, transparent, and in accordance with the principles of democracy.³⁹ The Supreme Court of India often acts to protect the integrity of elections by ensuring that every election is conducted in accordance with the constitution and applicable laws. This includes overseeing the conduct of elections, reviewing cases of electoral law violations, and issuing rulings to ensure that the electoral process is free from fraud, manipulation, or abuse of power. The Supreme Court of India plays a crucial role in interpreting existing electoral laws. For example, the Supreme Court often issues rulings that clarify or change the interpretation of various aspects of electoral law, such as the electoral system, voting rights, and vote counting procedures. These

³⁷ Saiful Risky, Sholahuddin Al-Fatih, and Mabarroh Azizah, "Political Configuration of Electoral System Law in Indonesia from State Administration Perspective," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* VI, no. 40 (2023): 119–30, <https://doi.org/10.24090/volksgeist.v6i1.7940>.

³⁸ Ujjwal Kumar Singh and Anupama Roy, "Regulating the Electoral Domain: The Election Commission of India," *Indian Journal of Public Administration* 64, no. 3 (September 17, 2018): 518–30, <https://doi.org/10.1177/0019556118788497>.

³⁹ Manoj Mate, "Globalization, Rights, and Judicial Review in the Supreme Court of India," *Washington International Law Journal* 25, no. 3 (2016).

decisions often serve as important foundations in shaping the legal practices followed by the Election Commission of India.⁴⁰ The Supreme Court has the authority to handle electoral disputes, whether related to election results, the qualifications of legislative candidates, or violations of applicable rules during the electoral process. The Supreme Court's decisions in electoral disputes can have a significant impact on the credibility of election results and provide legal affirmation of the election process.

Overall, the Supreme Court of India plays a highly strategic role in maintaining the quality of Indian democracy through its oversight of electoral law, the resolution of electoral disputes, and the push for better electoral law reform. The Supreme Court's decisions help ensure that the electoral system in India operates with transparency, fairness, and respect for the rights of voters, which ultimately contributes to the stability and progress of democracy in the country.⁴¹ Just like in Indonesia and India, electoral reform in Thailand has become a key focus in recent years, particularly leading up to the general election held on May 14, 2023. This election marked a contest between pro-democracy opposition parties, such as the Move Forward Party (MFP), and conservative parties backed by the military. The 2023 election was a significant step for Thailand, which had been under military rule for almost a decade. The Move Forward Party, known for its ambitious platform of political and economic reform, managed to secure 324 out of 500 seats in the House of Representatives, making it the largest party in the election.⁴² However, despite securing overwhelming support, the party leader Pita Limjaroenrat's bid to become Prime Minister was blocked by the Senate, a majority of whose members were appointed under the previous military regime.⁴³ Electoral reform in Thailand demonstrates progress towards democracy, but also illustrates the complexity and challenges that must be addressed. With the rising voices of younger generations and active participation in social movements, Thailand's political future might continue to evolve, although many obstacles still need to be overcome to achieve a more inclusive and democratic political system. Electoral reform in Thailand through revisions to the Electoral Law has played a crucial role in reshaping the country's democratic system. Since 2006, Thailand has undergone several significant changes in its electoral system, both through revisions to the Electoral Law and through political and legal decisions related to general elections.

One of the main changes that occurred in Thailand was the transition of the electoral system from a proportional system to a mixed-member proportional system and then back to a district system in the subsequent election.⁴⁴ This was designed to create a balance between direct representation through the district system and proportional representation that more accurately reflects the results of the people's vote. In 2017, Thailand replaced the electoral system for members of parliament with a mixed-member proportional system. With this system, voters choose both local (district) candidates and party lists to provide a fairer and more balanced representation. In the 2019 election, Thailand again used the

⁴⁰ Amit Ahuja and Susan Ostermann, "The Election Commission of India: Guardian of Democracy," in *Guardians of Public Value* (Cham: Springer International Publishing, 2021), 37–62, https://doi.org/10.1007/978-3-030-51701-4_2.

⁴¹ M. Mohsin Alam Bhat, "Governing Democracy Outside the Law: India's Election Commission and the Challenge of Accountability," *Asian Journal of Comparative Law* 16, no. S1 (December 14, 2021): S85–104, <https://doi.org/10.1017/asjcl.2021.30>.

⁴² Aim Sinpeng, "Social Media and the DIY Politics in Thailand's 2023 Election," *Pacific Affairs* 97, no. 1 (March 2024): 99–116, <https://doi.org/10.5509/2024971-art5>.

⁴³ Sinpeng.

⁴⁴ Yoshinori Nishizaki, "Dynastic Female Politicians and Family Rule in Thailand: Evidence from the 2019 and 2023 General Elections," *Critical Asian Studies* 56, no. 3 (July 2024): 321–49, <https://doi.org/10.1080/14672715.2024.2370031>.

single-member district electoral system, which emphasized direct elections by the people at the local level.⁴⁵

Electoral reform in Thailand through revisions to the Electoral Law is part of an effort to improve the democratic system and enhance political stability in the country. While these changes present challenges, particularly related to the military's involvement in politics, they are essential to ensure that elections in Thailand are conducted with greater transparency, fairness, and reflect the will of the people. The Constitutional Court of Thailand plays a crucial role in electoral law reform in the country, both through its oversight of the constitutionality of laws related to elections and through decisions that affect the implementation and outcome of elections.⁴⁶ The Constitutional Court of Thailand has the authority to determine whether electoral laws and policies related to elections comply with the Thai constitution. This includes reviewing revisions or amendments to the Electoral Law that could affect democratic principles and the rights of voters. The Constitutional Court can invalidate or modify electoral regulations if they are found to be inconsistent with the constitution or the fundamental principles of the country's legal system. In 2006 and 2014, the Constitutional Court was involved in decisions related to the annulment or review of laws deemed unconstitutional, including regulations related to the mechanisms for electing members of the legislature.⁴⁷ Following the 2014 military coup, the Constitutional Court provided interpretations concerning the role and authority of the military in politics and elections. They ensured that policies and regulations implemented did not violate the fundamental principles of the Thai constitution.⁴⁸ The Constitutional Court of Thailand plays a crucial role in the process of electoral law reform in the country. By overseeing and interpreting electoral laws, as well as resolving electoral disputes, the Constitutional Court ensures that elections in Thailand are conducted in accordance with democratic principles and the country's constitution. Furthermore, the Constitutional Court also plays a role in promoting electoral law reform to improve the electoral system and ensure that the democratic process remains fair, transparent, and in line with the will of the people. The following is a comparative table between electoral law reforms in Indonesia, India, and Thailand based on several important aspects of electoral law reform in the three countries:

Table 1. Comparison of Election Law Reforms in Indonesia, India, and Thailand

Aspek	Indonesia	India	Thailand
Election Law Reform Process	The reforms relate to changes to the Election Law (Law Number 7/2017) and changes to the election system, especially related to political party representation, campaign financing,	The process of electoral law reform in India involves updating the electoral system through policies of the Election Commission of India (ECI), including changes to regulations relating to campaign	Reforms in Thailand have been largely influenced by the Constitutional Court which oversees the constitutionality of the Election Law and directs legal changes to ensure fairer and more transparent elections.

⁴⁵ Nishizaki.

⁴⁶ Tyrell Haberkorn, "Generative Constitutional Bricolage: From Thailand to Authoritarianism Elsewhere," *Law & Social Inquiry* 49, no. 4 (November 2024): 2583–88, <https://doi.org/10.1017/lsi.2024.42>.

⁴⁷ Haberkorn.

⁴⁸ Haberkorn.

	and the use of technology.	financing and election technology.	
The Role of the Constitutional Court	The Indonesian Constitutional Court plays a role in testing election laws and resolving election disputes, such as disputes over election results or claims of fraud.	Supreme Court of India delivers landmark ruling on elections	The Constitutional Court of Thailand plays a major role in deciding the constitutionality of the Election Law, resolving election disputes, and providing direction for legal reform.
Election System	Mixed electoral system (proportional and district representation) to elect members of the legislature	District-based electoral system with first-past-the-post model and proportional representation for Lok Sabha and Rajya Sabha	An electoral system with a combination of district and proportional representation systems; changes occur frequently to adapt to political dynamics.
Implementation of Elections	The implementation of elections in Indonesia is regulated by the independent General Election Commission; the Election Law requires transparency and accountability.	The ECI is solely responsible for conducting elections; more use of technology for counting votes	The Constitutional Court of Thailand oversees the conduct of elections and ensures that the Election Law implemented is in accordance with the constitution.
Principles of Elections	Principles: Direct, General, Free, Secret, Honest, Fair, and Periodic; changes to the Election Law are directed towards these principles.	Principles: Free, fair and non-discriminatory; use of election technology to improve transparency	The principles of elections focus more on transparency, independence and avoiding external intervention in elections.
The Role of Technology	The use of technology in elections is increasing, with e-voting and e-counting systems to increase the speed and accuracy of election results.	India adopted Electronic Voting Machines and Voter Verified Paper Audit Trail to ensure faster and more transparent election results.	Thailand uses technology in its election process, but oversight of its implementation is often carried out by the Constitutional Court.
Recent Election Law Reforms	The latest Election Law reform (2017) focuses on updating the election system, monitoring campaign funds, and improving the voter list.	Reforms related to political financing, technology-based elections, and improvements to the proportional representation system.	More reforms are taking place based on decisions of the Constitutional Court, which can order revisions to existing laws and policies.
Election Supervision and Security	The implementation of the election is supervised by the	The ECI ensures that elections are free from manipulation and	Thailand's Constitutional Court ensures strict oversight

	Election Commission and the Election Supervisory Body, as well as by civil society supervision.	surveillance of political campaigns.	of election conduct, including investigation into allegations of irregularities
Military Influence	The military's influence in politics decreased after the post-New Order reforms, although there are some political issues involving the military.	There was no direct influence from the military in the conduct of the elections, although there were concerns about inequality in political access.	The military's influence is significant, especially after the military coup in 2014, with the military controlling the political process through changes to the constitution and laws.
Challenges of Electoral Reform	Challenges include increasing political participation, reforming campaign finance oversight, and maintaining election integrity.	Challenges include increasing voter access, reducing corruption in campaigns, and engaging more participation from the public.	Reform challenges include addressing military influence, increasing election transparency, and improving the electoral system to create a fairer environment.

(Source: Author's Analysis)

This table illustrates how the three countries approach the challenges and processes of electoral law reform with different approaches, yet all aim to enhance the quality of democracy and transparency in their elections. From the above description, it can be concluded that electoral law reform in Indonesia, India, and Thailand aims to improve the quality of democracy, legal certainty, and voter participation. In Indonesia, the codified Election Law has undergone numerous changes and has been tested in the Constitutional Court, which plays a crucial role in upholding voter rights and adjusting regulations to create fairer and more inclusive elections. These changes include the shift from a closed to an open proportional system and the limitation of official terms to prevent abuse of power. In India, electoral law reform is guided by the Supreme Court, which ensures that elections are conducted transparently and fairly. The "One Nation One Election" (ONOE) initiative aims to align elections for all levels of government, although it has sparked debate regarding federalism and local representation. Thailand has also undergone electoral reform with changes to the electoral system and revisions to the Election Law to promote fairer representation. Despite challenges, including military involvement in politics, these reforms aim to improve transparency and political stability. The Constitutional Court of Thailand plays a vital role in ensuring the constitutionality of electoral laws and driving reforms for a better electoral system. This demonstrates that responsive, justice-based electoral law reform can be achieved by combining the updating of electoral laws in representative bodies with the involvement of judicial institutions.

CONCLUSION

Elections are a vital mechanism of democracy, serving as a platform for citizens to voice their opinions, select leaders, and shape policy decisions. To ensure the legitimacy and integrity of the electoral process, elections must be conducted with transparency, fairness, and effective oversight, safeguarding against fraud. While challenges to citizen

participation persist, elections play a crucial role in facilitating peaceful transitions of power and maintaining social and political stability. Reforms to election laws and the implementation of fundamental principles like direct, free, and fair elections are essential for creating a more democratic system. The success of elections also hinges on the application of responsive justice, which addresses the participation of the public and adapts laws to social needs, thereby strengthening integrity and public trust. Electoral law reform in Indonesia, India, and Thailand aims to enhance the quality of democracy, ensure fairness, and strengthen voter participation through changes to electoral systems and revisions to legislation. The significant roles of the Constitutional Court and Supreme Court in each country contribute to ensuring more transparent, fair, and representative elections that reflect the will of the people. Therefore, responsive, justice-based electoral law reform can be achieved by combining the updating of electoral laws in representative bodies with the involvement of judicial institutions.

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