

Rethinking the Empty Ballot Box in Pilkada: Between Democratic Substance and Legal Formalism

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Abstract

The phenomenon of single-candidate elections in regional head elections (Pilkada) poses challenges to the democratic principles of directness, generality, freedom, confidentiality, honesty, and fairness. To address such electoral impasses, the "empty ballot box" mechanism was introduced through Constitutional Court Decision No. 100/PUU-XIII/2015 and supported by General Election Commission Regulations (PKPU), offering voters an alternative. However, this mechanism raises critical legal and democratic concerns—whether it truly reflects popular sovereignty or merely serves as an administrative formality. This study examines the legal legitimacy, democratic substance, and systemic consequences of the empty ballot box in Pilkada. Using a doctrinal legal methodology with statutory and conceptual approaches, the analysis reveals that the empty box mechanism predominantly acts as an administrative safeguard rather than a vehicle of the people's will. While it ensures procedural continuity, it fails to address the deeper issues of political representation and structural deficiencies in candidate nomination. The dominance of legal positivism in regulating this mechanism neglects principles of substantive justice and meaningful participation. This study argues for a comprehensive legal reform that moves beyond formal compliance and embraces progressive legal principles. Such reform should strengthen political party accountability, support independent candidacies, and expand public participation in candidate nomination. By reframing the empty box through the lens of democratic renewal and human rights, this article contributes a novel critique of electoral design in Indonesia.

Keywords: pilkada; empty box; single candidate; democracy; legal positivism

A. INTRODUCTION

The Regional Head Election (Pilkada) serves as a tangible embodiment of the principle of regional autonomy as codified in Law No. 23 of 2014 concerning Regional Government. Pilkada occupies a strategic role within Indonesia's constitutional framework as a formal mechanism for selecting regional leaders to administer regional governance (Loin & Neonbeni, 2023; Pardede, 2018). Nonetheless, its implementation often confronts intricate legal challenges, particularly when only a single candidate pair fulfills the statutory nomination requirements. To address such scenarios, the Pilkada system incorporates the "empty ballot box" mechanism, initially regulated under General Election Commission Regulation No. 14 of 2015 (PKPU No. 14/2015) and subsequently refined through PKPU No. 13 of 2018 (PKPU No. 13/2018) and PKPU No. 20 of 2020 (PKPU No. 20/2020). This mechanism derives its constitutional basis from Constitutional Court Decision No. 100/PUU-XIII/2015, which conditionally invalidated Articles 49(9), 50(9), and 51(2) of Law No. 8 of 2015 concerning the Amendment to Law No. 1 of 2015 on the Stipulation of Government Regulation in Lieu of Law No. 1 of 2014 on the Election of Governors, Regents, and Mayors as Law. The Court held these provisions unconstitutional insofar as they fail to interpret the provisions as permitting the candidacy of a single pair of regional head and deputy regional head. The regulation was further solidified through the provisions of Law No. 10 of 2016. This legal construct aims to ensure the continuity of Pilkada while adhering to the principle of popular sovereignty by enabling voters to choose between a single candidate pair or an empty ballot box. The empty ballot box mechanism is legally conceptualized as a safeguard ensuring

the feasibility of conducting Pilkada even in single-candidate nominations. Under the applicable statutory framework, if the majority of votes are cast in favor of the empty ballot box, the regulation mandates a repetition of Pilkada in the subsequent electoral period. This provision reflects a juridical approach to preserving the democratic process while simultaneously affording the electorate an avenue to reject the sole-nominated candidate pair. The mechanism underscores the legal system's dual objectives of maintaining electoral integrity and facilitating public expression of dissent within the framework of constitutional democracy.

The empty ballot box mechanism, as an integral component of the Pilkada system, serves to operationalize the principles of election administration enshrined in Article 2 of Law No. 1 of 2015, which mandates that elections adhere to the principles of directness, generality, freedom, confidentiality, honesty, and fairness. This mechanism is not solely predicated on procedural legitimacy but is designed to reinforce the foundational democratic tenet of providing voters with substantive and meaningful political choices (Kusuma & Akhtar, 2024). The statutory framework governing the empty ballot box mechanism is intended as a juridical solution to address potential electoral impasses in the Pilkada process, which, if unaddressed, could destabilize the democratic order at the regional level (Yantomi, 2022). The regulation of the empty ballot box occupies a pivotal role within the architecture of a responsive Pilkada system, designed to anticipate and address contingencies arising from the nomination process for regional head elections. However, this mechanism also highlights a broader legal issue—namely, the challenge of fostering a more competitive and democratically robust nomination system capable of facilitating the emergence of multiple candidate

pairs that meet the statutory requirements for candidacy. This phenomenon illustrates the inherent complexities of organizing Pilkada within the Indonesian legal framework. It underscores the necessity of establishing a precise and robust regulatory framework to ensure that the empty ballot box mechanism transcends its function as a mere procedural safeguard and instead becomes an instrument that guarantees the sustainability and substantive quality of democracy at the regional level.

This research aims to explore the phenomenon of the empty ballot box in Pilkada through a rigorous legal analysis. By examining the legal foundations and regulatory framework underpinning this mechanism, the study seeks to elucidate the rationale behind the establishment of the empty ballot box and assess its contribution to the realization of democratic principles at the regional level. This scholarly inquiry aspires to develop a comprehensive understanding of the role and significance of the empty ballot box within the Pilkada system, thereby providing a robust basis for future legal reforms to strengthen democratic governance in regional elections. Moreover, the emergence of the "empty box" phenomenon in single-candidate regional elections also intersects with fundamental human rights principles, particularly the right to participate in public affairs, the right to vote and be elected, and the right to equal political representation, as guaranteed by international human rights instruments such as the International Covenant on Civil and Political Rights (ICCPR).

This research adopts a doctrinal legal methodology, employing statutory, conceptual, and case-based approaches (Marzuki, 2021). The legal materials utilized in this study consist of primary, secondary, and tertiary sources. Primary

legal materials are systematically collected through processes of inventory and categorization, while secondary and tertiary legal materials are obtained through comprehensive literature review techniques. Subsequently, all gathered legal materials are meticulously identified, classified, and systematized based on their sources and hierarchical standing. These materials are then subjected to in-depth examination and analysis through the application of legal reasoning, employing a deductive methodological framework (Irwansyah & Yunus, 2020).

B. RESULT AND DISCUSSION

The Empty Ballot Box: A Democratic Instrument or an Administrative Construct?

The regulation of the empty ballot box in Pilkada constitutes a significant legal phenomenon that warrants thorough scholarly analysis. Originating from the necessity to accommodate situations where only a single candidate pair qualifies for nomination, this phenomenon has engendered prolonged debates regarding its legitimacy and the substantive implications for democratic governance (Indarto & Fikri, 2022). Legally, the empty ballot box first received constitutional grounding through Constitutional Court Decision No. 100/PUU-XIII/2015, which declared Articles 49 (9), 50 (9), and 51 (2) of Law No. 8 of 2015 to be conditionally unconstitutional. The Constitutional Court interpreted the inclusion of the empty ballot box as a mechanism to uphold citizens' constitutional rights to both vote and stand for election. Seeing this, the Constitutional Court plays a role as the guardian of democracy and the protector of human rights (Adnyani et al., 2025; Sugirman et al., 2025). Following this decision, the empty ballot box provision was further codified in Law No. 10 of 2016, General Election Commission Regulation No. 14 of 2015, later revised by PKPU No. 13/2018

and PKPU No. 20/2020. These regulatory instruments complement Law No. 8/2015, which governs the conduct of Pilkada elections in cases where only a single candidate pair is nominated (Hufron et al., 2025). Normatively, the empty ballot box is interpreted as a manifestation of respect for the principle of popular sovereignty, as enshrined in Article 1 (2) of the 1945 Constitution of the Republic of Indonesia, which affirms that sovereignty lies with the people and is exercised by the Constitution. As such, the empty ballot box allows voters to express disapproval of the single candidate pair (Kusuma & Akhtar, 2024). If the empty ballot box garners the majority of votes, the relevant regulations mandate that the Pilkada be repeated in the subsequent electoral cycle. However, this mechanism raises a pivotal legal and philosophical inquiry: Does the empty ballot box genuinely represent the will of the people and their sovereignty, or does it function merely as an administrative construct designed to preserve the procedural legitimacy of the electoral system?

The origins of the empty ballot box regulation can be understood as a response to systemic challenges in the administration of Pilkada, particularly in circumstances where only a single candidate pair meets the administrative requirements for nomination. In such cases, the absence of the empty ballot box would preclude the conduct of the election, as it would violate the essential democratic principle of electoral competition (Kusuma & Akhtar, 2024). Therefore, introducing the empty ballot box mechanism was intended to preserve the continuity of the electoral process. However, this regulatory framework invites critical scrutiny, particularly concerning the substantive meaning and function of the empty ballot box as an electoral choice. The question arises as to whether the empty ballot box serves merely as an administrative expedient to ensure the procedural progression of the election, or if it

truly provides a legitimate and effective platform for the electorate to express their disapproval and assert their will in a meaningful manner.

The empty ballot box can be seen as a distinct legal innovation. However, this innovation carries normative implications that give rise to significant discourse. On one hand, the empty ballot box provides an alternative for voters in situations where candidate nominations are monopolized. On the other hand, this mechanism is frequently perceived as a procedural solution that fails to address the underlying issues of democracy itself—namely, how to ensure the existence of healthy, competitive, and representative political dynamics (Indarto & Fikri, 2022). The introduction of the empty ballot box is not a direct response to the problem of limited candidacies; rather, it is a strategic measure designed to circumvent administrative deadlock in the electoral process. This creates the impression that the empty ballot box functions more as an administrative construct than a bona fide democratic instrument. Criticism of the empty ballot box is often framed from the perspective of democratic legitimacy. In practice, the empty ballot box exerts a predominantly negative effect on the single candidate pair, postponing the election to the next electoral cycle. However, this mechanism does not offer a comprehensive solution to replace the candidate pair rejected by the electorate. In other words, a victory for the empty ballot box does not precipitate an immediate transformation in the local political configuration. Still, it merely delays decision-making, potentially prolonging the status quo and hindering substantive political change.

The phenomenon of the empty ballot box in Pilkada can be examined through two primary theoretical frameworks: the theory of popular sovereignty and legal positivism. These two approaches offer divergent perspectives regarding the function

and legal implications of the empty ballot box mechanism within the context of democracy and electoral processes. From the standpoint of popular sovereignty, the empty ballot box should serve as a substantive vehicle for reflecting the will of the people, whereas, from the perspective of legal positivism, it is viewed primarily as a procedural instrument regulated by prevailing legal norms. The theory of popular sovereignty asserts that all political power is derived from the people, and therefore, any policy or political decision must be an expression of the people's will (Berch, 2023). Within this framework, the empty ballot box should be conceptualized as a legitimate choice, allowing the electorate to express dissent or dissatisfaction with the candidate(s) nominated by the political system. However, the practical application of the empty ballot box mechanism often results in a scenario where its victory is not merely an administrative alternative designed to postpone the electoral process. Instead, it functions as a tool to rectify or restructure the existing political system (Marbun et al., 2022). Suppose the empty ballot box is regarded as an accurate representation of popular sovereignty. In that case, it logically follows that such a result should carry significant implications for electoral reform, such as the reintroduction of candidate registration or the imposition of new criteria for nominating single candidate pairs (Yantomi, 2022). Conversely, in practice, the regulation of the empty ballot box within the Pilkada system is primarily influenced by the principles of legal positivism. Legal positivism, which conceptualizes law as a set of formal and procedural rules, posits that legal norms must be followed regardless of the moral or substantive justice underpinning them (Waldron, 2010). From this perspective, the empty ballot box is not viewed as a mechanism to stimulate substantive change within the Pilkada system, but rather as a procedural tool designed to maintain the continuity and smooth operation

of the electoral process. The dominance of a legal-positivist approach is evident in the regulatory framework surrounding the empty ballot box, where the emphasis is placed on administrative compliance rather than on creating space for structural reforms that could more authentically reflect the people's will.

As stipulated in Law No. 8/2015 and PKPU 20/2020, the empty ballot box is framed as an administrative alternative that solely governs the procedural steps to be followed after the empty ballot box prevails in the election. No provisions mandate substantial political reforms or alterations as a direct consequence of the empty ballot box's victory. The prevailing legal framework is predominantly concerned with the administrative aspects of repeating the election, without a thorough examination of potential changes in political configurations or a more comprehensive understanding of the people's right to determine the political trajectory at the regional level. This framework implies that the law, which ideally should function as a mechanism for realizing justice and popular sovereignty (Beckman, 2021), is instead predominantly employed as an instrument for ensuring the procedural continuity of the electoral process, without allowing the electorate to advocate for a more just, inclusive, and representative political system (Indarto & Fikri, 2022). This phenomenon underscores the extent to which the regulation of the empty ballot box within the Pilkada system is influenced by a legal-positivist paradigm, which conceives the law primarily as a system of formal norms centered around procedural compliance, rather than as an instrument capable of implementing substantive justice or channeling the political will of the people (Waldron, 2023). As a result, the empty ballot box is primarily viewed as an administrative tool intended to ensure the continuity of the electoral process, devoid of consideration for the political repercussions or structural changes that could

emerge from its success, thereby limiting the scope of its transformative potential within the broader democratic framework.

The lack of provisions addressing the political ramifications of an empty ballot box victory illustrates that the legal framework does not provide an avenue for substantive transformation within the local political structure. The empty ballot box merely triggers a re-election, which fails to alter the existing political configuration, thus not embodying the true essence of popular sovereignty (Panjaitan & Hulu, 2021). The law functions primarily as a mechanism for regulating and managing electoral procedures, neglecting the substantive will of the electorate, which should ideally be reflected in the electoral outcomes. This phenomenon further reinforces the notion that the legal framework within Pilkada system is predominantly concerned with procedural administration rather than advancing justice for the electorate. The legal-positivist approach in the regulation of the empty ballot box raises critical inquiries regarding the extent to which the law can facilitate meaningful expression of the people's more substantive political aspirations. From a legal-positivist perspective, the law is viewed as a set of formal norms that must be adhered to, without regard for the underlying moral or substantive justice principles inherent within those norms (Waldron, 2010). Consequently, the empty ballot box, which in the context of popular sovereignty should serve as a tool for reforming or restructuring the electoral system, is utilized primarily as a procedural safeguard, designed to preserve the existing electoral processes without initiating any significant change in local political dynamics. Therefore, if the empty ballot box continues to be perceived merely as an administrative instrument, without contributing to structural political change, it risks losing its significance as a tool for effectuating popular sovereignty.

The Tyranny of Single Candidates: Distortion of the Principles of Pilkada

The principles of regional elections, as outlined in Article 2 of Law No. 1/2015, stipulate that local elections must adhere to the principles of direct, general, free, secret, honest, and fair elections. These principles serve as the legal foundation guiding the procedural implementation of elections and ensuring the continuity of substantive democratic principles at the local level. However, the phenomenon of single candidates in regional elections has sparked profound legal debates regarding whether such a condition can still reflect the implementation of these principles, or whether it creates a distortion that undermines the very substance of democracy itself.

The increasing prevalence of the single-candidate phenomenon in Pilkada poses a significant challenge to the foundational principles enshrined in Article 2 of Law No. 1/2015, which mandates that the administration of regional elections be conducted by the principles of direct, universal, free, secret, honest, and fair elections. Specifically, the principle of direct elections, which mandates that voters make their choices freely and without coercion, is at risk of being undermined by the restrictive nature of the single-candidate system. Voters are effectively presented with a dichotomy of choices—either to "accept the candidate" or "reject by voting for the empty box"—failing to adequately enable voters to exercise their political rights and make a meaningful decision fully. This limitation extends to the principle of universality, as the constrained options diminish public participation and engagement in the electoral process, thereby preventing a truly representative democracy. The existence of a single candidate can thus be interpreted as an encroachment on political participation, which should reflect the people's will in an unrestricted and uncoerced manner, devoid of undue influence from dominant political forces or vested interests. Such a situation

poses a risk to the principles of electoral fairness and equality as guaranteed by law, undermining both the integrity and legitimacy of the local election results. This, in turn, threatens to weaken the broader constitutional principle of the rule of law in the democratic process.

Moreover, the principle of electoral freedom in the context of local elections faces significant jeopardy, which could substantially erode the essence of political liberty as enshrined in Law No. 1/2015. According to Article 2 of Law No. 1/2015, the principle of freedom mandates that Pilkada must afford voters the autonomy to make their selections from a spectrum of alternatives that genuinely embody the pluralistic nature of political aspirations. However, in circumstances where only a single candidate is presented, this autonomy is markedly constrained, as voters are limited to two non-substantive options: either to endorse the sole candidate or to vote for the empty box, neither of which produces any meaningful shift or alteration in the regional political power structure. Consequently, voter's freedom to exercise their political rights without coercion is reduced to a mere simulacrum of freedom, effectively undermining its substantive function. Additionally, the principle of secrecy, as safeguarded in Article 2 of Law No. 1/2015, is also susceptible to infringement. In a situation where the range of choice is significantly restricted, the predictability of voter behavior increases, thus heightening the potential for political or social pressure to be exerted on voters. In this regard, the existence of a single candidate in local elections threatens to subvert the foundational principles of electoral democracy, ultimately distorting the valid will of the electorate and compromising the integrity of a just and legitimate democratic process.

Moreover, the principles of honesty and fairness, which are fundamental to ensuring both procedural and substantive justice in the implementation of Pilkada, are critically endangered by the prevalence of single-candidate elections. The principle of honesty, which necessitates transparency and immunity from manipulation within the electoral process, requires that all stages of the election be conducted with integrity, including the provision of meaningful and equitable choices for voters. This principle dictates that the electoral process be open and that various candidates be available, allowing voters to make a decision aligned with their autonomous will. In the context of a single-candidate election, the realization of the principle of honesty is severely compromised, as voters are deprived of the opportunity to choose freely between candidates who differ in qualifications and policy orientations. The principle of fairness, which demands equal and just treatment for all parties involved, is equally undermined by the emergence of a single candidate. The principle of fairness mandates that all potential candidates be afforded equal opportunity to compete within a genuinely competitive electoral environment. In the scenario of a single-candidate election, this principle is nullified, as voters are offered only the binary choice of either accepting the sole candidate or selecting an empty box, neither of which reflects the substantive notion of equality in voting rights. Consequently, the occurrence of single-candidate elections has the potential to infringe upon the constitutional right of voters to participate in a free, equal, and meaningful electoral process, thus eroding the credibility and legitimacy of the democratic procedure.

The phenomenon of single-candidate elections in Pilkada increasingly reveals a fundamental misalignment with the core principles that constitute the foundation of such electoral processes. This situation distorts the essential tenets of healthy and

sustainable political competition. As mandated by Law No. 1/2015 and its amendments, Pilkada are designed to facilitate direct public participation in selecting regional leaders who are perceived as best to represent the interests and aspirations of the electorate. Ideally, the electoral process serves as a mechanism for evaluating various candidate alternatives, each offering potential solutions to the region's socio-political challenges. However, when only a single candidate is presented, the principle of competition—which is intrinsic to the democratic system—loses its fundamental relevance, thereby undermining the very essence of electoral democracy.

This distortion becomes increasingly apparent in the erosion of the core function of Pilkada as a process for selecting regional leaders based on the electorate's free and informed choice. Pilkada with a single candidate devolves into a mere procedural formality, devoid of any substantive opportunity for voters to select candidates who align with their values, needs, and aspirations. This scenario threatens to undermine the public's comprehension of the very essence of Pilkada, which ought to serve as a critical mechanism for identifying leaders capable of exercising public authority in alignment with the aspirations of the citizenry. The occurrence of a Pilkada with only one candidate, even if it is conducted purely to satisfy administrative requirements, diminishes the democratic process, stripping away its role as a space for voters to make free and equitable choices. Furthermore, the presence of a single candidate fosters public cynicism and erodes confidence in the legitimacy of the local democratic system. When the electoral process is reduced to a mere tool for legitimating specific political actors, the public begins to question the integrity of the democratic system itself. This perception is further compounded by the failure of the existing legal framework to provide a more inclusive and representative mechanism capable of

accommodating a diverse range of candidates. In this regard, the distortion of the democratic system is not only attributable to the dominance of a single candidate, but also to the legal system's failure to ensure the viability of genuine electoral alternatives for the electorate.

According to Article 54D of Law No. 10/2016, as reinforced by Constitutional Court Decision No. 126/PUU-XXII/2024, in the event that the "empty box" wins the election, a re-election must be held in the subsequent electoral period. However, this mechanism illustrates a structural impasse within the electoral system, failing to create room for substantial reform in the nomination process. The re-election merely replicates the existing cycle, without undertaking any meaningful reform within the candidate nomination processes or the Pilkada's conduct. This perpetuates a distortion in the democratic process, wherein the electorate, which should serve as the central actor in political decision-making, is effectively sidelined by a legal framework that offers no viable alternatives for voters in selecting their leaders. As a result, the current legal framework is mainly reactive and procedural, accommodating formalistic interests without addressing the more profound need for substantive solutions to improve genuine democratic representation. The Pilkada system, which should ideally offer space for diverse political choices and candidates for regional leadership, becomes ensnared in a paradigm that reinforces the prevailing political status quo. This highlights the urgent need for legal reforms, particularly in the nomination and electoral processes, to ensure that electoral democracy truly reflects the will and aspirations of the people, while fostering a political competition that is healthy, equitable, and inclusive.

The Empty Box Under the Shadow of Legal Positivism: Legitimacy vs. Legality

The empty box in regional elections also implicates essential civil and political rights as outlined in international law. Article 25 of the ICCPR, to which Indonesia is a state party, guarantees every citizen the right and opportunity to participate in public affairs, vote, and be elected at genuine periodic elections with universal and equal suffrage. Even when mitigated by the empty box option, the absence of viable electoral choices in single-candidate elections, may fall short of these standards. While procedurally legal, the mechanism does not always result in a meaningful realization of these rights, particularly when the system fails to offer new alternatives in the re-election process. Therefore, the current regulatory approach must be reassessed not only in light of democratic theory but also under international human rights obligations, which require the state to enable an inclusive, competitive, and participatory electoral environment.

The regulation of the "empty box" mechanism, designed as a solution to scenarios where only a single pair of candidates remains in an electoral district, addresses the potential political void that could lead to legal uncertainty. However, a deeper analysis reveals that this regulation epitomizes the influence of legal positivism within the framework of Pilkada, with significant ramifications for the underlying principles of justice that sustain democratic governance. While the provision concerning the "empty box" raises concerns about the procedural continuity of elections and the legitimacy of the political process, it highlights a broader tension between legal formalism and the substantive democratic values of political legitimacy. This underscores a critical examination of election's procedural and legal dimensions, questioning whether the current framework adequately upholds democratic principles or adheres to a mechanistic interpretation of legality.

Legal positivism, as expounded by scholars such as John Austin (Dyzenhaus, 2011; Saputra et al., 2023) and H.L.A. Hart (Julisa Sistyawan et al., 2024; Kramer, 2021), perceives law as a system of rules that are established, enforced, and upheld by a legitimate authority, independent of any moral or ethical principles outside the legal framework itself. This normative construction serves to ensure the procedural continuity of Pilkada, addressing situations where only a single candidate is running, thus creating a political vacuum that could otherwise undermine the proper functioning of the democratic process.

Consequently, the "empty box" within the electoral framework functions primarily as an administrative tool designed to resolve issues arising from the existence of a sole candidate. However, when critically examined, this legal provision underscores the manner in which legal positivism, within its narrowly procedural approach, disregards the substantive principles of democracy. In a democratic system, the integrity of the political process should not be gauged solely by procedural adherence but also by the quality and inclusivity of public participation in shaping political outcomes that resonate with the needs and aspirations of the electorate. The "empty box" mechanism, by contrast, fails to foster substantive democratic engagement, as it does not facilitate meaningful electoral choice or encourage the active involvement of the electorate in determining the political direction of their region. Instead, it perpetuates the status quo by enabling a legally permissible solution to an administrative problem, without addressing the deeper democratic deficit that arises when the electoral process fails to offer voters genuine alternatives. This emphasis on the legal validity and procedural aspects of the election process results in a tension within a democracy that purportedly values substantive justice and political

equality, highlighting a fundamental contradiction in applying positivist legal principles within the framework of democratic governance.

From a democratic perspective, the decision to introduce the "empty box" mechanism should be driven by the understanding that democracy is not merely about counting votes or ensuring the smooth running of the election process. Democracy demands authentic representation, where people's will is recorded as numbers and genuinely translated into policies and tangible political changes (Dryzek & Niemeyer, 2008). The existence of a provision regarding the "empty box" as an alternative for voters who do not support a single candidate slate highlights the tension between procedural legality and the need for political representation. This reveals the weakness of the "empty box" rule, which prioritizes the continuity of procedural aspects without providing space for more meaningful and substantive representation for the people.

The provisions contained in Law No. 10/2016 stipulate the necessity of a re-election if the votes for the "empty box" surpass those for the sole candidate, formally fulfill procedural requirements without addressing the underlying essence of political representation. When a voter selects the "empty box," it is not simply an act of dismissing the available candidate slate, but rather a manifestation of dissatisfaction with the political options presented. Choosing the "empty box" serves as a form of protest, articulating a lack of confidence in the quality of the candidates put forward. However, the existing legal framework fails to accommodate this protest in a manner that would result in substantive reforms to the nomination or electoral system. The law does not offer an alternative that improves the competitive nature of the candidate nomination process; instead, it perpetuates political impotence. While the law is intended to function as a means of achieving substantive justice and providing room

for changes that reflect the people's aspirations, it becomes ensnared in procedural formalities. The legal validity emphasized within this framework prioritizes procedural compliance, disregarding the broader political need to cultivate a more representative and accountable electoral system. This reveals a fundamental disconnect between the law's positivist conception and the deeper democratic values it is supposed to serve. In the positivist view, the central focus is on the mere existence of the rule itself, rather than the outcomes that should ideally be achieved through its application in real political contexts.

Furthermore, the regulation of the "empty box" raises significant concerns about the principle of popular sovereignty, as previously discussed. Popular sovereignty ought to place the people's aspirations at the core of the legitimacy of governance. However, the "empty box" mechanism, which mandates a re-election if the "empty box" wins, does not address the people's demand for substantive political change. Instead, this provision tends to merely reset the election without guaranteeing that the re-election will yield more representative or democratic candidates. This further illustrates the incongruence between the principle of popular sovereignty and the manner in which the law treats voter protests expressed through the "empty box."

The critique regarding the persistence of the power status quo, compounded by the absence of a mechanism for fulfilling the aspirations of the populace, becomes even more pertinent when situated within the framework of Jean-Jacques Rousseau's theory of popular sovereignty (White, 2019). Rousseau contends that popular sovereignty extends beyond the mere right to vote; it represents a fundamental instrument for shaping the trajectory of governance (McKay, 2023). The "empty box" victory should catalyze structural reforms within the local political system, rather than merely

repeating the electoral process, which risks perpetuating the same political configuration. Unfortunately, the prevailing legal provisions instead reinforce the political status quo, allowing dominant political actors to retain the ability to control the nomination process without facing substantial opposition or scrutiny. Furthermore, continuing the power status quo in the "empty box" case exposes a critical tension between legality and legitimacy.

While the legality resulting from the re-election provision satisfies procedural requirements, it does not necessarily confer genuine political legitimacy upon the candidates who ultimately prevail in the re-election. For legitimacy to be established, it requires widespread acceptance by the people, which is fundamentally dependent on the extent to which their political aspirations are met. The emerging political legitimacy remains superficial when the re-election process merely replicates the prior cycle without offering substantively different or more representative candidates. This highlights the failure of the legal system to function as an effective mechanism for achieving substantive justice, both social and political. The legal framework, rather than facilitating genuine democratic participation and responsiveness to the people's will, becomes an instrument that maintains procedural formalism at the expense of meaningful democratic engagement and transformation.

To gain a deeper understanding of this paradox, reference may be made to the philosophy of progressive law, which posits a more justice-oriented approach and incorporates ethical values into legal regulation. Progressive law fundamentally rejects the notion that law is solely concerned with compliance with established rules. Instead, it views law as an instrument for achieving comprehensive justice that transcends mere normative fulfillment and strives to instigate meaningful transformations within

societal and political structures. In the present context, regulating the "empty box" mechanism should function as an opportunity to facilitate structural changes within the regional election nomination system. However, to actualize progressive legal principles in this context, there is a pressing need for a paradigm shift in understanding law within the democratic framework. Law should not merely regulate procedural matters but ensure that such processes yield positive, substantive outcomes for preserving and enhancing democracy. The legal reforms required should focus on improving the nomination and electoral procedures, thereby ensuring a broader array of candidates that genuinely reflect the diverse political aspirations of the electorate. Law must serve as a tool that guarantees every citizen's voice, including those who choose the "empty box," is meaningfully acknowledged, thereby enabling real and tangible political change.

Thus, the regulatory framework surrounding the "empty box" mechanism in Pilkada, which is entrenched in a legal-positivist paradigm, exposes the inherent limitations in advancing justice within local democracy. When law is confined to procedural concerns, without addressing its ramifications for political legitimacy, it risks eroding the foundational integrity of the democratic system. Therefore, it is imperative to reimagine the regional electoral framework to establish a more genuinely democratic process that accommodates public dissent in response to single-candidate scenarios and effectuates substantive reforms within the local democratic fabric. Such a reconfiguration would ensure that the law transcends mere procedural legitimacy, evolving into a transformative tool that actively fosters participatory democracy, aligning with the principles of justice and the people's will.

Reconstruction of the Empty Box: Toward a Progressive Democracy

The reconstruction of the "empty box" regulation in Pilkada represents an urgent imperative to ensure that the electoral process for selecting regional leaders transcends mere procedural formalism and functions as a substantive instrument of democracy. Within the framework of progressive constitutional law, such regulation must be oriented toward enforcing the principle of popular sovereignty, which ought not only to be symbolic but also substantively realized.

The current formulation of the "empty box" provision has faced significant critique, primarily due to its perceived neglect of the foundational principles of democratic governance. In its existing form, this mechanism tends to perpetuate a mere repetition of the electoral cycle without offering tangible solutions to the electorate's need for genuine political representation. Consequently, it is imperative to reassess the regulation surrounding the "empty box critically", given its potential to undermine the democratic principles of popular sovereignty. Such a reassessment is essential to realign the legal framework with the substantive aspirations of democratic processes, ensuring that electoral reforms provide meaningful and effective representation to the people.

Referring to the "law as integrity" approach articulated by Ronald Dworkin offers a critical conceptual framework for evaluating the existence and application of the "empty box" regulation. Dworkin contends that law must embody moral principles safeguarding justice for all parties involved (ALLAN, 1988). The "empty box" regulation, this mechanism frequently fails to satisfy the requirements of legal integrity, as it prioritizes procedural formalities over substantive justice. The decision of voters to select the "empty box" does not yield any meaningful impact on structural reforms or the enhancement of democratic quality.

A legal system that does not imbue political decisions made by the people with substantive moral value contradicts the essence of authentic democracy. Criticism of the "empty box" regulation should therefore begin with thoroughly evaluating its functional role within the democratic system and the regional election framework (Mara, 2018). This mechanism is often perceived as a remedial response to the failure of the political system to provide representative candidates. However, the continued existence of this regulatory measure may reveal the dysfunction of political parties in executing the selection and nomination processes in a manner that truly reflects the electorate's will. Within the law paradigm of integrity, the failure of political representation should not be addressed through formalist solutions such as the "empty box" provision. Instead, it requires more comprehensive structural reforms, including the strengthening of political party accountability in the nomination process, to ensure that the democratic system more effectively represents the aspirations of the people.

The proposal to eliminate the "empty box" regulation is grounded in the assertion that this mechanism fails to provide a substantive legal resolution to the issue of political representation. Instead, this regulation reinforces the status quo by enabling political parties to circumvent their obligations to present qualified and competent candidates for regional office. From the perspective of law as an instrument of justice, the abolition of the "empty box" regulation could be accompanied by the introduction of alternative legal mechanisms that more effectively respond to the political aspirations of the electorate. For instance, provisions could be enacted that facilitate the participation of independent candidates in Pilkada, or mandates could be instituted requiring political parties to engage in public consultations before finalizing their candidate selections.

Removing of the "empty box" mechanism could also enhance the quality of electoral processes by fostering active public engagement. The justice principles advanced by Dworkin can be actualized through legal provisions that provide greater space for citizens to articulate their political aspirations (Mahfud, 2020). A concrete measure would involve the establishment of public forums or open deliberative processes that involve diverse societal stakeholders before the nomination procedures are initiated. Such a model enhances the legitimacy of the electoral process and strengthens the linkage between the electorate and their prospective leaders, thereby facilitating the emergence of political representation that is both credible and genuinely reflective of the people's will. Dismantling the "empty box" provision should be seen as a critical component in the broader agenda of legal and democratic reform. In this context, law must serve as a mechanism for achieving justice and fostering democratic ideals, rather than merely functioning as a tool to uphold procedural formalism. Hence, the reformation of the regulatory framework surrounding the "empty box" in local elections, when grounded in principles of justice, morality, and public accountability, represents a crucial step in advancing a more just, inclusive, and sustainable democratic system.

C. CONCLUSION

The "empty box" mechanism in Pilkada responds to the condition of single-candidate races, reflecting a phenomenon of democracy at the regional level. While intended to maintain the procedural continuity of elections, this regulation opens a critical discussion on the legitimacy of democracy and substantive justice. The "empty box" provision is stipulated in Constitutional Court Decision Number 100/PUU-

XIII/2015, Law No. 10/2016, and related Election Commission regulations as an administrative solution to address election deadlock caused by the presence of a sole candidate. This option provides voters the opportunity to express dissatisfaction with the proposed candidate. However, this mechanism focuses more on legal proceduralism, without affecting structural changes in the local political configuration. When the "empty box" wins, the election is merely repeated without reform in the nomination process to introduce more competitive candidates. The "empty box" symbolizes protest against a political system that is perceived as less representative. Nevertheless, the existing legal framework fails to translate this protest into substantive change. This reveals the dominance of the legal-positivist approach, which emphasizes procedural legality, disregarding the moral and substantive justice aspects of democracy. As a result, the "empty box" choice reflects an administrative compromise rather than serving as an instrument for advancing true popular sovereignty. The "empty box" regulation also illustrates a distortion of the foundational principles of local elections, such as direct, general, free, secret, honest, and fair elections. The limited options provided by the single-candidate system curtail the political freedom of voters and undermine the integrity of the democratic process. The "empty box" does not fully reflect the people's will but extends the status quo without offering better alternatives. The "empty box" regulation should be designed to reflect moral values and justice, including strengthening political party accountability in the nomination process. Such reforms could involve introducing alternative nomination mechanisms, facilitating independent candidates, and involving the public in consultations before the finalization of candidates.

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