

Electoral Law Reform from the Perspective of Responsive Justice: A Comparison of Indonesia, India, and Australia

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Abstract

The current research aims to depict how the principle of responsive justice is incorporated in the process of electoral law modification in Indonesia, India, and Australia, as well as to explain the reasons for their differences and the problems of achieving responsive justice in these countries. These objectives are attained through a normative legal approach which includes, but is not limited to, comparative studies, descriptive and explanatory analysis, as well as library research on the electoral legal frameworks of these three nations to determine their compliance with the principle of responsive justice. The results show that the socio-political and economic environment of each country shapes the responsive justice principles to electoral law reforms in the three nations. An open proportional system, coupled with the guarantee of women's representation is formulated in Indonesia, but suffers from money politics and party system fragmentation. Though the fact governance infrastructure and configurations of elections e.g. government style and usage of Electronic Voting Machines

(EVM) technology brings a lot of complexity, India does use the first-past-the-post (FPTP) system, which is less proportional. The EVM technology and FPTP system allow for reserved seats for the marginalized groups as well. Australia stands out with preferential voting, mandatory voting, and accessibility for marginalized groups, although campaign finance transparency remains an issue. Challenges include the influence of political elites, weak legal oversight, and disproportionate representation, while opportunities lie in the use of technology, improved political education, and more transparent and accountable inclusive policies. This research is significant because it addresses both theoretical and practical needs in electoral law reform, provides valuable comparative insights, and offers an approach oriented toward substantive justice. These three countries offer valuable lessons in developing electoral systems responsive to societal needs and the challenges of modern democracy.

Keywords: Justice, Responsive, Election, Reform, Inclusive.

A. Introduction

General elections are a fundamental instrument in democracy, where people have the right to choose leaders and representatives who will determine the direction of a country's policies. As part of the democratic process, elections not only aim to provide legitimacy to leaders, but also to create political and social stability. In order for these goals to be achieved, a strong, fair and responsive legal framework to the dynamics of society is needed.¹ In various countries, electoral law not only serves as a technical guideline for organizing elections, but also as an instrument to maintain the integrity of the democratic process. However, the social, political, and cultural complexities in each country give rise to various challenges in creating electoral regulations that are able to realize substantive justice. In Indonesia, the journey of democracy has undergone a major transformation since the Reformation era in 1998. Elections that used to be an instrument of legitimacy for authoritarian regimes have changed into a demo-

1 Syaiful Asmi Hasibuan, "General Elections as an Embodiment of The Political Rights of Citizens," *International Journal of Educational Review, Law And Social Sciences (IJERLAS)* 3, no. 2 (2023).

cratic process that involves broad public participation.²

However, these changes bring their own challenges. One of the problems that continues to emerge is money politics, which undermines the principle of fairness in elections. This phenomenon not only reflects weak law enforcement, but also shows the need for systemic reform in election regulations. In addition, the complexity of the multi-party system in Indonesia, which is characterized by a high number of political parties participating in elections, often triggers political fragmentation that complicates the decision-making process. In this context, responsive election laws must be able to accommodate political plurality while maintaining the integrity of the election process. Another challenge in Indonesia is decentralization which entails wide liberty for the local government units to arrange government's affairs at their levels. This affects the conduct of elections at lower levels, where the chances of such malpractices as election result manipulation and local elite political meddling are greater. In addition, the absence of efficacious control at distant locations tends to allow election infringements to go unnoticed or poorly attended to.³

Consequently, the reform of electoral law in Indonesia has to be shaped in a manner that targets not only the technical regulations, but also the effective monitoring and enforcement of law at the same time. On the contrary, India, being one of the largest democracies in the world has a different approach to conducting elections. With over a billion people, and extremely high ethnic, religious and linguistic diversity, elections in India cannot be compared to any other democratic process in the world - it is arguably the most complex. Regardless of having long term practice of conducting elections, India does face a couple of issues; the sharp rise in identity politics, political corruption, and lack of access in the electoral process, particularly

2 Vedi R. Hadiz, "Decentralization and Democracy in Indonesia: A Critique of Neo-Institutionalist Perspectives," *Development and Change* 35, no. 4 (September 2004): 697–718.

3 Ahmad Sholikin, "The Future Of Decentralization Politics In Indonesia," *Madani: Jurnal Politik Dan Sosial Kemasyarakatan* 10, no. 3 (2018).

in rural areas.⁴ One of the biggest issues concerning India is the tremendous power and amount of wealth in the politics which poses an enormous disadvantage to already disadvantaged groups. In this manner, the definition of India's electoral law ought to be processed for not only the administrative conduct of elections, but also the delivery of true justice to every segment.

One of the sources of strength for the Indian political system is the existence of such independent institutions as the Election Commission of India (ECI), which is vested with nearly uncheckable authority over the conduct and administration of elections. But the problem which the ECI faces is the balance between independence and political influence when having to make certain decisions which may be politically sensitive.⁵ Within this perspective, responsive justice can be very appropriate to expand the powers and functions of electoral institutions in order to foster more orderly and just governance. In addition, the implementation of technology in elections, especially electronic voting systems also help India reduce the opportunities for fraudulent activities.⁶ However, the application of this technology also raises plenty new issues with regard to data safety and citizens' faith in the integrity of the elections. By way of comparison, Australia is an example of that type of country with the relative stable and matured democracies. With a smaller population than Indonesia and India, Australia is able to conduct elections in a more effective and efficient manner. The Australian electoral system is characterized by the use of preferential voting system, where voters have the ability to rank candidates in their order of preference. This system shows an improvement in the expression of popular will

4 Waiphot Kulachai, Unisa Lerdtomornsakul, and Patipol Homyamyen, "Factors Influencing Voting Decision: A Comprehensive Literature Review," *Social Sciences* 12, no. 9 (August 2023): 469.

5 Irma Mangar and Muhammad Rosyid Ridho, "Lembaga Independen Negara Dalam Ketatanegaraan Indonesia," *Definisi: Jurnal Agama Dan Sosial-Humaniora* 1, no. 2 (2022).

6 Olufunmilayo Oyelude and Ibukunoluwa Olojede, "Evaluating the Effectiveness of Electronic Voting Systems in Nigeria: Challenges and Opportunities," *African Journal of Politics and Administrative Studies* 16, no. 2 (December 2023): 84–104.

regarding democracy as compared to majoritarian or proportional systems. In addition, the general independence of the Australian Electoral Commission (AEC), or their commissions, plays an integral part in preserving the legitimacy of election ⁷

However, Australia is not free from challenges even with a well-established system. One of the major problems includes the younger demographics and indigenous populations with the lowest citizen participation rates. This indicates that even with good electoral regulation efforts have to be used to promote political education for certain populations. Additionally, even though Australia has integrated technology in different facets of the elections, there are still issues regarding the security of personal information and cyber security breaches.⁸ In this regard, the principle of responsive justice becomes relevant to make sure that the elections regulations are effective, but also that they are suited to the changes in the world we live in today. The electoral system of Indonesia, India, and Australia differ significantly from one another. Some unique challenges are posed to each country that are distinctive to them. For instance, Indonesia has to deal with a multiparty system, and in India it is identity politics that dominates politics. Australia has to face the pressure of modernization and strives to maintain stability within the system ⁹, India also poses challenges due to its relentless diversity ¹⁰, while Australia seeks to maintain system stability amidst the challenges of modernization ¹¹.

7 Peter Chen et al(ed), *Australian Politics and Policy* (Sydney University Press, 2019).

8 Pablo Beramendi, Timothy Besley, and Margaret Levi, "Political Equality: What Is It and Why Does It Matter?," *Oxford Open Economics* 3, no. Supplement.1 (July 2024): i262–81.

9 Dennis Shoesmith, Nathan Franklin, and Rachmat Hidayat, "Decentralised Governance in Indonesia's Disadvantaged Regions: A Critique of the Underperforming Model of Local Governance in Eastern Indonesia," *Journal of Current Southeast Asian Affairs* 39, no. 3 (December 26, 2020): 359–80.

10 Eero Vaara, Janne Tienari, and Alexei Koveshnikov, "From Cultural Differences to Identity Politics: A Critical Discursive Approach to National Identity in Multinational Corporations," *Journal of Management Studies* 58, no. 8 (December 2021): 2052–81.

11 Christian Harijanto, "Middle-Power Behaviours: Australia's Status-Quoist/

A lesson can be learned from India and Australia are regarding the importance of normative legal reforms that are sensitive to the needs of society. As previously highlighted, the primary focus of the law is to provide frameworks for solving challenges. But how to achieve those goals is not clear.¹² Improving the electoral law can be achieved through the maintenance and enhancement of electoral institutions, the development of safe inclusive technology, and the formulation of policies that reflect social and political divides. Moreover, it is important that the community is given the chance to engage voters actively during the formulation and enforcement of election policies. All these set forth the premise that change to electoral law is not merely the enactment of legislative rules, but more importantly, the embodiment of democracy that is deeply inclusive, fair, and beneficial to all constituents. In these contexts, the culture is responsive justice – which in short insinuates the paradigm shift from legislation to an ever-illusive just law. In this regard, it is constructive to argue how electoral law reform in Indonesia, India, and Australia can serve as indicators of democratic progress that respond to and serve the society better.

Electoral law plays a fundamental role in shaping democratic legitimacy and political representation. However, legal frameworks often fall short of ensuring substantive justice for all segments of society, particularly in contexts where electoral processes are influenced by entrenched inequalities, transactional politics, or limited institutional capacity. In this regard, the principle of responsive justice which emphasizes legal responsiveness to social needs, fairness, and democratic participation offers a meaningful lens for evaluating and reforming electoral systems.

This research focuses on the normative structures of electoral law in Indonesia, India, and Australia, three democracies with diverse

Lockean and Indonesia's Reformist/Kantian Approaches to Crises of Legitimacy in the Indo-Pacific," *Australian Journal of International Affairs* 78, no. 1 (January 2024): 40–57.

12 Rochmadi and Zainal Arifin Hoesein, "Enhancing Justice Through Responsive Law in Indonesia," *International Journal of Law, Crime and Justice* 1, no. 4 (2024).

legal traditions and electoral models. Despite their differences, all three countries face pressing challenges in aligning electoral law with the demands of inclusive and accountable governance. The study examines how responsive justice is embedded, or lacking, within their legal systems and electoral practices. By conducting a comparative legal analysis, this research aims to identify structural gaps, highlight reform opportunities, and propose concrete legal strategies that can strengthen participatory democracy. Ultimately, this study seeks to contribute to the broader discourse on electoral justice by offering normative and practical insights for reforming electoral law in Indonesia and other similar democratic contexts.

Research on electoral law reform has been widely conducted with a focus on various aspects and countries. First, Zaenury, Rahmatiar, and Abas (2023) analyzed the comparative system of electing members of the people's representatives between the Regional Representative Council of the Republic of Indonesia and the Rajya Sabha of the Republic of India. They highlighted the differences in terms of term of office, number of seats, and electoral system used in the two countries.¹³ Second, Hidayah (2024) emphasizes the importance of formulating laws that are not only based on formal legality, but also take into account social legitimacy and the needs of society.¹⁴ Third, Niemann Peralta (2021) offers a comprehensive approach to the study of electoral reform, emphasizing the importance of clear definitions and comparative analysis of changes in electoral systems across countries, including Indonesia and India. This research also distinguishes between major and minor reforms in electoral systems and their impact on the distribution of political power.

Although various studies have discussed the comparison of electoral systems and related aspects in Indonesia, India, and Australia,

13 Ahmad Goza Zaenury, Yuniar Rahmatiar, and Muhamad Abas, "Analisis Perbandingan Hukum Dalam Sistem Pemilihan Anggota Perwakilan Rakyat Antara Dewan Perwakilan Daerah Republik Indonesia Dengan Rajya Sabha Republik India," *Collegium Studiosum Journal* 6, no. 2 (December 2023): 400–407.

14 Bayu Hidayah, "Reformasi Hukum Indonesia: Menggagas Kebijakan Yang Adil Dan Responsif," <https://justitia.id/author/bayu/page/4/>.

but none of them highlight electoral law reform from the perspective of responsive justice with a comparative approach between the three countries. The novelty of this research lies in two main aspects. First, it offers a cross-country comparative analysis that highlights how the principle of responsive justice is integrated into the normative frameworks of electoral law in Indonesia, India, and Australia. This analysis goes beyond the formal legal aspects and considers how the values of responsive justice are implemented in the actual conduct of elections. Second, this research identifies the challenges and opportunities faced by each country in realizing responsive justice in its electoral system. Thus, this study makes a significant contribution to the literature on electoral law by providing a responsive justice perspective, which has rarely been addressed in comparative electoral law studies.

This study uses normative legal research as its methodology, which involves examining laws through statutes, court decisions, and legal doctrines ¹⁵ The research focuses on comparing electoral legal systems in Indonesia, India, and Australia from the perspective of responsive justice, while also analyzing how legal norms relate to each country's political realities. The research approaches used include the statute approach, the comparative approach, and the conceptual approach ¹⁶ The legislative approach aims to identify, interpret, and analyze the applicable legal rules related to elections in Indonesia, India, and Australia. The comparative approach determines the similarities and differences in the legal systems surrounding elections in the three countries and the extent to which the principle of responsive justice is applied. The concept of responsive justice and its application in electoral law reform is examined using the conceptual approach. The study relies on primary legal sources such as electoral laws and court rulings (Election Law in Indonesia, People's Representation Act in India, and Commonwealth Electoral Act in Australia).

15 Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi*, 13th ed. (Jakarta: Kencana, 2017).

16 Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020).

lia), secondary sources like books and scholarly articles, and tertiary sources including legal encyclopedias and dictionaries.

Data is collected through library research, involving reading and analyzing documents and literature. The analysis uses a qualitative descriptive-comparative approach to explain the electoral law systems and assess the application of responsive justice principles. It aims to uncover the strengths, weaknesses, and gaps in electoral law reforms, particularly in Indonesia, and offer recommendations for future legal and policy development.

B. Responsive Justice in the Electoral Laws of Indonesia, India, and Australia

General elections are a fundamental pillar of any healthy democratic system, and the legal norms that govern them must emphasize not only procedural legality but also substantive justice.¹⁷ In this context, it is essential to examine how the legal systems of Indonesia, India, and Australia design and implement electoral regulations that reflect the principle of responsive justice. Responsive justice, as developed by Philip Selznick, argues that the law must go beyond formal and procedural legality to exhibit attentiveness to social conditions, foster broad public participation, and uphold moral responsibility in both legislation and enforcement.¹⁸ Law must be attuned to societal needs, be sensitive to the lived realities of its citizens, and capable of adapting to evolving community values. Hence, it is particularly relevant to evaluate how electoral legal norms in these three jurisdictions operate within this theoretical framework.

Responsive justice is an approach which focuses on executing law that takes into account the needs of the society. It is not confined to just applying the norms and rules, but considers the culture,

17 Teguh Prasetyo, *Pemilu Dan Etika Penyelenggaraan Pemilu Bermartabat* (Bandung: Nusa Media, 2019).

18 Agam Ibnu Asa et al., "Nonet And Selznick's Responsive Law Concept in a Historical Philosophy Perspective," *CREPIDO* 3, no. 2 (November 30, 2021): 96–109.

politics and social aspects as well.¹⁹ The electoral process serves as a mechanism through which members of society collectively participate in selecting their leaders or representatives to perform governmental functions, a principle that holds significant relevance within the framework of democratic elections. Indonesia, India, and Australia, as the three countries examined in this study, exhibit distinct social, political, and legal frameworks, which have consequently influenced their respective approaches to electoral law reform. However, there is a fundamental similarity, namely the need to create an electoral system that is fair, inclusive, and adaptive to change. The implementation of the principle of responsive justice in electoral law in each country reflects the extent to which the law is able to accommodate the needs of society while facing the challenges of democracy.²⁰

Indonesia as a relatively young democratic country has undergone major reforms in its electoral law since the 1998 Reformation era. Indonesia adopts a civil law system derived from the Dutch legal tradition, characterized by the codification of laws and a judiciary that primarily functions as an interpreter of statutory provisions. Law Number 7 of 2017 on General Elections serves as the principal legal framework governing electoral processes in Indonesia, having replaced several earlier statutes deemed inadequate in addressing contemporary electoral challenges.²¹ The law also establishes independent electoral management bodies, namely the General Elections Commission (KPU), the Election Supervisory Body (Bawaslu), and the Election Organizers Honorary Council (DKPP) with important steps to create independent and fair elections.

The principle of responsive justice is reflected in the regulation

19 Rochmadi Rochmadi and Zainal Arifin Hoesein, "Enhancing Justice Through Responsive Law in Indonesia," *International Journal of Law, Crime and Justice* 1, no. 4 (October 19, 2024): 01–09.

20 Taufiq Yuli Purnama, Sigit Sapto Nugroho, and Sarbini, "Elections Integrity: Realizing Ultimate Concern and Electoral Justice," *Journal of Transcendental Law* 5, no. 2 (December 2023): 107–22.

21 Try Sarmedi Saragih, "Criminal Justice System Based on The Concept Ofrestorative Justice," *Legal Brief: Law Science and Field* 11, no. 1 (2021).

of an open proportional election system, which gives voters the right to directly elect legislative candidates. This system is expected to increase the accountability of candidates to their constituents. In addition, there are affirmative provisions to increase women's representation in parliament, as stipulated in Article 245 of the Election Law which requires political parties to nominate at least 30% women in the list of legislative candidates.²²

However, this system also presents major challenges. One of the challenges is the high cost of politics that encourages the rise of money politics and pragmatism in nominations. Constitutional Court Decision No. 22-24/PUU-VI/2008 which affirms the implementation of an open proportional system in Indonesia actually shows that without adequate supporting regulations, this system can result in unequal access for legislative candidates from lower to middle economic backgrounds.²³

In addition, the highly fluid political dynamics in Indonesia have caused electoral law to often become an instrument of political compromise, which in turn weakens the principle of responsive justice.²⁴ While the text of this law enshrines the principles of democratic and fair elections, an analysis through the lens of responsive justice reveals considerable gaps, particularly in the meaningful inclusion of marginalized and vulnerable groups such as persons with disabilities and indigenous communities.²⁵ Despite the formal independence of electoral institutions, public trust remains fragile due to a lack of transparency and insufficient responsiveness to electoral violations. These shortcomings suggest a deficit in participatory engagement

22 Yuliani Fitriasih Widhi, "Analisis Terhadap Putusan Mahkamah Konstitusi Nomor 114/PPUXX/2022," *Jurnal Kewarganegaraan* 8, no. 2 (2024).

23 Rosdiana Sijabat, Ati Cahayani, and Rusminto Wibowo, *In Search of Key Drivers of Indonesia Empowerment* (Jakarta: Universitas Katolik Indonesia Atma Jaya, 2017).

24 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.

25 Fernando Feitosa, André Blais, and Ruth Dassonneville, "Does Compulsory Voting Foster Civic Duty to Vote?," *Election Law Journal: Rules, Politics, and Policy* 19, no. 1 (March 1, 2020): 19–44.

and moral accountability, both of which are key components of responsive justice. Legal reform in Indonesia still has to face challenges related to the stability of the multi-party system, the resolution of election disputes, and strengthening the integrity of election organizing institutions.²⁶

India is the world's largest democracy with a long history of holding elections. With such a large and diverse population, the challenges of creating a fair and inclusive electoral system are enormous. India follows a common law tradition inherited from British colonial rule. The Representation of the People Act (1951) is the primary legal basis governing elections in India, covering nomination requirements, campaign financing, and regulation of political parties.²⁷

The principle of responsive justice in India is seen in the provision of reserved seats for Scheduled Castes (SC) and Scheduled Tribes (ST), which aims to provide representation to groups that have been marginalized. This policy reflects the Indian government's efforts to address social inequality that is a legacy of the caste system in the past. In addition, elections in India use the first-past-the-post (FPTP) system, which is simple but effective in creating a stable government.²⁸ However, this system also has its drawbacks, such as the lack of proportionality in vote representation. Large political parties often benefit more from the FPTP system, while small parties struggle to gain seats even though they have gained significant votes nationally.

The Supreme Court of India has played an active role in developing jurisprudence to uphold electoral integrity.²⁹ A landmark example is the case of *People's Union for Civil Liberties v. Union of India*

26 Yohanes Alfrid Aliano and Mathias Jebaru Adon, "The The Geneology of Power Politics in the '2024' Election System in Indonesia Michel Foucault's Ethical Perspective," *Jurnal Filsafat Indonesia* 6, no. 3 (2023).

27 Shalendra D. Sharma, "Politics and Governance in Contemporary India: The Paradox of Democratic Deepening," *Journal of International and Area Studies* 9, no. 1 (2002).

28 Annapurna Waughray, "India and the Paradox of Caste Discrimination," *European Yearbook of Minority Issues Online* 8, no. 1 (February 2011): 413–52.

29 R. K. Pandey, "Some Observations on Provisions of Article 329 of the Indian Constitution: A Case Study Of 1951," *International Journal of Humanities, Law and Social Sciences* 12, no. 1 (2025): 1–178.

(2003), where the Court recognized the electorate's right to know the criminal and financial background of candidates as a constitutional entitlement. This judicial activism reflects the dimensions of moral accountability and participatory empowerment. However, challenges persist due to entrenched social divisions based on caste, religion, and the pervasive influence of money in politics. These conditions highlight that, although the legal structure aspires to responsive justice, its practical realization is hindered by deep-rooted societal inequities that compromise social sensitivity, a crucial element of responsive justice.

Third, Australia also employs a common law system within a federal parliamentary framework³⁰. Its primary electoral statute, the Commonwealth Electoral Act of 1918, contains several noteworthy provisions that align with responsive justice. Sections 240 to 245 impose compulsory voting, thereby promoting political inclusion, while Section 329 penalizes the dissemination of misleading electoral information. The Australian electoral system adopts preferential voting for the House of Representatives and proportional representation for the Senate. This system provides a balance between proportional representation and government effectiveness.³¹ The principle of responsive justice in Australia is evident in a number of innovations to ensure inclusivity and accessibility. Compulsory voting was introduced to increase voter turnout, which consistently exceeds 90% in every election.³²

These provisions are administered by the Australian Electoral Commission (AEC), an independent and highly trusted institution³³. Compulsory voting enhances universal political participation, and

30 Joan Squelch, "The Legal Framework of the Australian Education System," in *A Comparative Analysis of Systems of Education Law* (Singapore: Springer Nature Singapore, 2024), 21–51.

31 Trevor Ryan, Andrew Henderson, and Wendy Bonython, "Voting with an 'Unsound Mind'? A Comparative Study of the Voting Rights of Persons with Mental Disabilities," *UNSW Law Journal* 1038 39, no. 3 (2016).

32 Jill Sheppard, "Compulsory Voting and Political Knowledge: Testing a 'Compelled Engagement' Hypothesis," *Electoral Studies* 40 (December 2015): 300–307.

33 Rodney Smith, "The 2023 Voice Referendum and Current Challenges to

various electoral arrangements—such as early voting, postal voting, and measures accommodating persons with disabilities—demonstrate legal sensitivity to diverse social conditions. As a result, the Australian electoral system largely fulfills the criteria of responsive justice. Despite some criticism concerning the underrepresentation of ethnic minorities, Australia’s overall electoral framework exhibits a high degree of inclusivity, participatory opportunity, and institutional integrity, thereby meeting the moral and social responsiveness required under Selznick’s theory.³⁴

The Electoral Commission of Australia (AEC) routinely redistributes electoral districts to ensure equality of electorate in each district, which is a form of adaptation to demographic changes. However, Australia also faces challenges, especially in regulating campaign finance transparency. Although campaign finance regulations are quite strict compared to other countries, criticism of the influence of interest groups and large donors remains an issue that requires further attention.³⁵

In comparative terms, Australia emerges as the jurisdiction most closely aligned with the ideals of responsive justice in its electoral law, with a system that is substantively inclusive, participatory, and attuned to diverse community needs. India demonstrates institutional strength through its judiciary, yet it struggles with implementation due to persistent social stratification and electoral malpractices. Indonesia, although normatively committed to democratic ideals, faces significant implementation challenges that limit the realization of responsive justice. The formal inclusion of democratic principles in statutory texts has not always translated into effective, participatory, and equitable electoral governance.

Accordingly, it is recommended that Indonesia enhance mechanisms for inclusive public engagement across all stages of the electoral process, particularly for marginalized communities, and bolster

Australian Democracy,” *Journal of Australian Studies* 38, no. 1 (2025): 40–53.

34 Mark Evans, Patrick Dunleavy, and John Phillimore, eds., *Australia’s Evolving Democracy: A New Democratic Audit* (LSE Press, 2024).

35 Beramendi, Besley, and Levi, “Political Equality...”

the transparency and responsiveness of electoral bodies. India would benefit from pairing its judicial reforms with grassroots-level social interventions to mitigate the impacts of identity politics and systemic exclusion. Australia, while generally strong in its institutional framework, could further reinforce its commitment to responsive justice by improving the representational equity of minority groups and maintaining robust institutional accountability.

C. Challenges and Opportunities Faced in Efforts to Reform Electoral Law to Realize Responsive Justice in the Three Countries

The difference of electoral law reform is a process that still continues to evolve, particularly to meet the needs of responsive justice which puts into emphasis the entitlements of every person to get equal consideration in the election process.³⁶ The three countries, namely Indonesia, India, and Australia, although having the same democratic foundation, face different challenges in implementing a fair and responsive election system. These challenges lie not only in the legal and legislative aspects, but also in the implementation, supervision, and practical politics that exist in each country. On the other hand, opportunities for electoral law reform remain open, along with technological developments, increasing public awareness, and international cooperation that can be a basis for improving the existing system.

In Indonesia, the biggest challenge faced in electoral law reform is the complexity of the electoral system itself. Indonesia's electoral system, which uses a combination of an open proportional system for legislative elections and a district system for presidential and regional head elections, creates a number of problems. Based on Law Number 7 of 2017 concerning Elections, legislative elections use an open proportional system, which allows voters to directly elect legislative

36 M. Farrel Firdiansyah Putra and Ghunarsa Sujatnika, "Equality Before The Law in Regional Head Election Trials," *Cepalo* 8, no. 2 (October 2024): 113–22.

candidates.³⁷ However, this system sometimes creates unfairness in representation, because the votes given to legislative candidates do not always reflect a fair proportion of the seats won in parliament. In addition, this system exacerbates the inequality between large and small parties, which often only benefits large parties with strong funds and influence, while small parties struggle to gain adequate representation. Reforms in the Indonesian electoral system are often hampered by the political interests of large parties who do not want to lose their dominance in this system. In India, the electoral system also faces similar challenges, but with greater dimensions given its very large population and ethnic, religious, and linguistic diversity. The Representation of the People Act, 1951, regulates the electoral process in India, but the biggest challenge lies in implementing the law on the ground. Elections in India also use a plurality district system, which can lead to unfairness in representation. In India, there is often a dominance of large political parties that control certain districts, while small parties or minority groups struggle to get seats that correspond to the proportion of votes they get. In addition, the issue of money politics, political manipulation by the majority party, and the large influence of candidates from the political elite are also major obstacles to reforming the election system to be more responsive to the needs of the community.³⁸

In Australia, although the electoral system is better structured, the challenges faced are more related to changing times and adapting to developments in electoral technology. The Commonwealth Electoral Act, 1918, is the legal basis for elections in Australia, with a preferential system that prioritizes voting based on voter preferences. This system is more fair in reflecting voter choices, as it reduces the potential for wasting unused votes.³⁹ However, the biggest

37 Christine S.T. Kansil and Yohanes Jeriko Giovanni, "Kontroversi Isu Penerapan Kembali Sistem Proporsional Tertutup Dalam Sistem Pemilu Di Indonesia," *Jurnal Kewarganegaraan* 7, no. 1 (2023).

38 Pragya Singh, "Electoral Reforms in India: Comparative Analysis with U.S.A. & U.K.," *SSRN Electronic Journal*, 2013.

39 Josep M. Colomer, "On the Origins of Electoral Systems and Political Parties: The Role of Elections in Multi-Member Districts," *Electoral Studies* 26,

challenge in Australia is how to ensure fair access for all citizens, especially those living in remote areas, minority groups or indigenous people who often have difficulty accessing polling stations. In addition, although Australia has a relatively stable electoral system, issues regarding updating election technology, transparency in campaign funding and protecting the voting rights of certain groups remain key concerns in electoral law reform.

Another challenge often faced in electoral law reform in these three countries is the strong influence of political elites who have an interest in maintaining a system that benefits them. In Indonesia, although many parties want improvements in the electoral system, resistance from large parties that benefit from the existing system often hinders substantial change.⁴⁰ For example, despite calls to reduce reliance on the open proportional representation system and replace it with a more equitable system, the interests of large political parties seeking to maintain their dominance in elections often defeat reform efforts. In addition, in local elections, vote buying and vote rigging practices often occur, exacerbating the inequities in the electoral system.

The elections in India are typically dominated by bigger parties like the Bharatiya Janata Party (BJP) and Indian National Congress, which most often overlook the rights of marginalized or minority sections. Political power and purchasing of votes is a common issue in Indian elections, so as a result changes which can prove to be damaging to the ruling political elite are often discouraged. Moreover, the lack of women, indigenous people, and other minorities in representations is one dimension of trickle down electoral reforms which is often neglected.⁴¹ From the above, it can be painted that the current political climate in India, more often than not, inhibits the creation of an electoral system that is more equitable and more representative

no. 2 (June 2007): 262–73.

40 Asrinaldi and Mohammad Agus Yusoff, "Power Consolidation and Its Impact on the Decline of Democracy in Indonesia under President Jokowi," *Cogent Social Sciences* 9, no. 1 (December 2023).

41 Peter van der Veer, "Minority Rights and Hindu Nationalism in India," *Asian Journal of Law and Society* 8, no. 1 (February 2021): 44–55.

of the needs of the entire community. This is to say that in Australia where the political environment is more developed and more stable than India, some political elements show opposition towards development reforms, for instance, with the implementation of gender quotas in the parliament.

Established parties often seek to block changes that benefit underrepresented groups in politics, such as women or minority groups, because they fear losing their political support.⁴² This creates tension between inclusive policies and existing political conservatism. The issue of supervision and law enforcement is also a significant challenge in electoral law reform in the three countries. In Indonesia, although Law Number 7 of 2017 concerning Elections has included strict rules regarding election supervision, implementation in the field often encounters obstacles. The Election Supervisory Body (Bawaslu), although its function is to supervise the implementation of elections, is often hampered by limited resources, as well as a lack of supervisory personnel capable of handling all election violations, such as money politics, voter intimidation, and vote manipulation. As a result, many cases of violations cannot be followed up effectively.⁴³

In India, the issue of election monitoring becomes more complex given the vast territory and the number of electoral districts involved. The Election Commission of India, although having a greater capacity compared to the supervisory agency in Indonesia, still faces challenges in monitoring elections in remote areas that are difficult to reach. In addition, obstacles in transparency and accountability of political campaign funding are also one of the major issues in election monitoring in India.⁴⁴

In Australia, although the issue of election oversight is relatively more under control, issues related to transparency in campaign

42 Maylita Kusuma Putri, "Women-Quota Policy in Australian Labor Party," *The Politics: Jurnal Magister Ilmu Politik Universitas Hasanuddin* 1, no. 1 (2015).

43 Diding Rahmat and Anthon Fathanudien, "Law Enforcement of Election Crimes in Indonesia," *Unifikasi: Jurnal Ilmu Hukum* 8, no. 2 (November 2021): 210–17.

44 N. Azimi and L. L. Chang (eds), *United Nations as Peacekeeper and Nation-BUILDER* (Brill: Nijhoff, 2005).

funding and the potential for abuse of power by major political parties remain a concern. In relation to political funding related to elections, which has the potential to impact election outcomes, Australia, which is a fully-fledged democracy, still encounters difficulties in making certain elections represent the fairness and the will of the people.⁴⁵ One major opportunity in the reform of electoral law includes the application of new technologies as a means of enhancing the precision and integrity of electoral processes. In Indonesia, even with limitations in terms of supervision, technological innovations like Electronic Sirekap or Recapitulation Information Systems, which are governed by the PKPU, bear prospects for enhancing performance indicators of transparency and accuracy of vote verifications. This modern technology enables the automatic counting of votes and diminishes the chance of data corruption. Furthermore, it can enhance citizen surveillance at all levels of election which contributes to the promotion of effective participation in justice.⁴⁶ Similarly, in India, the enhancement of voter identification through biometric technology used during elections offers greater security, ensuring that only eligible voters are able to cast their votes, thereby significantly decreasing instances of voter fraud. This technology has also facilitated monitoring and reporting election results in a more accountable way.⁴⁷

Nonetheless, the application of this technology has to be counterpoised with bridging the digital gap, that is, the divide in technology usage between urban and rural population of India. In Australia, election technology has advanced relatively greatly, such as with the introduction of electronic voting (e-voting) for overseas citizens and people with disabilities. This system has been credited with increas-

45 Graeme D. Orr, "Party Primaries for Candidate Selection? Right Question, Wrong Answer," *University of New South Wales Law Journal* 34 (2011).

46 Anwar Fauzi and Muhammad Habibi, "Electronic Democracy: Enhancing Participation and Transparency through E-Voting," *Journal of Governance and Local Politics (JGLP)* 5, no. 2 (November 2023): 133–43.

47 Mohammad Hajian Berenjestanaki et al., "Blockchain-Based E-Voting Systems: A Technology Review," *Electronics* 13, no. 1 (December 2023): 17.

ing voter turnout,⁴⁸ but also needs regular review to ensure it remains secure and user-friendly for all, especially in remote areas. Electoral law reform can also gain momentum through increased public engagement in monitoring elections and participating in the making of the election policies themselves. In Indonesia, civil society organizations like Perludem and Netgrit have always been active in advocating for the electoral law reform. Their participation in the electoral process goes beyond supervision, to encompass dissemination of basic political knowledge to citizens. Political education of the Indonesian populace is effective in promoting reform that is more responsive and inclusive.⁴⁹

Contemporary political movements in India have led to a variety of groups advocating for reforms in the electoral process. These groups are starting to realize the need for proper representation of women, indigenous, and other minority groups that have been marginalized in the past.⁵⁰ For instance, in the case of the Indian 2019 elections, there was a notable surge in the participation of women both as voters as well as candidates contesting for the elections. This phenomenon indicates a change in the Indian political scenario; thus it provides an opportunity for a change in the electoral laws towards a more reform based paradigm. In Australia, the focus on the representation of certain groups, such as women or Indigenous peoples, has been a central rationale for changes in the electoral law. The attempts to enhance the number of women in parliament through quota policies and other changes clearly suggest that Australians are now beginning to demand more equitable and pluralistic electoral

48 Uzma Jafar, Mohd Juzaidin Ab Aziz, and Zarina Shukur, "Blockchain for Electronic Voting System—Review and Open Research Challenges," *Sensors* 21, no. 17 (August 2021): 5874.

49 Muhamad Takiyuddin Ismail and Norazam Mohd Noor, "Resisting International Election Observation Through Election Visit Programmes: The Case of Malaysia," *Journal of Current Southeast Asian Affairs* 39, no. 2 (August 2020): 310–31.

50 Devah Pager and Hana Shepherd, "The Sociology of Discrimination: Racial Discrimination in Employment, Housing, Credit, and Consumer Markets," *Annual Review of Sociology* 34, no. 1 (August 2008): 181–209.

arrangements.⁵¹

Perhaps the most daunting challenges to electoral law reform in India, Indonesia, and Australia is the control of election processes through money politics, inequitable information dissemination, and the overwhelming influence of political elites and other major stakeholders that have a negative impact on the integrity of elections. In Indonesia, barriers to campaign financing are relatively more advanced but the monitoring of political funds is still inadequate which may lead to breach and disrespect of democratic and legal principles⁵² Similarly the influence of business class on funding in India tends to create inequalities in the political process⁵³, and from Australia, where there is more control over the system, the challenges are mainly regarding the openness of campaign financing and limitations on giving funds by particular groups.⁵⁴

One opportunity that stands out in this reform is the use of technology for election supervision and the funding of campaigns which can greatly increase accountability. The same technological advancements which allow for greater transparency in the recording and reporting of campaign expenditures can be used in Indonesia, India and Australia in order to curb the issue of political fund abuse. Furthermore, enhancing electoral education as part of the school syllabus and in public campaigns can help foster more vigorous and informed voters. Reforms in campaign finance law such as those limiting the amount of donations from specific persons or groups can also ensure that the elections are free from the corrupting influences

51 Fajar Rahmanto et al., "Women's Representation through Political Parties in Parliament Period of General Election 2019-2024," *Politik Indonesia: Indonesian Political Science Review* 6, no. 3 (April 2021): 336–59.

52 Raihan Hafiz Ramadhan and Aidul Fitriaciada Azhari, "Strengthening Election Regulations: Saving Democracy from The Threat of Political Money in Indonesia," *Proceeding International Conference Restructuring and Transforming Law* 2, no. 1 (2023).

53 Beramendi, Besley, and Levi, "Political Equality..."

54 Valeria Tonhäuser and Torill Stavenes, "Why Change Party Finance Transparency? Political Competition and Evidence from the 'Deviant' Case of Norway," *European Journal of Political Research* 59, no. 3 (August 2020): 578–98.

of self-interested parties. Furthermore, heightened political awareness and active participation of the citizenry in the monitoring of the elections are crucial in achieving responsive justice in the electoral systems of the three countries. In cross-sectional votes undertaken in reed Indonesian regions despite heightened levels of voter awareness, low levels of immigration reduce access to election information. Similar problems exist in India as a significant part of the electorate lives in the hinterland. Although Australia has an adequate system, it is important for it to focus on the accessibility of information and polling centers for voters in isolated regions or Aboriginal groups. Reforms in this regard, which ensure that all levels of society have equal access to information and polling places, could create a more inclusive and fairer electoral system for all citizens.⁵⁵

Another opportunity that can be utilized in electoral law reform is the renewal of campaign funding regulations that are more transparent and accountable. In Indonesia, although Law Number 7 of 2017 concerning Elections has covered several aspects of campaign funding regulations, there are still many challenges related to the transparency of funds used by political parties and legislative candidates. Legal reforms that lead to increased transparency of campaign funding, including restrictions on donations and stricter supervision, are essential to prevent money politics practices that can undermine the principle of responsive justice. The application of technology in recording and reporting campaign funding can be a solution to create a more transparent system.⁵⁶

In India, despite the existence of regulations on political campaign funding in the Representation of the People Act, 1951, and regulations administered by the Election Commission of India, the system has not been able to fully address the problem of illegal funding

55 Katrina Kosec and Leonard Wantchekon, "Can Information Improve Rural Governance and Service Delivery?," *World Development* 125 (January 2020): 104376.

56 Dien Noviany Rahmatika, "Analisis Hasil Audit Pelaporan Keuangan Dana Kampanye Peserta Pemilu Sebagai Tingkat Kepatuhan Partai Politik," *Permana: Jurnal Perpajakan, Manajemen, Dan Akuntansi* 13, no. 1 (February 2021): 97–107.

and the influence of financiers. Tighter and more transparent campaign funding reforms could help ensure that Indian elections truly reflect the will of the people, not just the interests of elite groups or big financiers. As awareness of the need for tighter controls on campaign funding grows, India has an opportunity to introduce more progressive policies in this regard.⁵⁷

Australia, with its more stable system, is also not free from challenges regarding political campaign funding, despite tighter regulations than Indonesia and India. Further reforms in terms of restrictions on political donations and transparency of campaign funding flows could strengthen public confidence in Australia's electoral system. The use of technology to monitor campaign funding in real time and further regulation of donations from large corporations or individuals with political interests could be important opportunities to ensure that Australian elections maintain integrity.⁵⁸

One very important aspect of electoral law reform is strengthening electoral education for the community. Better education about voting rights and the electoral process can encourage higher and more inclusive political participation. In Indonesia, despite various initiatives to increase political awareness among the community through educational institutions and civil society organizations, many regions still have minimal access to adequate election information. Legal reform that prioritizes more equitable political education, by integrating election education curricula in schools and through more intensive public information campaigns, can encourage voters to better understand their rights in voting and monitoring the election process.⁵⁹

57 Sidhant Chandalia and Anirudh Lekhi, "Regulation Of Election Campaign Finance in India: Making Elections Truly Free and Fair," *NUJS Law Review* 3 (2013).

58 Roxana Filip et al., "Global Challenges to Public Health Care Systems during the COVID-19 Pandemic: A Review of Pandemic Measures and Problems," *Journal of Personalized Medicine* 12, no. 8 (August 2022): 1295.

59 Bayu Karunia Putra et al., "Voter Education to Increase Community Participation in the 2024 General Elections (Case Study of KPU Malang Regency)," *Jurnal Ilmiah Wahana Pendidikan* 9, no. 18 (2023).

In India, similar challenges are faced, despite programs launched by the Election Commission of India to raise political awareness among people, especially in remote areas. More inclusive elections, which reach out to people from all walks of life, including women, youth and other marginalized groups, can strengthen the principle of responsive justice in Indian democracy. Election education based on digital technology and information can also expand access to faster and more targeted information.⁶⁰

In Australia, despite relatively high voter turnout, challenges remain in ensuring that under-represented voters, such as those living in remote areas or Indigenous communities, have easy access to election information. More nuanced legal reforms that take into consideration voters from isolated areas or communities who face difficulties using polling facilities would create more possibilities for elections that are currently freer and more responsive.⁶¹

Reform of electoral law in Indonesia, India, and Australia continues to grapple with challenges related to the complexity of electoral systems, elite political dominance, and the effectiveness of oversight and enforcement mechanisms. While India and Australia have shown more consistent progress in institutionalizing electoral integrity, Indonesia remains comparatively behind, particularly in the areas of enforcement and anti-oligarchic safeguards. Nonetheless, significant opportunities remain for enhancing electoral systems across all three countries. The advancement of electoral technologies, the strengthening of civic engagement, reforms in campaign finance regulation, and more inclusive voter education represent strategic avenues to realize responsive justice in electoral governance. For Indonesia in particular, adopting more transparent, participatory, and responsive electoral law reforms is critical to bridging the gap and achieving a system that is truly just and representative.

60 Abdelsalam M. Alodat, Lamis F. Al-Qora'n, and Muwafaq Abu Hamoud, "Social Media Platforms and Political Participation: A Study of Jordanian Youth Engagement," *Social Sciences* 12, no. 7 (July 2023): 402.

61 Zacky Ahmad Fauzy, "Tantangan dan Peluang Partisipasi Masyarakat Pulau Terpencil Dalam Pemilihan Umum," *Triwikrama: Jurnal Ilmu Sosial* 5, no. 8 (2024).

D. Concluding Remarks

The comparative study of electoral legal frameworks in Indonesia, India, and Australia reveals that each country confronts distinct challenges, yet all share a common tension between formal democratic mechanisms and the substantive realization of responsive justice. Indonesia's open-list proportional representation, though equipped with mechanisms such as quotas and electoral oversight bodies, continues to be undermined by transactional politics and weak enforcement. India's FPTP system, while backed by legal reservations and electoral technology, is constrained by deep-rooted social inequalities that compromise electoral fairness. Meanwhile, Australia demonstrates stronger institutional independence and procedural innovation but still faces concerns about equity in campaign financing and regional voter access. These findings suggest that while each system aspires to democratic inclusivity, legal structures must evolve to genuinely reflect participatory justice and not merely procedural legitimacy.

In response to these issues, this study recommends targeted reforms grounded in the principles of responsive justice. For Indonesia, electoral law reform should prioritize greater transparency, including real-time disclosure of campaign funding, spending limits, and the empowerment of civil society in monitoring processes. Legal provisions for political education should be integrated to strengthen long-term democratic engagement. India should enhance electoral integrity through stricter sanctions for electoral offenses and improved access to justice for underrepresented groups. Australia can further refine its system by expanding digital voting access and increasing outreach to marginalized communities. Overall, reforms must focus not only on technical improvements but also on transforming electoral laws into tools that promote substantive inclusion, equity, and civic empowerment.

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