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## Empty Box Legality as A Form of Democratic Betrayal

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### KEYWORDS

legality,  
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### ABSTRACT

The legality of empty boxes in Indonesia's elections raises critical questions about democratic legitimacy and public trust. Empty boxes often symbolize voter dissatisfaction with candidates, reflecting deeper systemic issues within the democratic framework. This study examines the legality and implications of empty boxes, employing a normative juridical approach to analyze legal and political perspectives. Data were collected through a legislative, comparative, and case-based approach, followed by descriptive analysis. The findings reveal that while empty boxes can serve as a form of protest, they also highlight the limitations of political parties in presenting viable candidates. This phenomenon undermines the legitimacy of electoral outcomes and public trust in democratic institutions. By exploring voter behavior, legal frameworks, and historical precedents, this research identifies the empty box phenomenon as a critical challenge to Indonesia's democracy. The study concludes that addressing the root causes of voter dissatisfaction and promoting political competition are essential for safeguarding democratic integrity. This research contributes to the discourse on electoral governance and offers recommendations for strengthening Indonesia's democratic processes.

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### INTRODUCTION

An empty box in the context of elections refers to a situation where voters do not vote for any candidate and choose to leave the ballot box empty. This phenomenon is often seen as a form of protest or dissatisfaction with the available options. However, the legality and interpretation of an empty box in a democratic system is often debated. In many countries, elections are governed by strict laws stipulating that voters must vote for the candidate. However, the presence of an empty box raises questions about the right of voters to express dissatisfaction with the proposed candidate.

In the book *How Democracies Die* by (Levitsky & Ziblatt, 2019), it is stated that democracy can die from a coup or die slowly. The death can go unnoticed when it occurs step by step, for example by the election of authoritarian leaders, the abuse of government power and the total suppression of the opposition, including by dominating the nominations in elections.

Whether we realize it or not, democracy is slowly deteriorating. In the context of local elections in Indonesia, one of the things that will bring democracy to a slow death is the emergence of the empty box phenomenon in local elections. The phenomenon of a single candidate against an empty box will again occur in the 2024 regional elections, although the empty box phenomenon is not new, it still surprised the public, triggering a debate about its impact on democracy in Indonesia (Anggraini et al., 2015).

The empty box phenomenon in local elections can be seen from two sides. First, the empty box trend has a negative impact on the future of democracy in Indonesia because the presence of empty boxes shows the lack of competition and transparency in the implementation of regional elections, this condition makes the community have no ideal choice in choosing leaders in the regions. This phenomenon also reflects the failure of the democratic system, which is supposed to present diverse choices for the community in general elections. Democracy should be understood not only as procedural, but also as a system that guarantees healthy competition. A system that guarantees healthy and fair competition. The empty box phenomenon is not only a matter of political technicalities but also about the future of Indonesian democracy.

The democratic process that has been fought for at great cost and full of challenges is now threatened to be "manipulated" by political elites by encouraging the support of political parties in the name of coalitions. Democracy is reflected in the aspects of competition, participation, and freedom of the people in making choices in political contestation, including the opportunity to accept or reject people who will become leaders in a region. Secondly, empty boxes reflect complex political dynamics, where major parties unite in a coalition so that there is little room for other candidates to advance, large political parties in coalition control politics at the local level, but actually on the other hand also show the limitations of political parties in preparing qualified party cadres to compete in local elections.

Entering the reform era, there were changes to the 1945 Constitution. One of which changed the direct election mechanism to elect the president and vice president as well as to fill the seats of the legislative body. The organization of the government adheres to the system of constitutional democracy. The mechanism for filling certain political positions in the government is directly elected by the people. The choice of the mechanism for filling certain political positions by direct election is none other than so that the government formed has broad legitimacy. (Widodo, 2014). When the simultaneous election started the scene in the general election in Indonesia, the polemic of the single candidate phenomenon made the General Election Commission (henceforth KPU) make a decision Number 100/PUU-XIII/2015. The emergence of a single candidate is caused by the existence of dowries from various political parties that are very expensive, and immediately the background of this single candidate pair is a phenomenon in the history of elections in Indonesia. According to the Constitutional Court, Pilkada that is only followed by one pair must be placed as the last effort, solely for the sake of fulfilling the constitutional citizens, after previously attempting earnestly to find at least two pairs of candidates.

Voting participation is one of the needs so that the sustainability of democracy and the political system does not experience obstacles. Elections as the main instrument of democracy are one of the instruments that bridge the people's voice as the owner of sovereignty to give a mandate to someone as a representative of the people or as a ruler who will sit in government. It is not surprising that the issue of high and low participation rates is related to the level of legitimacy and trust of citizens in their representatives or people who are mandated to run the government and issue policies. As part of the sustainability of democracy, the level of voter turnout will also have an impact on who will win elections and govern the lives of many people.

Based on the explanation above, the research problem formulation can be stated: How does the impact of voters who choose empty boxes on the legitimacy of general election results?, and How is the legality and interpretation of empty boxes in a democratic system?

Previous studies have explored various aspects of the empty box phenomenon in elections. Romli (2018) investigated the implications of single-candidate elections and their impact on local democracy, revealing how political elites manipulate electoral processes to maintain power. Yunus (2018) analyzed instances where the empty box outperformed single candidates, highlighting voter dissatisfaction with political parties. Furthermore, Nurhalimah

(2017) examined the polemics of single-candidate elections, emphasizing how the lack of competition erodes democratic values. Despite these insights, limited research exists on the broader implications of the empty box phenomenon for democratic legitimacy and public trust, especially in the context of Indonesia's evolving democratic framework.

The increasing prevalence of the empty box phenomenon in regional elections in Indonesia underscores an urgent need to address its implications for democracy. This trend signals a critical moment for evaluating the legitimacy of electoral outcomes and the public's trust in political institutions. As Indonesia consolidates its democracy, addressing this issue becomes imperative to ensure the integrity and sustainability of its electoral processes.

While previous research has focused on the technical and legal dimensions of single-candidate elections, there is a lack of comprehensive analysis on the broader democratic implications of the empty box phenomenon. Specifically, the interplay between voter dissatisfaction, public trust, and democratic legitimacy remains underexplored.

This study provides a novel perspective by examining the empty box phenomenon as a potential betrayal of democratic principles, rather than merely a procedural anomaly. By integrating legal, political, and sociological perspectives, it offers a holistic understanding of how this phenomenon challenges democratic norms and public trust.

This research aims to analyze the legality and democratic implications of the empty box phenomenon, focusing on its impact on electoral legitimacy and public trust. It seeks to uncover the underlying causes of voter dissatisfaction and explore solutions to strengthen Indonesia's democratic framework.

The findings of this study will benefit policymakers, electoral bodies, and civil society organizations by providing actionable insights into improving electoral laws and processes. Additionally, it will contribute to academic discourse on democracy and electoral governance, particularly in emerging democracies.

This research highlights the need for reforms to address the root causes of voter dissatisfaction and promote healthy political competition. It underscores the importance of fostering transparency, accountability, and inclusivity in electoral processes to restore public trust and uphold democratic values.

## RESEARCH METHOD

The research used in writing is normative juridical. The sources of legal materials used in this research are primary legal materials and secondary legal materials. Primary materials used are legal science books. The types of approaches used in this research are legislative approaches, comparative legal research approaches, cases and legal analysis approaches. The data processing method used is the analysis method which is then outlined in descriptive analysis writing.

## RESULTS AND DISCUSSION

In the history of elections in Indonesia, voter turnout has often been interpreted as an indicator of electoral success. Elections that have a high level of participation are considered to have undoubted legitimacy. Conversely, if the level of participation is low, it is often associated with the basic question of whether the election results have strong or low legitimacy. It is usually shown in voter behavior, that a high or low level of voter participation depends on who is voting, whether voters who are already rational make choices on the basis of certain considerations, or voters who are more dominated by mobilization, certain incentives or other greater momentary interests. (Indonesia, 2015).

Democracy was originally born from thinking about the relationship between state and law in ancient Greece, practiced in state life in the third century BC until the sixth century AD. At that time, from the point of view of its implementation, the democracy practiced was direct.

This means that the people's right to make political decisions is exercised directly by the people (citizens), acting on agreed procedures. The democracy practiced in ancient Greece disappeared when the Romans were defeated by Western Europeans. Europeans at that time were supported by the power of kings and churches (theocracy). Then in the XIV century, democracy reappeared in Europe. The emergence of democracy was driven by social and cultural changes that emphasized the freedom of reason from various restrictions. This event was called by Europeans with renaissance and reformation. This renaissance arose after the Europeans were involved in the crusade against the Islamic army in the struggle for the city of Yarusalem in the Middle East. (Mahmuzar, 2020)

The history of democracy is also characterized by contradictory interpretations. Ancient notions are mixed up with modern understandings of democracy. Democracy as an idea and as a practice are fundamentally tested, and often contradicted. In terms of ideas, the idea of democracy is intriguing. But historically, the development of democratic thought can also be confusing. Modern democracy is not only faced with internal problems of democracy but also external problems of democracy, because the issue of democracy has crossed national boundaries. The processes of the global economy, environmental problems, as well as the protection of minorities and the disadvantaged, are also of concern to the international community. (Harjono, 2019).

### **The Impact of Empty Boxes on the Legitimacy of General Election Results**

Electoral governance is a combination of two main concepts, namely governance and election. Saheen Mozaffar and Andreas Schedler define electoral governance as a collection of interrelated activities involving rule-making, rule enforcement and rule adjudication (Mozaffar & Schedler, 2022).

The emergence of an empty box coincided with the presence of a single candidate after the revision of Law No. 8 of 2015 into Law No. 10 of 2016 concerning Pilkada. The basis for the change was triggered by the phenomenon of a single candidate in several electoral districts that held simultaneous elections in 2015. This condition overwhelmed the KPU. A similar case occurred again in the second simultaneous elections in 2017. And for the third time the same phenomenon shocked the public in the country, after the third wave of simultaneous regional elections on June 27, 2018. Juridically, this phenomenon does not violate the rules, because the provisions regarding single candidate pairs have been accommodated in Article 54 C of Law No. 10/2016.

Although faced with an empty box, a single candidate must still go through all stages in the Pilkada, so that the single candidate will continue to work to convince voters that he is the right choice for voters. That way, single candidates will continue to campaign and convey their vision and mission even though their opponent is an empty box. Even though it is against an empty box, there is no guarantee that the regional head candidate against an empty box will definitely win.

This empty box phenomenon can occur due to the relationship with elite theory that in regional political contestation, elites to win regional head elections exploit public sources of power which in this study are identical to bureaucratic officials in the regions and also the opinion of the Executive Director of the Association for Elections and Democracy (Perludem) Titi Anggraini revealed that political parties that did not come forward to nominate their cadres were due to political pragmatism because they preferred to build political compromises with incumbents, then get electoral benefits in the form of post-election political compromises rather than using Pilkada as an agenda to test the abilities of cadres and party organizational structures, so they prefer to save their funds for the next election.

General Elections of Regional Heads and Deputy Regional Heads, or often called Pilkada or Pemilukada, are part of the implementation of democracy. Regional Head is a political position in charge of leading and driving the pace of government. The terminology of public

office means that the regional head carries out a direct decision-making function with the interests of the people or the public, has an impact on the people and is felt. Therefore, the Regional Head must be elected by the people and must be accountable for it. Meanwhile, the meaning of political office is that the recruitment mechanism for regional heads is carried out politically, namely through elections involving political elements, namely by selecting the people against figures who are nominating as regional heads. In political life in the regions, Pilkada is an activity whose value is parallel to the legislative elections, proving that the regional head and DPRD are partners. (Bambang Kurniawan & IP, 2019).

Regional Head Elections (Pilkada), which are also part of General Elections (Pemilu), are institutionalized conflicts, or the process of seizing power that occurs in the regions (Surbakti, 2020). The Pilkada Law was made with a long process, which was initially in the form of a Government Regulation in Lieu of Law, then turned into a Law in 2015 that regulates the entire course of Pilkada, including simultaneous Pilkada and Pilkada with one candidate pair, and this Law was revised again in 2016.

In relation to regulations, according to Collins (2012), regulations are rules made by the government or other authorities to control the way things are done or the way people behave. KPU regulations are a natural extension of the law that defines and controls the stages of Pilkada or elections. The function of regulation is to regulate the election organizers in carrying out the election stages. Regulations are designed through certain processes where all organizers and participants are bound and subject to the rules set to achieve a common goal. Usually, if someone violates these rules, there will be sanctions.

Some of the arguments supporting the view that an empty box is a form of betrayal of democracy include:

1. **Reduced Participation:** an empty box can be seen as a sign of lack of interest or trust in the existing political system, which can reduce overall voter turnout. This can have a negative impact on the legitimacy of the election result.
2. **Shifting Responsibility:** By voting for an empty box, voters may not feel responsible for the outcome of the election.
3. **Threatening Political Stability:** If the empty box phenomenon becomes more widespread, it could signal a crisis of confidence in the political system, which in turn could disrupt stability and politics.
4. **Losing Constructive Votes:** Voters who vote for an empty box will lose the opportunity to cast their vote for a candidate who may be better, albeit not perfect.

The impact of voters who choose empty boxes on the legitimacy of general election results can be seen from several aspects:

1. **Public Perception:** When the number of empty box votes is high, this can create a perception that the candidates do not meet the expectations of the public. This can undermine the legitimacy of the election results, as the public feels there are no viable options.
2. **Legitimacy of the Government:** If an elected candidate receives a low percentage of the vote, especially if there are many blank votes, the legitimacy of the elected government may be questioned.
3. **Voter Participation:** The high number of empty box votes often indicates a high level of dissatisfaction among voters. This can have an impact on participation in subsequent elections, where voters may become apathetic and reluctant to participate.

Indonesia is currently at the stage of consolidating democracy (Satriawan & Mokhtar, 2020) According to Linz and Stephan, one of the reasons is that there is a direct electoral process by the people and is guaranteed in its implementation based on the principles of direct, general, free, and secret, as well as honest and fair, which has implications for the legitimacy of power based on popular votes. According to Linz and Stephan, one of the reasons is that it is characterized by a direct election process by the people and is guaranteed in its implementation

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### **Legality and Interpretation of Empty Box in Democratic System**

The Constitutional Court's decision is in line with Article 1 paragraph (2) of the 1945 Constitution, which reads that sovereignty is in the hands of the people and is exercised according to the Constitution, as interpreted by the Constitutional Court judges on the legality of the single candidate phenomenon in Indonesia. To emphasize the constitutional basis of single candidates, the Constitutional Court's decision states that single candidates are part of the realization of Article 18 paragraph (4) of the 1945 Constitution.

Although the existence of a single candidate has been declared constitutional and guaranteed in the Constitution and the Law, it does not mean that this is a natural and common thing. We must know the reasons behind the phenomenon. There are several symptoms why the phenomenon of single candidates continues to increase in Indonesia, namely the decline in public trust in political parties, high political costs, and avoiding the risk of defeat. Although empirically, the single candidate phenomenon is evidence of empirical democracy that occurs in society and is an unexpected phenomenon in the development of democracy in Indonesia. (Nurhalimah, 2017).

The declining quality of democracy, and the declining level of public trust in political parties, will naturally have an impact on elections, especially regional elections. This is evidenced by the fact that there are fewer and fewer participants participating in regional-level democratic contestation because they are no longer able to produce leaders in the regions. With the sign of the gathering of all parties and becoming one camp in the regional elections, the essence of the checks and balances system has automatically disappeared. (Tóth, 2019).

Empty boxes in general elections have complex meanings and interpretations in a democratic system. Its legality is closely related to electoral regulations and the prevailing socio-political conditions. It is important for policymakers and society to understand the implications of this phenomenon in order to respond wisely in improving the existing democratic system. Discussions about empty boxes can help encourage greater participation and create a political system that is more responsive to people's aspirations.

There are several factors why the phenomenon of a single candidate occurs and continues to increase from year to year, namely, first, the existence of very strong political interests between the incumbent and political parties, therefore political parties carry out a strategy of alliances and coalitions solely to close the gaps and paths of other candidates when they have differences in vision and mission for the benefit of these political parties. (Yunus, 2018). Meanwhile, political parties play a role in winning and/or propping up incumbents because they have high electability, strong bureaucratic resources, institutional strength, and control of various institutions that can influence the public (Romli, 2018). This is a characteristic of an oligarchic government. This is because the leader in nominating himself again uses his power to perpetuate his power, so that anything can be done. (Summers, 1984).

Various cases of single candidates against empty boxes with quite complicated results in the implementation of democratic parties in Indonesia, suggest that the increasing public distrust of candidates carried by political parties, who assume that there are political interests that are ridden, so that they cannot produce leaders with quality and integrity. This distrust has an impact on public participation in elections that prefer empty boxes by trying many ways so that empty boxes are able to outperform the votes of the opposing candidate pair.

Single candidates are a reflection on the history of democracy in Indonesia and at the same time provide a signal to immediately improve by placing democracy in the right corridor to avoid the tyranny of anthropocentric power. However, it should be realized that the concept of democracy will continue to evolve, so that basically the election of a single candidate does not eliminate the essence of democracy itself, but rather a form of state efforts to maintain

popular sovereignty, because the true implementation of a democracy prioritizes the participation of the community with the use of voting rights which is a manifestation of popular sovereignty and has been mandated in the constitution. (Rini, 2016).

In the direct democracy implemented by Indonesia, there are joints of political morality that must be closely held by the Indonesian people. The morality in question is in the election process, that the people's vote is the highest value that must be used as a benchmark in organizing elections. (Leib, 2013). This includes the choice of prospective community leaders because political oligarchy in a country can undermine a government system in a country (Hadiz & Robison, 2013). The single candidate in the post-reform local elections is a sign of the return of neo-oligarchy to the modern democratic system. This is because voters are forced to choose only certain people at the proposal of political parties and do not open other doors for the entry of regional head candidates. The rules made related to the threshold are one of the triggers narrowing the space for public participation in the elections to find and choose quality leaders based on the conscience of the community.

## CONCLUSION

Voters who vote for empty boxes can have a significant effect on the legitimacy of election results. A high number of empty-box votes indicates public dissatisfaction with the candidates, which can undermine public confidence in the election result and the legitimacy of the elected government. This creates a challenge for the democratic system to maintain public support. The legality of empty boxes varies across countries, depending on the electoral regulations in place. The interpretation of empty boxes as a form of protest or abandonment demonstrates the complexity of understanding voter rights. In some contexts, an empty box can be a means of voicing dissatisfaction, while in others it is perceived as a betrayal of the voter's responsibility in the democratic process.

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