

ACCOUNTABILITY

Vertical Accountability in Asia: **Country Cases (I)**

December 2024



In 2022, Asia Democracy Research Network (ADRN) selected horizontal accountability by the ability of state institutions to hold the executive branch accountable, and vertical accountability through elections, parties and citizens' participation, as the requirements to accomplish robust and sustainable democracy in Asia.

Against this background, ADRN published this report to evaluate the current state of the trends and trajectories of vertical accountability in the region by studying the phenomenon and its impact within countries in Asia, as well as their key reforms in the near future.

The report investigates contemporary questions such as:

- To what extent are elections free, fair, and inclusive, and multi-party in practice?
- To what extent are political parties unrestrained in their foundation and activity?
- How effective does the media provide diverse political perspectives?
- To what extent do citizens voluntarily engage in CSOs, operated without interference?
- To what extent are citizens free to express their views without fear of suppression?
- What should be done to improve the state of vertical accountability performance?

Drawing on a rich array of resources and data, this report offers country-specific analyses, highlights areas of improvement, and suggests policy recommendations to fulfill methods of vertical accountability in their own countries and the larger Asia region.

“Vertical Accountability in Asia: Country Cases (I)”

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Country Case 1: India

Electoral Accountability in India: Emerging Discourse in the Historical Context

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Participatory Research in Asia

1. Introduction

India's democracy has thrived over the past 77 years since the country gained independence from British colonial rule. Its foundation has been fortified through distinct contributions of various pillars, including the parliament, the judiciary, political parties, media, civil society, and most significantly, the citizens. Despite concerns and uncertainties from various corners, the framers of the Indian Constitution and the Constituent Assembly made a pivotal decision by embracing universal franchise. This move opened up the opportunity for every adult Indian to participate in voting and select their representatives.

India embraced constitutional federalism with a unitary structure featuring two tiers of government – the union government and state governments. Subsequently, in 1992, two significant constitutional amendments introduced a third tier of government as an institution of local governance, with Panchayats for rural areas and Municipalities for urban areas. India's parliament is bicameral, consisting of the House of People (Lok Sabha, also known as the Lower House) and the House of States (Rajya Sabha, also known as the Upper House). The representatives of the House of People are directly elected by the people from their respective constituencies, while the members of the House of States are elected by Members of Parliament and State Legislatures. Members of the Lok Sabha are elected for a five-year term, while members of the Rajya Sabha serve a six-year term, with one-third of the members retiring every two years. Both houses are represented by Members of Parliament (MPs). Each Indian state has an elected State Legislative Assembly (also known as Vidhan Sabha), and its members, known as Members of Legislative Assemblies (MLAs), are directly elected by the people. Some states² also have bicameral legislatures with an Upper House known as the Legislative Council. Members of Legislative Councils are elected by representatives of local governments, state legislatures, and others³. In the context of local governance, members of the three-tier⁴ Panchayati Raj Institutions (PRIs) and Municipalities⁵ are directly elected by the people. Additionally, in specific states, mayors or chairpersons of the municipalities may directly elected by the people.

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² Andhra Pradesh, Karnataka, Telangana, Maharashtra, Bihar, and Uttar Pradesh.

³ Nominated by the Governor, elected by the graduates and teachers.

⁴ The three-tier PRIs include Gram Panchayat at the village or village-cluster level, Block Panchayat at the Block level and Zilla Parishad at the district level. Each voter casts three votes to elect members at these three levels.

⁵ There are three categories of Municipalities – Municipal Corporations for the larger cities, Municipal Councils for the medium-sized towns and Nagar Panchayats for small or transition towns.

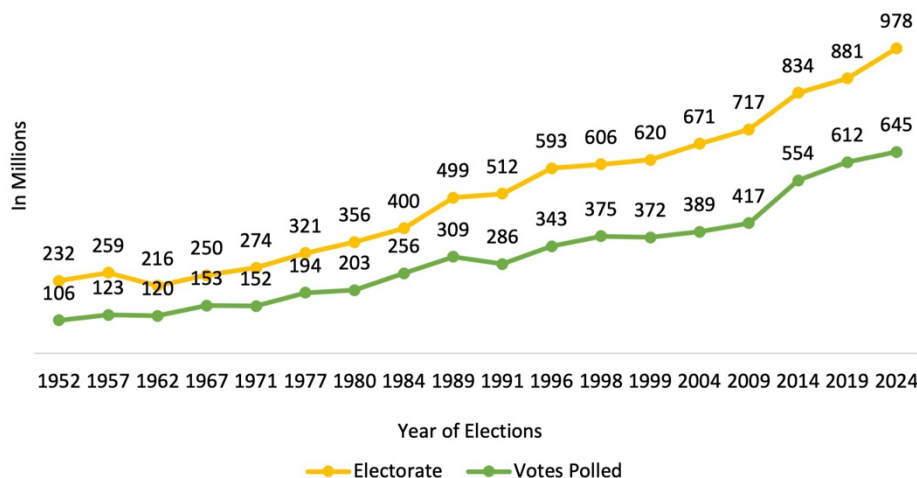
This paper primarily focuses on recent political discourses concerning electoral accountability at the national level. However, it also delves into the historical context of these issues, thus offering readers a more comprehensive understanding of the evolving nature of the discourse. The first section of the paper discusses the extent of citizen participation in elections with a specific focus on the participation of two prominent demographics: women and youth. These constituencies have a significant impact on electoral outcomes in recent elections. It also illustrates the substantial contribution of civil society in promoting electoral participation. The second section explores the functioning of the Election Commission of India, which is responsible for the supervision and management of national and state elections. Furthermore, the paper addresses the controversies surrounding the use of Electronic Voting Machines (EVMs). The subsequent section examines the proposed simultaneous elections of national, state, and local governments, as well as the potential implications for the federal nature of Indian politics. This followed by a section addressing the political party and election campaign financing, a consistently controversial issue in Indian politics. In light of the aforementioned discussions, the paper draws conclusions and proposes crucial policy recommendations.

2. Citizen Participation in Elections

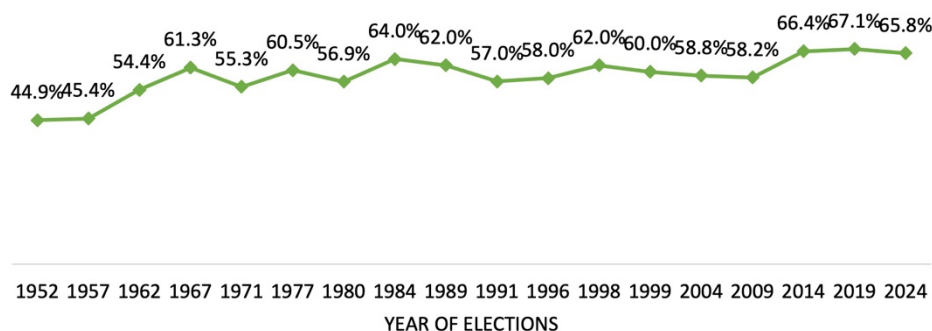
The voter turnout, or electoral participation of citizens, is a key indicator of the strength of a democracy. India is frequently designated as the world's largest democracy due to the significant number of people who exercise their right to vote as granted by the Indian Constitution. Given the country's diverse population, encompassing different genders, religions, castes, ethnicities, geographies, languages, abilities, and more, the specific breakdown of participation has been a topic of interest for scholars. This section will explore the historical context of overall voter turnout, with a specific focus on the participation of women and youth.

As illustrated in Figures 1 and 2, voter participation has increased substantially over the years. The voter turnout has gone up from 44.9 percent in the first Lok Sabha (parliamentary) elections held in 1952 to 58.2 percent in 2009. The 2014 Lok Sabha election marked a notable shift in electoral participation, observing a turnout of 66 percent, exceeding the previous record of 64 percent set during the 1984 national elections. This election witnessed a turnout that was approximately 8 percent higher than the 2009 Lok Sabha elections, which had a turnout of 58.2 percent. The 2019 Lok Sabha elections registered an even higher turnout, reaching 67.1 percent.

As Kumar (2022) observed, the rise in electoral participation was particularly pronounced in the state assembly elections. The state assembly elections held between 1989 and 2020 exhibited a higher voter turnout not only in comparison to the previous assembly elections but also in comparison to Lok Sabha elections held during the same period. Additionally, Kumar noted that smaller states, including those in the north-eastern part of India, have historically recorded higher voter turnout in both Lok Sabha and state assembly elections (Table 1). His plausible explanation is that the smaller size of the electoral constituency allowed for greater mobilization, as political parties and candidates were able to reach a larger number of voters personally, which in turn encouraged them to come out and cast their votes on election day.

Figure 1. Participation in Lok Sabha Elections (1952 to 2024 Elections)

Source: Election Commission of India and India Votes Portal (<https://www.indiavotes.com>)

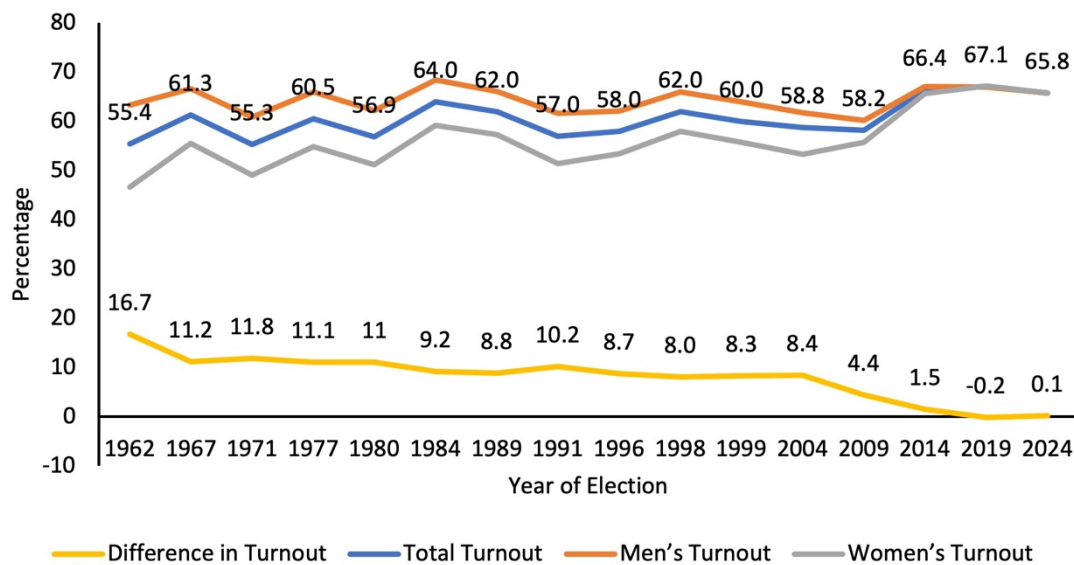
Figure 2. Voter Turnout (percentage) in Lok Sabha Elections (1952 to 2024 Elections)

Source: Election Commission of India and India Votes Portal (<https://www.indiavotes.com>)

Table 1. Comparison of Average Voter Turnout in Lok Sabha and State Assembly Elections in the North Eastern States

North-Eastern States	Average Turnout	
	Lok Sabha Elections	State Assembly Elections
Arunachal Pradesh	66.16	72.59
Assam	73.83	77.78
Manipur	72.63	87.41
Meghalaya	62.83	81.88
Mizoram	62.41	80.41
Nagaland	80.37	79.30
Sikkim	77.40	79.03
Tripura	78.07	86.79

Source: Kumar 2022

Figure 3. Gender Gaps in Lok Sabha Election Participation (1962 to 2024)

Source: Election Commission of India and India Votes Portal (<https://www.indiavotes.com>)

The participation of women in elections is an essential indicator of the development of a democratic system in any country around the world (Thomas and Wilcox 2005). In India, women of voting age have been eligible to vote since the first general election, with minimal resistance. This was a truly historic achievement, considering that in numerous developed countries, women's suffrage was only attained through arduous and often violent struggles (Roychowdhury 2024).

This remarkable surge in female voter participation is undoubtedly a cause for celebration. However, it also reveals several paradoxical aspects. Firstly, although female voter turnout in India is increasing, female labor force participation, which is a crucial driver of women's political engagement, remains lower than that of peer economies (Roscher 2024). Secondly, numerous studies confirm that women remain less engaged in various measures of political involvement than men, including contacting elected representatives, attending public meetings, and participating in campaign activities (Kumar 2024). Despite the increasing number of female voters in India, the representation of women in parliament and state legislatures remains significantly lacking (Deshpande 2004).

Based on these observations, some theorists argue that the electoral processes in India are biased in favor of male dominance, deliberately excluding women from equal power sharing. However, this argument is countered by others who highlight the fact that since the 1990s, there has been a rise in women's participation in electoral competition and their involvement in grassroots politics, particularly in local governance, suggesting a move towards greater gender inclusivity (Rai 2017). The rise in female participation as candidates in local government elections can be attributed, at least in part, to affirmative action policies that reserve seats for women.

In the last few years, political scholars have accorded several plausible reasons for such an increase in women voters' participation. Rai (2017) offers five compelling reasons for the upsurge of women's participation as voters. First, the proliferation of electronic media creates awareness about women's political and electoral rights. Second, the awareness generation and advocacy efforts at the grassroots level by civil society and women's groups. Third, the initiatives of the Election Commission of India (ECI) in conducting free, fair, and violence-free elections inculcated a sense of safety and security. Fourth, one-third (fifty percent

in some states) reservations for women at the local governance that gave women a sense of sharing power with men equally. Finally, the changing perception of women from seeing politics as dirty and one should stay away from it to participation as an instrument changing power relationship. Individual socio-demographic factors, including education and income, sociocultural norms, and caste, have also been identified as associated with women's opportunities for political participation (Agarwal 1997; Banerjee 2003; Gleason 2001). Women's voting patterns in India are also influenced by geographical and spatial factors. Rural women are more likely to vote than their urban and metropolitan counterparts, largely due to the time and financial constraints in reaching polling stations in urban areas (Rai 2011).

The Women's Reservation Bill 2023, also known as the Nari Shakti Vandan Adhiniyam, was passed in September 2023. This legislation reserves one-third of the seats in the Lok Sabha, state legislative assemblies, and the Delhi Assembly for women, and is being hailed as a transformative development in Indian politics. Despite numerous failed attempts since its initial introduction in Parliament in 1996, the bill's passage in 2023 is regarded as a historic event. Notably, this reservation is also extended to the seats designated for Scheduled Castes (SCs) and Scheduled Tribes (STs) in the Lok Sabha and state legislatures. However, the implementation of this act is contingent upon two determinants. The reservation will become effective upon the publication of the census data collected subsequent to the enactment of the bill. Following the census, the reserved seats for women will be apportioned through a process of delimitation. The reservation is set to last for a period of 15 years, although it may continue until a different date is established by a law passed by Parliament. Additionally, the seats reserved for women will be subject to rotation following each delimitation, as prescribed by parliamentary law (Ghosh 2022; Sahoo and Ghosh 2023).

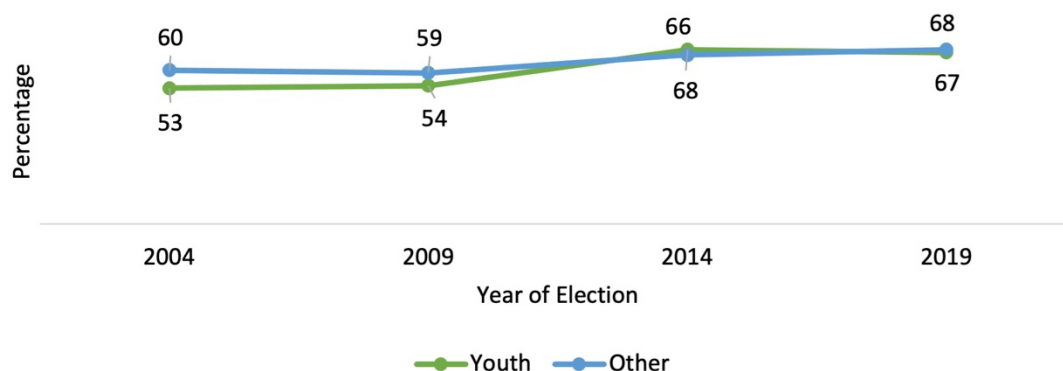
Two-thirds of India's population is below the age of 35, contributing to the country's youthful demographic profile. The younger generation is increasingly regarded as a driving force in social and political change, and their engagement in electoral processes is of significant consequence. In recent decades, young people have been actively participated in various social and political movements, including protests against the Citizenship Amendment Act (CAA), movements against violence against women (Nirbhaya Movements), anti-corruption movements, and farmers' movements. Despite this active engagement, there is room for improvement in youth participation in elections, both as registered electorates and voters.

As reported by the Election Commission of India, the electoral rolls for the 2024 Lok Sabha election have been updated to include only slightly over 18 million new voters in the 18- and 19-year-old age bracket. This figure represents a significant shortfall in comparison to the projected population size of this age group, which stands at just under 49 million. In other words, only 38 percent of these first-time voters have successfully registered. Several factors contribute to this situation, including voter apathy, cynicism towards the electoral process, a lack of political representation from their demographic, administrative challenges, logistical hurdles like paperwork processing, and the opportunity costs associated with voting (*The Economic Times* 2024-04-05).

In 2009, the ECI launched the Systematic Voter's Education and Electoral Participation (SVEEP) program with the objective of engaging and educating voters, particularly the youth and women. Figure 3 demonstrates a notable increase in the proportion of young people participating as voters in the 2014 and 2019 elections in comparison to the 2004 and 2009 Lok Sabha elections. This trend has led political parties to recognize the importance of the youth as a key constituency in shaping India's political landscape and electoral outcomes. According to studies conducted by Lokniti-CSDS, the youth voter turnout increased from 54 percent in 2009 to 68 percent in 2014, surpassing the average voter turnout. However, despite a 9.3 percent growth in the electorate size, the 2019 elections witnessed a stagnation in voter turnout at around

67.4 percent. The ECI identified that the youth, especially those from urban areas, display less interest in participating in the elections.

Figure 4. Voter Turnout among Youth and Others (2004-2019)



Source: Attri and Mishra 2020, based on CSDS Surveys

The data is weighted as per the actual voter turnout.

The political parties and civil society must assume greater responsibility for mobilizing young people in electoral processes. Although the student wings of major political parties have played a significant role in familiarizing youth with politics and fostering political leadership, their integration into political parties requires closer examination. The ambitions of young political leaders often face obstacles when they encounter seasoned veterans within the party. Most parties are unwilling to disrupt the status quo, which leaves these young aspirants feeling increasingly adrift and marginalized. As a result, many choose to leave the party, while others become disillusioned and withdraw from active politics entirely (Hazarika 2024). The problem of youth voter apathy is multi-faceted and requires collaborative and multi-pronged approaches. The National Youth Policy 2014 underscored that there is little coordinated effort along these lines (Gaurishankar and Lal 2023).

Civil society organizations have played a pivotal role in increasing voter turnout, particularly among women and youth. Long before the CEC launched the SVEEP initiative in 2009, organizations such as Participatory Research in Asia (PRIA) had already initiated the Pre-Election Voter Awareness Campaign (PEVAC) to encourage voter enrollment and participation in rural and urban local governance elections across several states (Dasgupta 2010). PEVAC employed a variety of innovative methods, not only to share relevant information about voter registration and voting processes, but also to facilitate interactions between voters and candidates. The Jaago Re campaign by Janaagraha in partnership with Tata Tea, and the #Get Set Vote campaign jointly launched by Youth Ki Awaaz, PRIA, and Facebook in collaboration with the CEC, both played a role in enhancing public awareness, particularly among younger demographics.

3. The Functioning of Election Commission of India

The ECI, with a nearly impeccable history since its formation in 1950, has delivered 18 parliamentary elections (Lok Sabha or Lower House) and several hundred State Assembly elections till date. In 2024, India held its 18th parliamentary election. This election was regarded as the largest electoral exercise in the world, with 978 million registered voters. A total of 18 million individuals between the ages of 18 and 19

participated in the electoral process for the first time. In preparation for this monumental electoral process, the ECI announced the establishment of 1.048 million polling stations and the deployment of 5.5 million EVMs. Additionally, 15 million polling officials and security staff were assigned to facilitate a seamless voting process across seven phases (Mukherjee 2024). The extensive electoral apparatus necessitated meticulous management by the ECI.

The Constitution of India (Articles 324 to 329) provides for the ECI and also stipulates clear guidelines to ensure its autonomy. It has also been vested with residual powers about the electoral process to cope with unexpected problems that might evolve. As rightly described by Kumar (2022), unlike other Indian institutions, the ECI is not a colonial legacy, and it represents all the values and democratic principles that a nascent India aspired for.

Currently, the ECI is a three-member body, with one Chief Election Commissioner (CEC), and two Election Commissioners (ECs). Under Article 324(2) of the Constitution, the President appoints the CEC and ECs. This provision further stipulates that the President, who acts on the aid and advice of the prime minister and the council of ministers, will make the appointments ‘subject to the provisions of any law made in that behalf by Parliament’ (Anand 2022).

The independence of the CEC and ECs is paramount in ensuring free and fair elections. This is obviously contingent upon how independent and transparent are the appointment procedures of the CEC and ECs which have been in political and legal discourses for some time. The current debate was triggered by a Constitution Bench, constituted in 2022 comprising five judges of the Supreme Court. This was in response to a batch of four public interest litigations (submitted in 2015, 2017, 2021, and 2022) which broadly pressed for the issuance of directives to the union government for setting up a neutral and independent selection panel for recommending names to the President for appointments as CEC and ECs. The bench observed that although Article 324(2) of the Constitution makes provision for Parliament to lay out rules and procedures on selecting the CEC and ECs, the absence of such provisions has been exploited by all political parties. This has risen to concerns about the suitability of those appointed, in light of the expectation that they will do the bidding of the dispensation at the relevant time. It further criticized the union governments for failing to provide a full six-year term for the CEC or ECs since 1996. Under the 1991 Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, the CEC and ECs shall hold office for a term of six years or until they reach the age of 65, whichever occurs first.

However, in the absence of a law backed by the parliament, up until December 2023, the CEC and ECs had been appointed by the President on the advice of a committee consisting of the prime minister, the leader of the opposition of the Lok Sabha, and in case no leader of the opposition is available, the leader of the largest opposition party in the Lok Sabha in terms of numerical strength, and the Chief Justice of India.

In December 2023 the parliament passed an Act, replacing the 1991 Act, outlining a procedure for appointing the CEC and ECs. The law, passed by parliament, established a committee comprising the prime minister, the leader of the opposition in the Lok Sabha, and a cabinet minister nominated by the prime minister. The selection will be made from five names shortlisted by a screening panel headed by the law minister and comprising two union secretaries (Chopra 2024).

Since the Supreme Court bench had specified that its appointment norms are “subject to any law to be made by parliament,” the union government was well within its right to bring this law. However, the appointment process proposed in the law raised concerns regarding its potential to undermine the reforms sought by the Supreme Court as well as other civil society groups. The opposition political parties also

criticized the committee's composition because it could effectively sideline the leader of the opposition, who the prime minister and the union minister could consistently outvote.

The ECI is often praised for its management of the massive and intricate election processes using the EVM. However, despite being considered an important Indian innovation, there are doubts about the credibility of the EVM and critics who question its vulnerability. As India approached the 18th parliamentary election, the EVM was once again at the center of political debate. This debate was accentuated further after the state assembly elections in Haryana and Maharashtra on October and November 2024, where several discrepancies in the vote counting were highlighted by the opposition political parties.

The EVM was first used in selected polling stations within Kerala's Paravur Assembly constituency during a by-election in 1982. However, it faced legal obstacles, resulting in a Supreme Court ruling that it could not be utilized in elections due to the absence of an enabling provision within the law. In response, the government, led by Prime Minister Rajiv Gandhi, a staunch proponent of technological advancement, amended the Representation of the People Act in 1989 to provide legal backing for the use of the EVM. The manufacturing of the EVM was entrusted to two public sector firms: the Electronics Corporation of India Ltd (ECIL) in Hyderabad, and the Bharat Electronics Limited (BEL) in Bengaluru, which also developed prototypes for the EVM.

Since its introduction, the EVM has been met with mistrust, with political parties and observers frequently making claims that it can be hacked or tampered with. Nevertheless, a political consensus was reached by 2004, and the 2004 parliamentary election saw the complete replacement of the traditional ballot box with the EVM. In all 543 parliamentary constituencies, voters cast their votes using the EVM. The counting of votes was completed in less than a day, which was a notable achievement given that the traditional method of counting ballot papers would usually take two to three days.

Over time, the EVM technology has undergone incremental enhancements. The third generation of EVMs comprises three units: a ballot unit, a control unit, and a Voter Verifiable Paper Audit Trail (VVPAT) machine. The control unit and the VVPAT machine are placed in a voting compartment, with the VVPAT machine producing a paper slip as a tangible record of the vote cast. Voters can view the paper slip through a transparent panel on the machine before it falls into a receptacle. The control unit is placed next to the officer-in-charge, thereby guaranteeing that each individual voter is permitted to cast a single vote. Meanwhile, the remaining two units are positioned within the voting compartment, allowing voters to make their choice in a confidential manner. Most former and current CECs have strongly advocated for the use of EVMs. They argue that EVMs are more efficient and reduce malpractices such as rigging and booth capturing, which were prevalent with paper ballots. Many also highlight the issue of invalid votes due to improper marking or ink smudging in paper ballots. Debnath et al. (2017) found that the introduction of EVMs has led to a significant decline in electoral fraud, particularly in politically sensitive states where rigging was common, as well as a decrease in crimes like murder and rape.

In response to a petition by the Association for Democratic Reforms (ADR), the Supreme Court reaffirmed its trust in the integrity of the electoral process in its judgment in April 2024. The petitioners based their argument on a report published by a news magazine that highlighted inconsistencies in the data recorded by EVMs and VVPATs during the 2019 Lok Sabha elections, which the ECI also acknowledged. Subsequently, the Commission clarified that the difference between the EVM and VVPAT counts was due to an inadvertent inclusion of testing votes by the polling officer. The petitioners demanded that all votes cast on EVMs be cross-verified with the accompanying VVPAT paper slips and that paper ballots be reintroduced, although this latter proposal was later withdrawn. At present, only five percent of EVM-VVPAT counts are

randomly verified in each assembly constituency. The Court acknowledged the voters' right to ensure the accuracy of their votes but clarified that this does not entitle them to 100 percent cross-verification of EVM votes with VVPAT slips or physical access to the VVPAT slips (Bhaumik 2024). Although the controversies surrounding the procedure for EVM use were temporarily resolved by the Supreme Court judgment in April 2024, it is highly unlikely that the debate is considered definitively settled for ever, as this debate resurfaced during the recent two state assembly elections in Haryana and Maharashtra.

4. One Nation One Election: Challenges of Simultaneous Election

In India, the first four rounds of general elections in 1952, 1957, 1962, and 1967 for the Lok Sabha and State Legislative Assemblies were held simultaneously. Subsequently, due to the premature dissolutions of the Lok Sabha, State Legislative Assemblies, or both, the elections to the Lok Sabha and State Legislative Assemblies are held at different times. In the two most recent general elections held in 2019 and 2024, only four states (Andhra Pradesh, Arunachal Pradesh, Odisha, and Sikkim) out of the 28 states and 8 union territories, along with the Lok Sabha and state legislative assemblies, held. Local government elections (PRIs in rural areas and municipalities in urban areas) are held at varying times. In some states, even elections for PRIs and municipalities are held at different times within the same state.

The Bharatiya Janata Party (BJP), the current ruling party in India, in its election manifesto in 2014 promised to hold simultaneous elections in Lok Sabha, State Legislative Assemblies, and Local Governments (PRIs and Municipalities). However, it is worth mentioning that the idea of simultaneous elections has been mooted in the past by the ECI in 1982 and the Law Commission in 1999. While a few political parties, part of the National Democratic Alliance (NDA) headed by the BJP have argued that holding simultaneous elections at all three levels is the only way to ensure 'free and fair' elections, most opposition parties argued against this move for a variety of reasons.

In September 2023, the union government set up a six-member high-level committee (HLC) on 'one nation, one election' headed by the former President of India, Mr. Ram Nath Kovind. The committee was mandated to examine and make recommendations for holding simultaneous elections to the Lok Sabha, State Assemblies, municipalities, and panchayats keeping in view the existing constitutional framework. For this purpose, the panel was entrusted with the task of proposing specific amendments to the Constitution and any other legal changes necessary to enable simultaneous elections. The panel also has to give its opinion on whether the proposed amendments shall require the assent of half of the State assemblies, as stipulated in Article 368. The HLC, since then conducted intensive consultations with various stakeholders including the political parties, civil society groups, elected representatives, and Law Commissions, among others.

The arguments in favor of simultaneous elections have clear merits in terms of the burden on public finances and the constraints on governance and development caused by frequent elections. It is estimated that each Lok Sabha election costs approximately 40 billion INR (equivalent to USD 472 million) to the central government alone. The cost of conducting state assembly elections varies from one state to another, depending on the size of the state. Additionally, political parties and individual candidates contribute to the overall expenditure. With simultaneous elections, there would only be one electoral roll, and the government would require the services of security forces and civilian officials only once. This would save public money and human resources that could be allocated to other public needs (Kumar 2023).

The frequency of elections has the effect of prolonging the deployment of security and police forces, which gives rise to concerns about national security and the maintenance of law and order.

Furthermore, the administration becomes strained due to the mass-scale transfers or temporary deployment of officials within and outside the states. The implementation of development projects is also affected due to the enforcement of the model code of conduct. No new projects can be initiated during this period, and even ongoing projects suffer from delays.

Simultaneous elections would reduce the influence of money in elections, as campaign finance for political parties would decrease. The monitoring of election expenditures by the ECI would also become more effective through a coordinated effort at the national level. Additionally, it would help reduce the deleterious effects of regionalism, casteism, and communalism on voter mobilization, as the practice of divisive politics for electoral gain would be less prevalent. Additionally, it would elevate national issues to a more prominent position within the electoral discourse. Finally, it is argued that having too many elections leads to voter fatigue. Voter turnout at the national level has remained stagnant in recent elections (Jain 2024; Nair 2024).

There are strong arguments against implementing simultaneous elections. Firstly, the BJP-led union government's initiative is seen as hostile to the idea and spirit of constitutional federalism, especially since there was hardly any meaningful consultation with non-BJP-ruled states. Secondly, conducting simultaneous elections may overshadow important local and regional issues in favor of national interests which might lead to regional discontent. Thirdly, proponents of simultaneous elections argue that it would save costs, but this claim is negated by the need to purchase a large number of EVMs and VVPATs. Additionally, there would still be biennial elections to the Rajya Sabha and by-elections, which would require resources and money. Lastly, holding periodic elections ensures that important issues remain in the public domain and keeps political parties and elected representatives accountable.

As the debates continued, the HLC on One Nation, One Election submitted its report to the Indian government in March 2024. Following the formation of the new government in May 2024, the Union Cabinet, presided over by the Prime Minister, accepted the recommendations put forth by the HLC regarding the implementation of concurrent elections for the Lok Sabha, State Legislative Assemblies, and local bodies (Panchayats and Municipalities)

The Committee put forth a framework for holding simultaneous elections, which will require constitutional amendments. In preparation for the next Lok Sabha election, it is recommended that all state assemblies and local bodies be dissolved, irrespective of their remaining terms, as a one-time measure. This will enable the synchronization of all elections. The Committee recommended that elections for the Lok Sabha and all state assemblies be held concurrently, with local body elections occurring within 100 days thereafter. The Committee put forth a number of recommendations in favor of simultaneous elections; however, a few of these have major implications for the electoral process.

Firstly, the current term for a legislature is five years. In the event of a hung legislature, the elections will become asynchronous with regard to the subsequent simultaneous election. To address this issue, the Committee recommended that new elections be held for a hung legislature or local body for a reduced term, equivalent to the remaining period of the five-year cycle for the simultaneous election. This implies that if new elections for a state assembly or the Lok Sabha are held two years after the simultaneous election, their term would be limited to three years. This approach aims to synchronize all elections occurring every five years.

Secondly, the Committee observed that constitutional amendments related to the terms of Parliament and state assemblies will not require ratification by the states. However, constitutional amendments pertaining to local bodies will necessitate the ratification of at least half of the states.

Thirdly, the Committee addressed the issue of using a single electoral roll. Currently, the ECI is responsible for overseeing elections to both houses of Parliament, state legislative assemblies and councils, the president, and the vice president, while the supervision of local body elections is managed by the State Election Commissions (SECs). The preparation of electoral rolls by SECs is subject to the provisions of the respective state legislation. Some state laws allow SECs to prepare separate electoral rolls, whereas others mandate that they utilize the electoral roll prepared by the ECI. The Committee recommended the adoption of a single electoral roll. To implement this single electoral roll, a constitutional amendment will be required. The Committee noted that the proposed amendments would also require ratification by at least half of the states (PRS Legislative Research 2024).

While the pro-government political circles welcomed the Committee's recommendations, numerous critics have emerged. Many political commentators have criticized the favored arguments presented by the Committee, namely that the proposed scheme would result in cost savings, reduce voter fatigue, improve administrative convenience, protect social harmony, and stimulate economic development. They have also accused the Committee of failing to explain how the scheme would deepen the government's accountability to the legislature (Sahu 2024).

Some prominent political opponents even questioned the veracity of the Terms of Reference given to the Committee on the grounds that it asked the Committee to "examine and make recommendations for holding simultaneous elections." Therefore, the Committee's implied mandate was to recommend that simultaneous elections were feasible and desirable, without a mandate to recommend against the idea of holding such elections (Chidambaram 2024).

5. Financing of Political Parties and Election Campaigns

The financing of political parties and election campaigns in India has been an unresolved issue for decades. The lack of transparency and inconsistent policies surrounding this matter have had a negative impact on the accountability and transparency of political parties. According to Gowda and Sridharan (2012), flawed political party funding and election expenditure laws are one of the main contributors to corruption in the government and political system. These laws encourage parties and politicians to misuse the government's discretionary powers in order to raise funds for their campaigns and parties. In light of the Indian people's aspiration for a democratic polity, it is of paramount importance to identify a more effective solution to this problem. Vaishnav (2019) also made a similar observation, stating, "As the costs of elections have increased, politicians – and the bureaucrats under their influence – have become experts at skillfully manipulating regulations and policies in exchange for campaign funds. And if a candidate is fortunate enough to win a higher office, the quest to rebuild their coffers for future elections starts anew." This section examines four key aspects of financing political parties and election campaigns: expenditure limits, contribution limits, public funding of election campaigns, and reporting and disclosure requirements, all within a historical context.

In India, political parties traditionally obtained funding through private donations and membership fees. Corporate contributions to political parties were allowed; however, there were certain restrictions in place. The Representation of the People Act (RPA), 1951 regulated campaign expenses during elections. Candidates who exceeded the spending limits set by the RPA could face disqualification and have their election results nullified. The Santhanam Committee on Prevention of Corruption (1964), the Wanchoo Direct Taxes Enquiry Committee (1971), the Supreme Court Rule in 1974, the Dinesh Goswami Committee (1990) reports, and the Indrajit Gupta Committee on State Funding of Elections (1998) have drawn attention

to the issue of illicit funds infiltrating the political system and have proposed measures to improve transparency in the political financing system in India.

In 1996, the Supreme Court responded to a Public Interest Litigation (PIL) filed by an NGO called Common Cause, by issuing notices to political parties, requiring them to file returns as mandated by the Income Tax and Wealth Tax Acts. Previously, political parties had been remiss in responding to similar notices issued by the Income Tax Department. The Supreme Court also elucidated that the expenditure incurred by a political party in the context of an election would not be aggregated with that of a candidate in order to ascertain compliance with the expenditure ceiling, provided that the party in question had submitted audited accounts of its income and expenditures.

In 2003, the Election and Other Related Laws (Amendment) Act underwent further revisions. As a consequence of these amendments, political contributions from both companies and individuals became fully deductible for income tax purposes. While this modification was intended to facilitate the solicitation of donations by cheque, it also resulted in the removal of anonymity for donors. Furthermore, the Act mandated that political parties submit a list of donations exceeding INR 20,000 to the Election Commission. In the event of a failure to disclose these donations, the party in question would be subject to the loss of its income tax exemption.

Additionally, the law mandated that political parties and independent supporters report their expenses, which would contribute to the overall expenditure ceiling for a candidate. However, the legislation excluded travel expenses incurred by the top 40 leaders of a recognized national party and the top 20 leaders of a state-level registered party to a candidate's constituency during an election campaign. These travel expenses would not be included in the candidate's expenditure. Furthermore, the Act exempted expenditures made by political parties and their supporters for the purpose of promoting the party's program. Additionally, the expenditure ceiling for a Lok Sabha election was increased to INR 2.5 million, while for state assembly elections, it was set at INR 1 million. In February 2011, the limits were augmented once more, reaching INR 4 million and INR 1.6 million, respectively.

In 2013, the Companies Act of 1956 introduced a new instrument known as the Electoral Trust Scheme. According to the regulations, Electoral Trusts are authorized to receive voluntary contributions from individual Indian citizens, companies registered in India, firms, and Hindu Undivided Families (HUFs). These contributions may be made via cheque, bank draft, or electronic transfer to the trust's designated bank account. It is important to note that foreign entities, other registered electoral trusts, and individuals who are neither citizens nor residents of India are prohibited from contributing to these trusts. Electoral Trusts are required to maintain comprehensive records of donors and their contributions, funds distributed to political parties, and expenses incurred by the trust. These accounts are required to be audited and submitted to the income tax authority. The trust is also obliged to disclose the list of donors, the political parties to which the funds were distributed, and the disbursed amounts. As of 2024, there were 18 active Electoral Trusts, with the largest one the Prudent Electoral Trust, which has numerous corporate donors. From 2013 to 2023, the Prudent Electoral Trust raised INR 22.57 billion, with 75 percent of the funds donated to the BJP and 7.35 percent to the Congress party (Karthikeyan 2024).

The discourse on political party financing was revived in 2024 when a Constitution bench of five judges, led by the Chief Justice of India, invalidated the 'Electoral Bond' scheme implemented by the BJP. The Electoral Bond Scheme was introduced in 2017 through the Finance Bill, allowing Indian citizens or bodies incorporated in India to purchase unlimited quantities of electoral bonds from specified SBI branches.

These bonds could then be donated to registered political parties, who could redeem them through their verified accounts.

In the same year, the Indian NGO, Association for Democratic Reforms (ADR), filed petitions in the Supreme Court challenging the amendments to the Finance Act. The petitions alleged that the acts were passed as money bills improperly to avoid scrutiny by the Upper House (Rajya Sabha). The petitioners also argued that the Electoral Bond Scheme would encourage opacity in political funding and could result in widespread electoral corruption. However, in 2018, the union government notified the electoral bond scheme.

In 2023, a three-member bench of the Supreme Court referred the petition against the validity of the Electoral Bond scheme to a Constitution bench composed of five judges. On February 15, 2024, the Constitution bench declared the Electoral Bond scheme unconstitutional, stating that anonymous Electoral Bonds violated the Right to Information and Article 19(1)(a). The Supreme Court also directed the SBI to disclose details of Electoral Bond donations to the Election Commission and ordered the Election Commission to publish this information on its website by March 13, 2024. On March 4, the SBI requested an extension until June 30, 2024, to provide information about electoral bonds to the Election Commission of India. On March 7, a petition was submitted to the Supreme Court, requesting contempt charges to be filed against the SBI. The petition alleged that the bank had deliberately and knowingly failed to comply with the court's order to submit information about contributions to political parties through electoral bonds. The Supreme Court dismissed the SBI's plea for an extension and inquired about the SBI's actions over the past 26 days. The Supreme Court ordered the SBI to disclose information about electoral bonds by the close of business on March 12, 2024 (*Outlook* 2024-03-12).

The disclosure has raised concerns regarding the lack of transparency in political party financing, further obscuring campaign finance. According to the data, a total of INR 127.69 billion was encashed through electoral bonds between April 12, 2019, and January 24, 2024. The ruling BJP received 47.5 percent (INR 60 billion) of these funds, followed by the All India Trinamool Congress (AITMC) with 12.6 percent (INR 16.09 billion), and the Indian National Congress (INC) with 11.1 percent (INR 14.21 billion). While this data suggests potential wrongdoing, the ruling party has categorically denied any such possibilities. A preliminary analysis revealed that several companies that donated bonds to political parties were also facing financial offense charges by investigative authorities of the union government. Many political pundits and opposition parties have raised concerns about possible quid pro quo (Bose 2024).

Upon the introduction of electoral bonds, the government implemented supplementary amendments to the legislative framework governing campaign finance through the incorporation of specific provisions within the Finance Act. Firstly, the cap on corporate donations, which had previously been restricted to 7.5 percent of a firm's average net profits over the past three years, was removed. Secondly, the obligation for companies to disclose details of their political donations was revoked. In lieu of providing a comprehensive account of political donations in their annual statements of accounts, firms would be required to disclose only an aggregate figure. Thirdly, the government expanded the definition of a "foreign" firm under the Foreign Contribution Regulation Act (FCRA), thereby enabling a wider range of firms to legally make political donations. This modification permitted any individual, firm, or special interest group to provide an unrestricted monetary contribution to any political party without disclosing the specific amount, except to the government of the day. One significant aspect of this entire episode was the response of independent institutions, including the Reserve Bank of India, the Election Commission of India, and the Parliament. Despite expressing reservations about the electoral bond scheme, these institutions were unable to resist the government's actions (Vaishnav 2019).

While the Supreme Court's ruling has temporarily halted the brazen influence of unlimited crony capitalism in political financing, civil society has remained at the forefront of promoting transparency and accountability of political parties. The National Election Watch, a coalition of nearly 1,500 civil society groups spearheaded by the Association of Democratic Reforms, has made significant contributions to the disclosure of contestants' assets, academic qualifications, and criminal records. However, the influence of money in political campaigns remains unabated. In recent years, civil society groups have brought the issue of surrogate advertising and targeted online campaigns by political actors to the attention of the CEC. These campaigns are designed to influence voter perception and beliefs. In addition, the use of generative AI, including the promotion of deep fakes, by political actors across the spectrum with the intent to influence voter perception and impact electoral outcomes raises urgent concerns.

6. Conclusion

India remains the largest electoral democracy in the world. Notwithstanding concerns raised by various political groups pertaining to the transparency and accountability of electoral processes, voter participation has demonstrated a consistent upward trajectory in recent elections. As India seeks to establish itself as a global leader based on its democratic credibility, it is imperative that it continues to enhance its internal democratic framework. Achieving this objective is contingent upon the maintenance of the integrity of electoral processes. Similarly, ensuring the representation and inclusivity of various sections of society, particularly women and youth, in elections would make the process more inclusive. Political parties have already taken note of the growing participation of women as voters, despite their lower participation in the economy and broader political activities. The election manifestos of the major political parties in the lead-up to the 2019 and 2024 elections included a range of women's welfare schemes to attract female voters. This has been a persistent phenomenon, even in the context of recent state assembly elections. While some of these schemes reinforce traditional caregiving roles of women, the transformative force of women in society cannot be ignored any longer.

The historic Women's Reservation Bill, known as the *Nari Shakti Vandan Adhiniyam*, was enacted in Parliament in 2023. This legislation provides for one-third reservation for women in the Lok Sabha and state assemblies, and it has the potential to be a game changer in this regard. The women's movements that have been fervently advocating for this reservation over the past four decades now have the opportunity to reinforce gender equality in political participation.

A multitude of youth organizations are actively engaged in efforts to raise awareness and mobilize young people to enhance their political participation. Political parties and civil society must collaborate to deepen these transformative changes in Indian politics. The government should facilitate this process by enacting appropriate legislation and allocating resources for civil society to work towards this vision.

The Supreme Court's annulment of the electoral bond scheme has also resulted in a policy vacuum in terms of the future of political funding. As the new government has been formed, it would be prudent for Parliament to prioritize extensive consultations among political parties, businesses, and civil society to develop a transparent and accountable mechanism for financing political parties and election campaigns.

Indian politics has consistently exhibited a notable degree of competitiveness and vitality. However, over the past decade, India has witnessed an unprecedented level of polarization among political parties. This polarization is evident across a range of policy areas, including economic and foreign policy, socio-cultural engineering, and attempts to appeal to the diverse population based on religion, caste, ethnicity, languages,

and other factors. This has had an impact on the intense competition among political parties, often at the expense of basic decency. In this scenario, the role of the CEC as an independent and impartial institution is crucial in restoring a sense of decency in electoral competition. The recent changes in laws related to the appointment and management of the Election Commission have been perceived by many as an attempt to render the Commission susceptible to the whims and fancies of the ruling dispensation. In this context, the rule of law alone prove inadequate for maintaining the integrity and neutrality of the Election Commission. The rule of law must be complemented by a sense of morality and values based on democratic principles.

There is a growing recognition of the pivotal role that civil society plays in strengthening grassroots democracy. Mobilization of the most marginalized communities through awareness building and conscientization has greatly enhanced their participation in political processes and the upholding of rights and entitlements. Three significant roles that civil society has been playing – enhancing voter participation through civic education, amplifying citizens’ voices through mobilization, and advocating for greater transparency and accountability in the electoral system through public advocacy – need to be supported and strengthened.

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Country Case 2: Indonesia

Vertical Accountability in the Case of Indonesia

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1. Introduction

Citizens in all regime types can exercise government accountability (Lindberg 2013). However, the possibility of acquiring government accountability is more likely to happen in democratic countries. Government accountability is understood as a constraint on the government's use of political power through requirements for justification for its actions and potential sanctions. Conceptually, there are three types of accountability based on the actors who run the constraints to check and balance the government: vertical accountability, horizontal accountability, and diagonal accountability. In this context, vertical accountability refers to the ability of a state's population to hold its government accountable through elections; horizontal accountability refers to checks and balances between institutions; and diagonal accountability captures oversight by civil society organizations (CSOs) and media activity. Consequently, the three would generate a distinct type of accountability deficit.

In democratic regimes, O'Donnell claimed that vertical accountability is not enough to stop such encroaching authoritarianism. However, I argued that vertical accountability played a significant role in halting democracy from backsliding, especially when the government has captured the cabinet and all the government institutions, including parliament and the judiciary, since forms of vertical accountability, including elections and political parties, can help remove incumbents who abuse their powers from office. This argument is also supported by Anderson (2006), who found evidence in Nicaragua that the mechanisms of vertical accountability have proven more effective than expected in restraining executive authoritarianism and fostering institutions of horizontal accountability. The case of Nicaragua shows that citizens can use the power balance and separate institutional mandate of presidential democracy to limit authoritarianism. However, there is a limited study on the vertical accountability mechanism and its effectiveness in the growing literature of democratic study in Indonesia, especially to find out whether the vertical accountability mechanism works effectively to constrain executive aggrandizement and prevent encroachment authoritarianism in Indonesia.

Vertical accountability is an essential component of democratic governance, and it plays a vital role in ensuring that elected representatives remain responsive to the wishes and needs of their constituents in Indonesia and other democratic nations. Based on this background, this study will cover the main analytic

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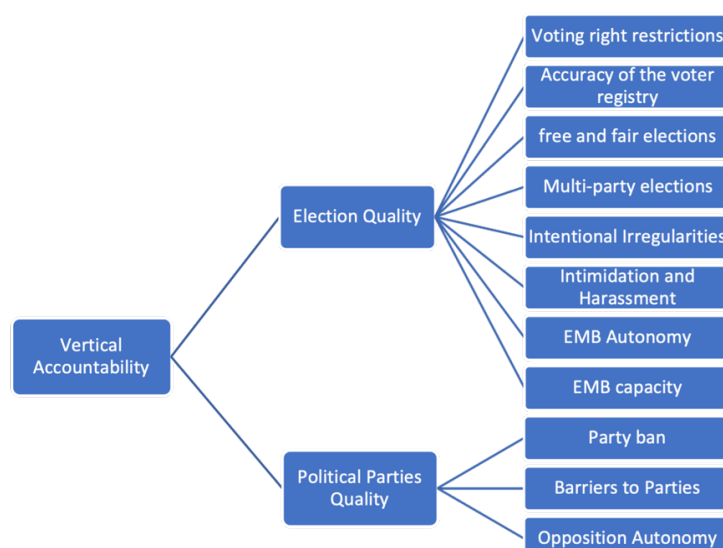
focal points, including the quality of elections and political parties. Therefore, this study coverage aims to identify the gaps between the institutional mechanisms of vertical accountability and the actual performance over time in the case of Indonesian democracy, specifically to analyze the quality of elections and the political parties in politics.

2. Measuring Vertical Accountability in Indonesia

Theoretically, vertical accountability occurs when citizens have the power to hold the government accountable. Vertical accountability mechanisms include formal political participation on the part of the citizens — such as being able to freely organize political parties — and participate in free and fair elections, including for the chief executive. Eventually, the proper assessment of vertical accountability should be based on electoral accountability that proxies the quality of elections and the condition of political parties in competing elections. In measuring the quality of elections, the variables should consist of several factors, including autonomy and capacity of the electoral management body, accuracy of the voter registry, intentional irregularities conducted by the government and opposition, intimidation, and harassment by the government and its agents, to what extent the elections were multi-party in practice, and an overall measure for the freedom and fairness of elections.

In addition, to measure to what extent the political parties support the vertical accountability mechanism, the analysis should focus on whether there are barriers to forming a party, how restrictive they are, and the degree to which opposition parties are independent of the ruling regime. Both measurements of the quality of elections and political parties are the best estimations of how vertical accountability is established in democratic countries to portray the state's population to hold its government accountable through elections. Therefore, vertical accountability operationalizations would constrain the government and prevent autocratization episodes from taking place in a democratic country. Hypothetically, if these institutions (elections and political parties) work, they will ensure vertical accountability and prevent democracy from declining. In contrast, if these institutions erode, democratic regimes will experience a democratic decline. This paper attempts to identify whether the election and political party's quality could work to generate a vertical accountability mechanism to prevent further democratic decline.

Figure 1. Contributing Variables to Vertical Accountability



As in many democratic countries, Indonesia has conducted elections since 1955. Up until the 1999 election, only legislative elections had the direct election system, while the president and vice president appointed by People's Consultative Assembly (MPR). The system was improved by the successful reformation conducted by activists, scholars, and students in 1998, followed by the establishment of the direct election system for executives and legislative members. In the post-reformation, the government has consistently held regular elections both at the local and national levels once every five years. Indonesia has conducted the national election approximately six times since 1998, in 1999, 2004, 2009, 2014, 2019, and 2024.

Ideally, the more experienced Indonesia is in holding regular elections, the more powerful its citizens are in acquiring government accountability. However, after a significant lapse in the post-1999 era, the vertical accountability score in Indonesia has failed to improve. Based on V-Dem data on the vertical accountability index in Indonesia, on a scale of 0-1, Indonesia achieved a score of 0.85, which means its citizens have the power to hold the government accountable through elections or other channels of political participation. However, it has slightly decreased since 2018, showing no improvement in pulsing vertical accountability to the maximum level, as depicted by the figure below.

Figure 2. Index of Vertical Accountability in Indonesia



Based on V-Dem Data, the vertical accountability index for Indonesia has steadily decreased since 2008. This data contrasts the fact that Indonesia has been implementing elections from 2004 until 2024. Taking this into account, Indonesia's experience in holding quite a lot of elections should elevate the accountability index. Unfortunately, the data shows the other path leans in a slightly decreasing direction.

3. Election's Quality in Indonesia

Vertical accountability has its roots in the relationship between the elected government and the citizens as voters. Thus, the vertical accountability mechanism allows people to hold their elected executives at the national level, such as the president and vice president, and executives at the local level, such as governors, regents, or mayors, accountable. To those elected, citizens, as the 'vertical' element, have the means to express their expectations, concerns, and evaluations toward the executives through the elections.

Indonesia conducts elections regularly once every five years (periodic elections) to choose the president and vice president, the Regional Representative Council (DPD) and the People's Representative Council (DPR), and executives at the local level, such as governors, mayors, and regents. Since the reformation took place, Indonesia managed to hold approximately five multiparty elections at the national level to choose the president and vice president, and members of parliament directly in 2004, 2009, 2014, 2019, and the recent election in 2024. The experience of holding elections regularly every five years in Indonesia to elect the executive and legislative branches has successfully built up a global perspective that Indonesia has become more and more democratic. As such, the experience of holding regular elections can be seen as a form of implementing vertical accountability in Indonesia during the last two decades after Soeharto was no longer in power.

Before the reformation era in 1999, elections in Indonesia had been under autocratic regimes. Even though Indonesia successfully held national elections in 1971, 1977, 1987, 1992, and 1998, those elections resulted President Suharto as the winner from election to election. Thus, he had maintained his power through the elections as head of state and head of executives. The domination of the president's political party, both in bureaucracy and at the grassroots level, exacerbated the condition. In other words, the failure of New Order democracy was caused by the almost non-existent rotation of executive power, closed political recruitment, and elections that did not adhere to the spirit of democracy, which meant the ability of elections to act as an effective means to hold the government accountable was almost nil.

After Suharto was overthrown, a new phase of democratization began. The new president, B.J. Habibie, changed the constitution and electoral system to ensure the quality of elections met the international standard of electoral integrity. Moreover, post-1998 reforms led to the reintroduction of multipartyism and laying down foundations for a more effective means of vertical accountability by government and other persons holding elected positions to the electorate. The regular holding of multiparty elections became the norm at the national level and followed at the local level, along with the implementation of decentralization in 2005. The real question is whether the elections provide citizens with genuine opportunities, *inter alia*, to hold Indonesian governments accountable, dependent on the quality of these elections and whether they provide citizens the freedom and ability to make free choices on whom to elect. Eventually, a thorough analysis must be conducted to determine whether the quality of the election can support the creation of vertical accountability in Indonesian democracy. In the last election held in 2024, the quality of the election was at stake due to the Constitutional Court's decision that paved the way for the current president's son to become a vice-presidential candidate in the 2024 general election.

Several factors determine election quality, including the restriction on voting rights, autonomy and capacity of the electoral management body (EMB), the accuracy of the voter registry, intentional irregularities conducted by the government and opposition, intimidation, and harassment by the government and its agents, to what extent the elections were multi-party in practice, and an overall measure for the freedom and fairness of elections.

3.1. No Voting Right Restrictions

Indonesia guarantees the right to vote for all Indonesian citizens as part of respect for human rights, as stated in Indonesia's Constitution and the Law on Human Rights. Article 1 Paragraph (2), Article 6A (1), Article 19 Paragraph (1), and Article 22C (1) of the 1945 Constitution regulate the right to vote, while in Law No. 39 of 1999 on Human Rights, the guarantee of the right to vote is regulated by Article 43 paragraphs 1 and 2 which

states that every citizen has the right to participate in government directly or through a freely chosen representative, in a manner determined by statutory regulations. These provisions indicate the existence of a legal guarantee inherent in every Indonesian citizen to be able to exercise their right to vote. The General Elections Commission (KPU) Regulation then regulates the requirements for voters, namely Indonesian citizens who are 17 (seventeen) years of age or older, married, or have been married.

3.2. EMB Autonomy is No Longer Independent

Since Indonesia entered a democratic transition period in 1998, the government has agreed that election organizers must act as autonomous institutions, free from the influence of any party, including the president as head of state and head of government, as presented in the provisions of Article 22E paragraph (5) of the constitution which states firmly that the KPU is national, permanent, and independent. Law No. 15/2011 on Election Organizers further reaffirms this regulation. However, in practice, EMB, as an autonomous institution, finds it difficult to maintain its independence from the influence of the president or parliament, which can be seen from the 2024 election when there were allegations of the president interfering in the implementation of the election and the KPU's requirement to consult and implement DPR recommendations in making KPU regulations.³

Other electoral management bodies do not face the same struggle as KPU to hold its autonomy. In this regard, Indonesia has three institutions that function as election management bodies, namely the General Election Commission (KPU), the Election Supervisory Body (Bawaslu), and the Election Organizer Honorary Council (DKPP). The three are distinguished based on their authority: The KPU carries out the role of election organizers, while Bawaslu and DKPP carry out the supervisory role where Bawaslu supervises the implementation of elections by the KPU, and DKPP oversees the ethics of the election management body including the KPU and Bawaslu. Therefore, the autonomy to apply election laws and administrative rules impartially in national elections is more determined by the roles of KPU as the holding authority of election organizers.

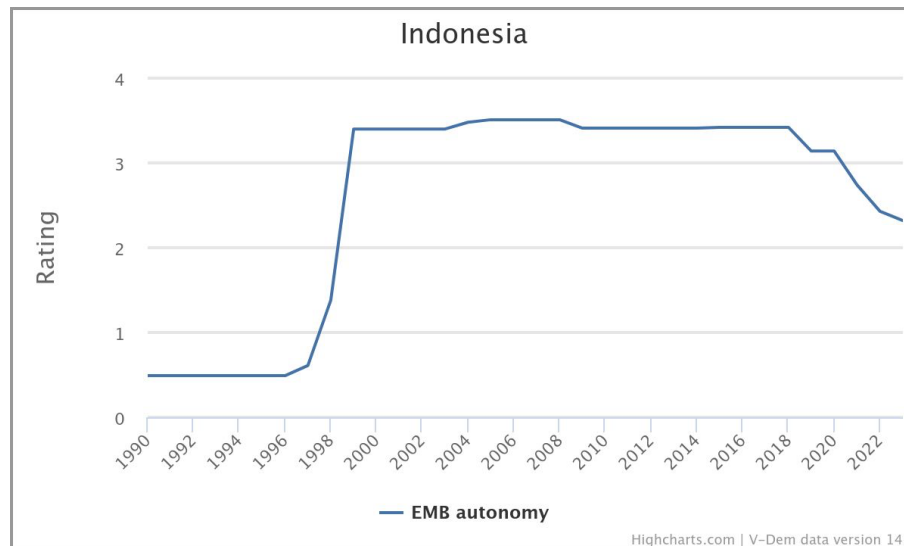
In Indonesia, the constitution and election laws guarantee the autonomy of the KPU. Based on the typology of the electoral management body classified by IDEA International, the KPU was designed to adopt the independent model to prevent government intervention, especially by the president, due to its implementation during the Orde Baru era before reformation. The KPU was formed along with the implementation of the reform era elections in 1998; therefore, in that year, public trust in election organizers increased significantly. However, from the 2019 elections until the last election in 2024, many issues showed that the KPU is no longer able to maintain its independence in organizing elections. In the 2019 election, one of the election participants was the incumbent president, which led to a growing public perception that the KPU could no longer claim to be neutral.

The KPU was increasingly unable to uphold its principle of autonomy following the former president's intervention in the 2024 election, helping Prabowo and Gibran Rakabuming Raka win by openly supporting the candidates during the electoral campaign period. In other words, in two recent elections, the public doubted the KPU, claiming that the KPU no longer has the autonomy to act impartially during election phases and may be influenced by the president as the head of executives and the head of government. This kind of influence affected the way KPU implemented the election laws and administrative rules toward

³ Interviewed Hadar, Charles, and Ramlan Surbakti

the election candidates. This condition caused a decline in the EMB autonomy index in Indonesia, as presented in the graph below.

Figure 3. EMB Autonomy in Indonesia



3.3. EMB has High Capacity but is Prone to Intervention

The ability of the election commissioners determines the capacity of the EMB. Therefore, lawmakers have regulated the election organizer selection mechanism so that people with integrity and the ability and knowledge in the field of elections can fill the roles of election organizers. The selection process for KPU and Bawaslu members begins by forming a selection team. In this case, the government, through the Ministry of Home Affairs (Kemendagri), has begun forming a selection team for KPU and Bawaslu candidate members.

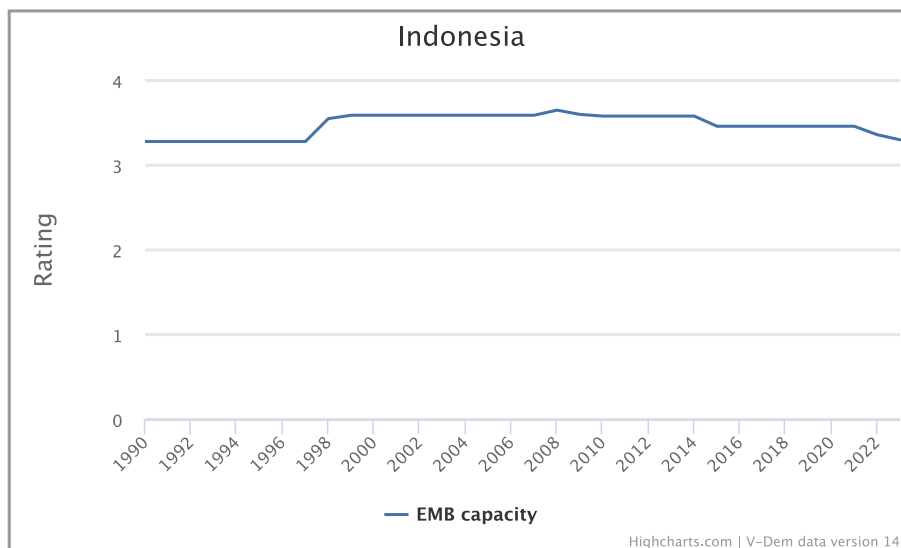
The formation of the selection team is in accordance with the mandate of Article 22 (8) and Article 118 of Law Number 7 of 2017 concerning General Elections, which explains that the formation of the selection team is determined by a presidential decree no later than six months before the end of the KPU and Bawaslu membership period. In the presidential decree, the 11 names of who will be on the selection team are written, with the selection of the selection team names following the rules in Law Number 7 of 2017 concerning General Elections, namely paying attention to the representation of women of at least 30 percent; consisting of three people from the government, four people from academics, and four people from the community; and have a minimum education of bachelor's degree (S-1) and be at least 40 years old. In addition, in a quo law, it is also explained that the selection team must meet several criteria, such as having a good reputation and track record, having credibility and integrity, understanding election issues, having the ability to conduct recruitment and selection, and not currently serving as an election organizer.

In general, the task of the KPU and Bawaslu candidate member selection team is to assist the president in determining the KPU candidate members who will be submitted to the Indonesian House of Representatives (DPR RI). In more detail, the task of the KPU and Bawaslu candidate member selection team is to announce candidate registrations, receive candidate registrations, conduct administrative research on candidates, and announce the results of administrative research. Prospective KPU and Bawaslu members declared to have passed proceed to the next stage, namely written selection, health tests, and a series of

psychological tests. After that, the selection team announces the names of the candidates who passed the test and publishes it to the public to get input from the public.

After conducting a series of selection processes, the selection team determine 14 names of KPU member candidates and 10 names of Bawaslu member candidates for a five-year term to the president. The next stage is to issue a presidential letter (SurPres) regarding KPU and Bawaslu member candidates which will be given to the Indonesian House of Representatives (DPR RI) to conduct a fit and proper test. After conducting a fit and proper test, Commission II of the Indonesian House of Representatives determine seven names of KPU members and five names of Bawaslu members for a five-year term. Furthermore, the seven names will be approved by the DPR in a plenary meeting. Through this series of selection activities, the selected election organizers are expected to have sufficient capacity to hold quality elections.

Figure 4. EMB Capacity in Indonesia



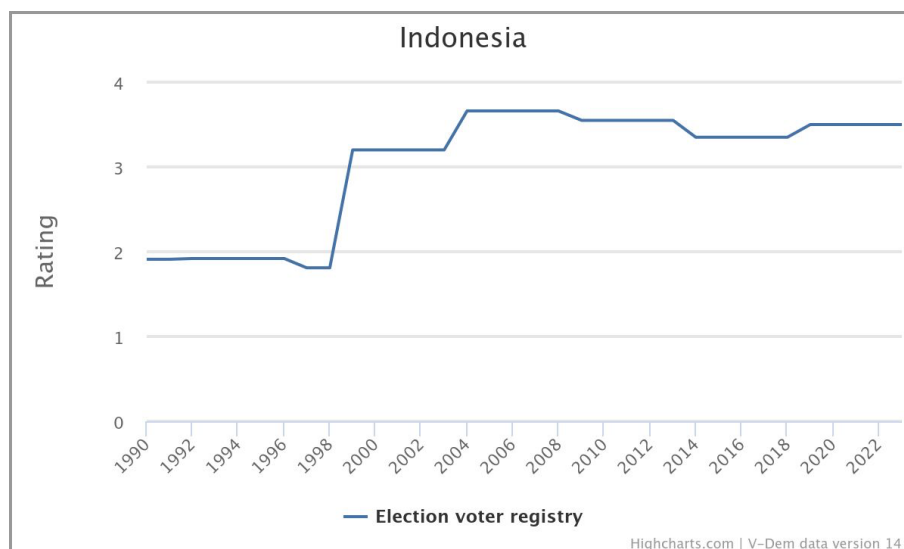
When viewing the data illustrated above, the data from V-Dem shows that Indonesia has sufficient staff and resources to administer a well-run national election. However, the capacity of election organizer members is insufficient to maintain the election quality due to intervention from the president and the legislature, who both have electoral interests.

3.4. Election Voter Registry: DPT is Trustworthy Enough

The KPU compiles the voter list, strictly regulated in the provisions of Articles 202 to 218 of Law 7/2017 concerning Elections. To produce accurate voter data, the KPU makes efforts to update the Continuous Voter List (DPB), which is routinely carried out at every level, both provincial and district/city. This data update is carried out continuously to update voter data for the maintenance of voter data to facilitate the process of updating and compiling voter data in the next election and to update voter data so that it meets the comprehensive, accurate, and up-to-date aspects. This continuous voter data update activity is carried out every month, taking into account residents who move in and move out, new voters, voters who have died, and changes in voter data elements. Thus, the updated voter data can be used to compile the DPT in the next election and/or elections.

However, in reality, the problem of the voter list is often encountered in the general elections or regional head elections, which is considered to be rooted in population data that has not been properly recorded. Therefore, the compilation of the voter list can no longer rely solely on population data and is carried out periodically or before the election. The inaccuracy of the Permanent Voter List (DPT) in the general or regional head elections (Pilkada) is still a classic problem that has not been resolved. In the voter list, for example, there is often data on duplicate voters and voters who have died or moved residence. The DPT is very important because it shows the quality of the growth of democratic development. Therefore, during the election, the KPU prepares a voter data registry (Fix Voter List/DPT), which contains data on all Indonesian citizens who are entitled to their right to vote in the election. This data is updated every election. Although there is uncertainty regarding the accuracy of the DPT, public perception of the DPT is increasingly higher, as is observable in the figure provided below. It means that the public considered the voter list accurate enough to be used in elections, which is indicated by data showing that even though the registry is imperfect, the public has an optimistic view that this will not significantly affect the election results. It is also driven by the fact that voters not registered in the DPT can still exercise their right to vote by going to the polling stations (TPS) on voting day with their identity card (KTP).

Figure 5. Election Voter Registry in Indonesia

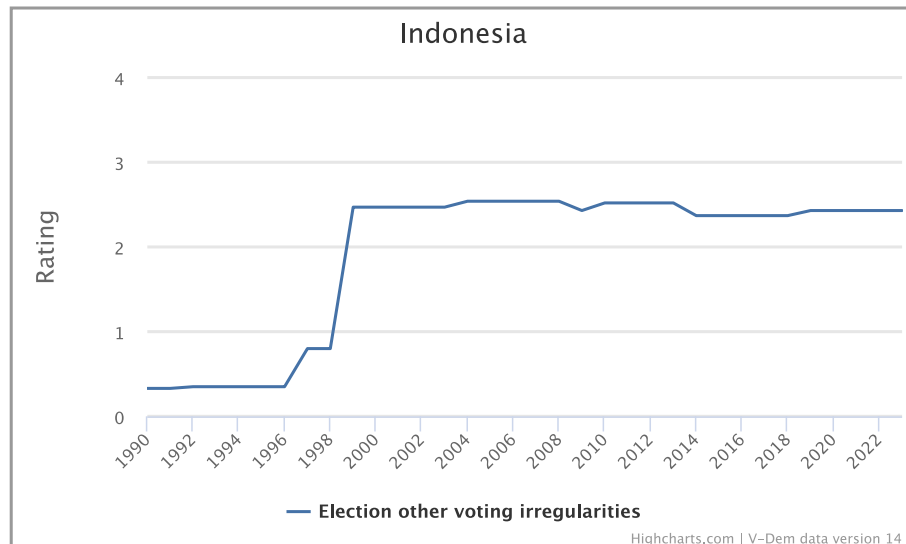


3.5. Election Irregularities are Barely Unintentional

Election irregularities refer to intentional actions by incumbent and/or opposition parties that interrupt the electoral process and generate voter fraud, such as double IDs, intentional lack of voting materials, ballot-stuffing, misreporting of votes, and false collation of votes. In this case, the election law does not regulate the provisions because the election law regulates voter fraud carried out by campaign teams, election candidates, election organizers, or voters. The provisions in UU No. 7/2017 on elections are even categorized as criminal acts. In practice, violations that fall into the category of election irregularities are still often found by Bawaslu throughout the elections in the reform era, which is also depicted in the data released by V-Dem, as seen below. However, it is still unclear whether the electoral irregularities and violations that occurred

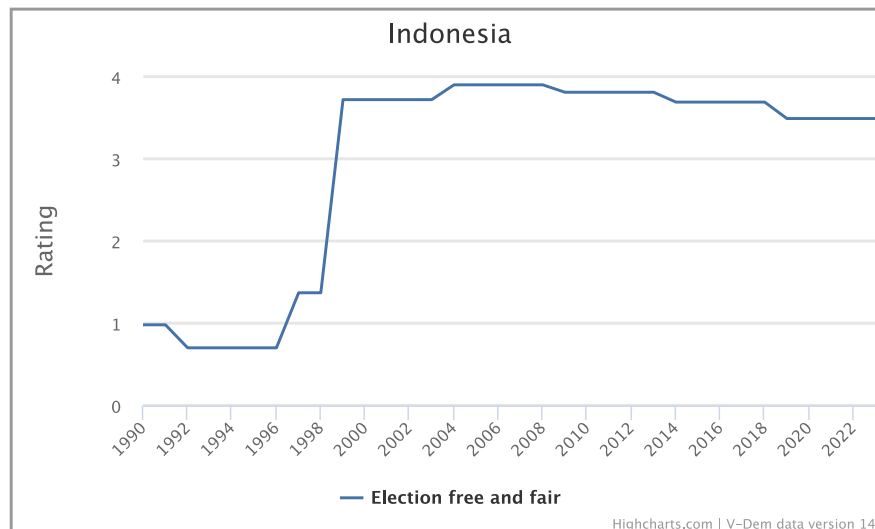
were intentional or disfavored particular groups. Even if such violations occur, they do not reach the level of disfavoring particular groups' access to participation.

Figure 6. Intentional Irregularities in Indonesia



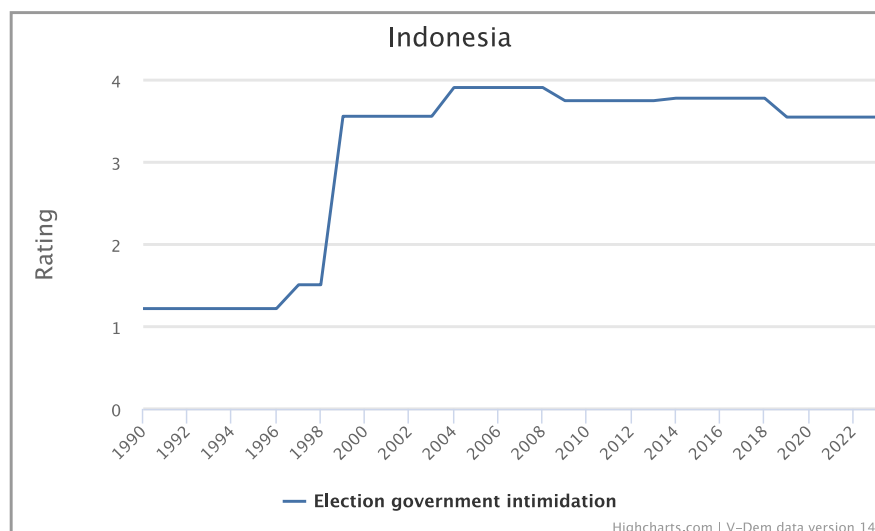
3.6. Free and Fair Elections

Article 22E paragraph (1) of the constitution secures free and fair elections, which are regulated again in Article 2 of Law No. 7/2017 concerning general elections (Election Law), which states that elections are carried out based on the following principles: direct, general, free, secret, honest, and fair. The Election Law further regulates the law enforcement mechanism to ensure that free and fair elections are held. This regulation arrangement stipulates that candidates and parties should compete fairly and abide by laws. However, in the implementation, a free and fair election is hard to maintain during the electoral phases. Some scholars alleged the elections have been flawed because of the electoral irregularities during the election cycles and on election day. However, the Constitutional Court (MK), as a judicial institution to decide on election result disputes in Indonesia, has never annulled the election results even though, in its decision, it acknowledged that there were violations of the principles of honest and fair elections. This is because, according to the Constitutional Court, the violations that occurred were not proven to have been carried out in a structured, systematic, and massive manner and, therefore, could not change the election results. Thus, the violations found did not significantly impact the public's perception of the implementation of free and fair elections because the Constitutional Court gave a final decision on the validity of the election results.

Figure 7. Election Free and Fair in Indonesia

3.7. Election Intimidation

Normatively, intimidation is clearly prohibited both against voters and against election candidates. According to Law Number 39 of 1999 concerning Human Rights, every citizen has the right to vote without pressure or intimidation. Intimidation to vote for a particular candidate is a violation that can be subject to sanctions based on Law Number 10 of 2016 on Regional Elections Article 182A. Meanwhile, Law Number 7 of 2017 concerning elections also prohibits intimidation. At least three articles mention sanctions for perpetrators of intimidation in elections, namely Article 510, Article 515, and Article 523. In practice, there was no harassment or intimidation of opposition by the government or its agents during the election campaign and on polling day. However, in practice, intimidation of voters and the election management body's staff in several electoral districts to vote for a particular candidate pair or candidate is still found. In the recent 2024 election, Bawaslu found intimidation cases of voters at 2,271 polling stations during the election (Muliawati 2024). The presence of intimidation towards voters and EMB increasingly shows the existence of defects in the implementation of elections, which affect the quality of elections in Indonesia.

Figure 8. Government Intimidation during Election in Indonesia

3.8. Multiparty Elections

Political parties participate in elections in Indonesia as guaranteed by the constitution, especially the provisions of Article 6A paragraph (2) and Article 22E paragraph (3) UUD 1945, which state that election participants to elect members of the DPR are political parties and that election participants to nominate presidential and vice-presidential candidates are political parties or a coalition of political parties. Based on these regulations, the Political Party Law further regulates the requirements for establishing political parties where every person or association can form a political party in accordance with the mechanisms regulated by law. On the other hand, the Election Law further regulates the requirements for political parties to become election participants, which provides equal freedom for all political parties to participate in the electoral competition to obtain seats in the DPR or to propose presidential and vice-presidential candidates for the presidential election.

With regulations that provide legal certainty for political parties to participate in elections, Indonesia has implemented a multi-party election system throughout the reform era. Since reformation began in 1998, many new political parties have been established and can participate in the election. In the first election at the beginning of the reform era in 1999, one thing that very prominently distinguished the 1999 election from previous elections since 1971 was the significant number of political parties that participated in the 1999 election as electoral participants, which was possible because of the freedom to establish political parties. In the 1999 election, 48 parties participated, which was much less than the number of parties that existed and were registered with the Ministry of Justice and Human Rights, which was 141 parties. However, 19 political parties succeeded in obtaining seats in parliament.

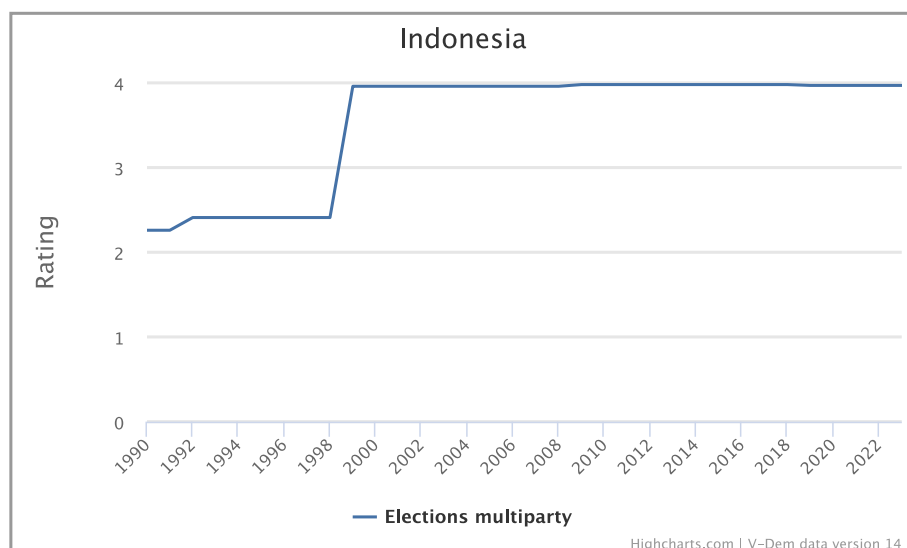
Although in subsequent elections, the number of participating political parties decreased, the number of political parties participating was never the same as the number of parties participating during the New Order regime, which only had three political parties. In 2004, the number of political parties participating in the legislative election reached 24 political parties. Furthermore, in the 2009 election, the number of political parties participating in the election increased again to 38 political parties. However, in the 2014 election, the number of political parties decreased drastically to 12 political parties. This number increased again in the 2019 election to 16 political parties, and in the recent election in 2024, the number of political parties participating in the election increased to 18. Changes to the rules regarding the electoral and parliamentary thresholds regulated by the election law influenced the fluctuation in the number of political parties.

Table 1. The Number of Political Parties that Participated in the Elections in the Era of Reformation

Election Year	Number of National Political Parties	Number of Political Parties in the National Parliament
1999	48	19
2004	24	16
2009	38	9
2014	12	10
2019	16	9
2024	18	8

Thus, in terms of numbers, elections in Indonesia are very competitive. The competition rates became even higher when the electoral system changed by implementing an open list-proportional system since the 2009 election. Therefore, this kind of new system changed the electoral competition in legislative elections that occurs not only between the political parties but also within political parties.

Figure 9. Election Multiparty in Indonesia



Based on the description of each variable that influences the quality of elections in Indonesia, the table below presents de jure and de facto conditions per each variable.

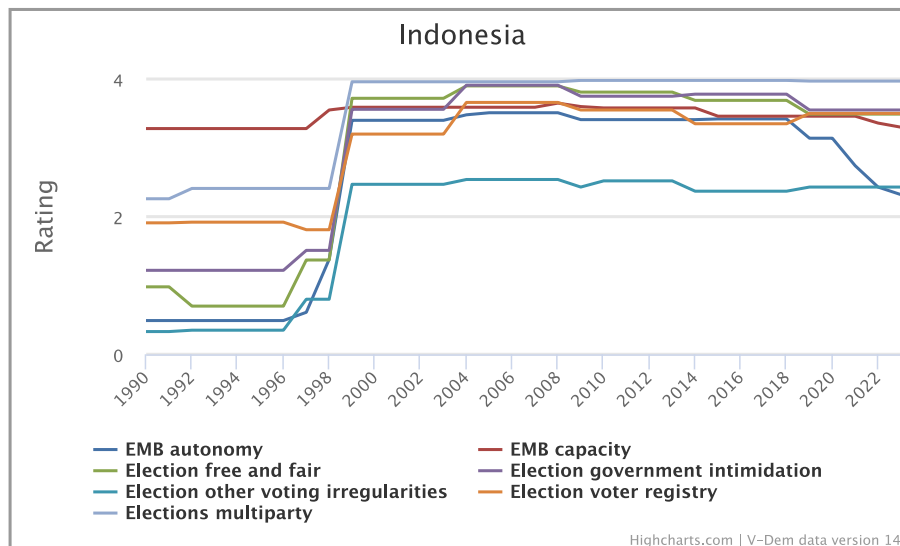
Table 2. De Jure and De Facto Quality of Indonesia Elections in 2024

Variable	De Jure Quality	De Facto Quality
Voting Rights Restrictions	Article 1 paragraph (2), Article 6A paragraph (1), Article 19 paragraph (1) and Article 22C paragraph (1) of the 1945 Law and Law no. 39 of 1999 concerning Human Rights	No restrictions
Accuracy of the voter registry	Articles 202 to 218 of Law 7/2017 concerning Elections	Highly accurate
Free and Fair Elections	Article 22E paragraph (1) and Article 2 of Law No. 7/2017 on Elections	Free and Fair
Multi-party elections	Article 6A paragraph (2) and Article 22E paragraph (3) of the 1945 Constitution, Political Party Law and Election Law	Highly competitive
Intentional irregularities	Law No. 7 of 2017 concerning elections	Almost None
Intimidation and Harassment	Law No. 39/1999, Article 182A Law No. 10/2016, Article 510, Article 515, and Article 523 Law No. 7/2017	No intimidation towards candidates but to voters and EMB

Variable	De Jure Quality	De Facto Quality
Autonomy of the EMB	Article 22E paragraph (5) UUD 1945, Law No. 15/2011	Ambiguous
Capacity of the EMB	Article 22 (8) and Article 118 of Law Number 7 of 2017	High

Based on the description of the variables that can affect the quality of the election above, we found that there is one variable that causes the low quality of elections in Indonesia, namely the EMB autonomy variable. Based on data from V-Dem, the EMB autonomy variable has decreased since 2018 and continues to decline until 2023, which shows that the quality of the last two elections in Indonesia has deteriorated, namely the 2019 and 2024 elections. These results mean that the Indonesian EMB is not autonomous enough to produce quality elections, and eventually, the election failed to support the vertical accountability mechanism. The following graph presents these results.

Figure 10. Comparative Variables for Election Quality in Indonesia



The lack of autonomy of EMB is due to intervention from political elites and also president. Thus, the election result often mobilizes the executives. Consequently, the results are far from the ideal of public interest. The government formed after the election, thus, serves the interest of the political party elites or the presidential coalitions. In this sense, it is hard to ensure that the electoral mechanism can hold the government accountable since the formation of the elected officials is more determined by the political party elites and the president as an incumbent. This condition nowadays can be seen in the political dynamics toward the election in 2024.

Recently, the president, as an executive, used his power to politicize the constitutional court to change the age limit required for president and vice president candidates; his intention arising from the coalition supporting the president to make the president's son eligible to run as vice president candidate in the next election. Furthermore, the public would question the integrity of the election when the president's son follows the election race and would, as a result, impact the valuation of democratic procedures in Indonesia.

Even though the electoral result depends on the people, as Indonesia adopted the majority system in the electoral design, the citizens will not easily be free to express their participation through voting in the

election as a form of participating in formal channels and expressing their opinion through demonstration or creating petitions in informal channels. The recent news said Constitutional Court Judge Saldi Isra was accused of ethical violations because he depicted his dissenting legal opinion when deciding the age limit for the president and vice president candidates. This condition shows how the government no longer favours different expressions. Related to this condition, the vertical accountability performance in Indonesia is now at a critical point. Therefore, a deep analysis is needed to prevent authoritarian executives from emerging in Indonesia's democracy.

Given the fact that the election for president and vice president, as well as the election for legislative bodies, occurred on February 14, 2024, it should be taken into account that there is a deep polarization in Indonesian politics nowadays. Indonesian elections have historically been competitive, reflecting deep-seated political, ideological, and social divisions. This polarization became particularly pronounced during the presidential elections of 2014 and 2019, where Joko Widodo (Jokowi) and Prabowo Subianto emerged as principal rivals. The campaigns during these elections highlighted significant divides, with differing visions for the country's future, and were accompanied by fervent grassroots mobilization, media battles, and, at times, misinformation campaigns. The political landscape has shifted significantly. In the 2024 election, President Joko Widodo's son Gibran Rakabuming Raka, running as a vice-presidential candidate alongside Prabowo Subianto, has further intensified the political discourse. These developments underscore the complex dynamics of vertical accountability and political polarization in Indonesia. The following arguments underlie the increasing polarization of Indonesian politics in the 2024 elections.

Gibran Rakabuming Raka's candidacy has sparked public backlash about political dynasties and their impact on the democratic process. While some see it as a continuation of Jokowi's legacy, others see it as a potential challenge to the principles of meritocracy and political accountability. Public reactions to this development have been mixed, reflecting a broader polarization within the electorate. According to his party, Prabowo Subianto's decision to partner with Gibran is a strategic move aimed at consolidating support across different voter bases. During the campaign for the previous election in 2019, Prabowo targeted the nationalist and conservative segments, while in the 2024 election, Prabowo decided to run with Gibran to appeal to voters loyal to the Jokowi administration. Thus, the choice to run with Gibran serves as a bridge to attract more voters. Ultimately, the partnership between Prabowo and Gibran has a two-pronged impact, either exacerbating polarization or helping to reduce it by presenting a united front that transcends previous electoral rivalries. However, they have reduced polarization by addressing key national issues during their campaign.

Vertical accountability in Indonesia is intricately linked with the nation's electoral processes and the dynamics of political competition. The entry of President Joko Widodo's son into the vice-presidential race alongside Prabowo Subianto is a significant development that highlights the ongoing challenges and complexities within Indonesian democracy. Vertical accountability refers to the mechanisms through which citizens can hold their elected officials accountable, primarily through elections but also through public oversight, media scrutiny, and civic activism. The following is an example of how Indonesian people exercises vertical accountability. In Indonesia, vertical accountability is a crucial aspect of its democratic framework, providing a check on political power and ensuring that leaders remain responsive to the electorate.

Prior to the February 14, 2024 election, the movie "Dirty Vote," a powerful documentary film that sheds light on the various malpractices and irregularities that can occur during the electoral process in Indonesia, was released. The movie highlights issues such as vote-buying, manipulation of voter lists, and intimidation tactics that some political actors use to influence election outcomes. This cinematic exposé serves as a critical tool for vertical accountability by bringing these issues to the forefront of public

consciousness. By documenting and illustrating instances of electoral fraud and corruption, “Dirty Vote” raises awareness among the general public about the vulnerabilities in the electoral system. Awareness is the first step toward demanding accountability from those in power. When informed about these issues, voters are better equipped to question and challenge irregularities. The film stimulates public discourse on the integrity of elections. Discussions prompted by the movie in various forums, including social media, public debates, and community meetings, contribute to a more informed and engaged electorate. Such discourse is vital for vertical accountability as it pressures political leaders and institutions to address these concerns. Public pressure resulting from the exposure of electoral corruption can lead to meaningful electoral reforms. By documenting the flaws in the system, “Dirty Vote” can inspire policymakers to implement changes that enhance transparency, fairness, and integrity in elections. Such reforms are essential for strengthening vertical accountability and ensuring that future elections are free from undue influence and manipulation.

The film “Dirty Vote” encourages voters to be vigilant and proactive in protecting their rights. It emphasizes the importance of reporting irregularities and participating in monitoring efforts. An informed and vigilant electorate is a key component of vertical accountability, as it can deter electoral fraud and hold perpetrators accountable. “Dirty Vote” is more than just a documentary; it is a vital instrument for promoting vertical accountability in Indonesia. By exposing the dark side of electoral politics, the film empowers citizens, civil society, and the media to demand greater transparency and integrity in the electoral process and, in turn, helps to ensure that elected officials remain accountable to the people they serve, reinforcing the foundations of democracy in Indonesia.

The impact of “Dirty Vote” demonstrates how media and storytelling can play a pivotal role in enhancing vertical accountability, fostering a more informed, engaged, and proactive electorate, and driving necessary reforms to protect the integrity of the democratic process.

Figure 11. Data on the Voters in the 2024 Election



Source: Tempo.co.id

The data above shows that from the permanent voter list, the total voter list of the 2024 election consists of 204,807,222 people, with 52% being young voters. Therefore, the issue to be covered during the campaign is to increase people's participation, ideally relating to youth. The following table presents the voter list in detail.

Table 3. Participation in 2024 Election by Generation Types

No.	Generation	Total
1	Millennial	66,822,389
2	Gen X	57,486,482
3	Gen Z	46,800,161
4	Baby Boomer	28,127,340
5	Pre-Boomer	3,570,850

Source: Databox, Katadata

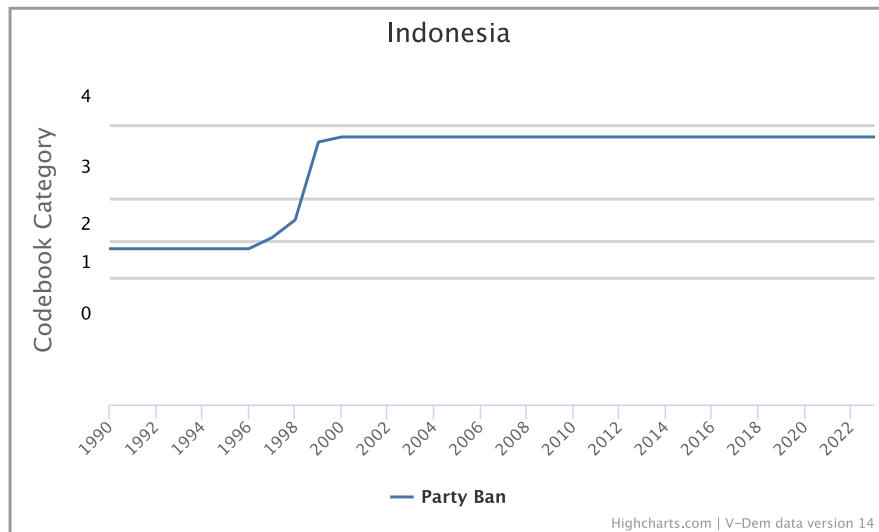
With a significant portion of the electorate being under 40, young voters are a crucial demographic. Issues such as employment, digital skills, and education are particularly important to this group. All major candidates have tailored parts of their campaigns to appeal to these younger voters.

4. The Political Parties Quality in Indonesia

Vertical accountability is also affected by the quality of political parties because formal participation of citizens, other than through elections, is only through the political parties. Therefore, it is crucial to evaluate whether political parties have barriers to forming a party, how restrictive they are, and the degree to which opposition parties are independent of the ruling regime.

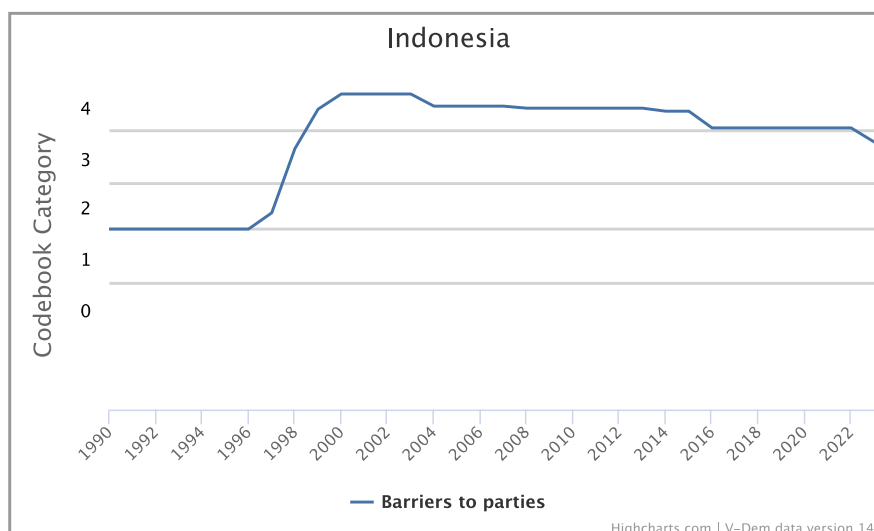
4.1. Party Ban

With the beginning of the democratic transition in Indonesia in 1998, the government guaranteed freedom of association and the formation of political parties. However, political parties with communist leanings remained banned because they were considered to conflict with Pancasila as the state ideology of Indonesia. In addition, people and groups in Indonesia who adhere to communism/Marxism-Leninism, especially the Indonesian Communist Party (PKI) in the history of Indonesian independence, have been proven to have tried to overthrow the legitimate Indonesian government through violence several times. For this reason, the government declared the PKI a banned organization throughout the territory of Indonesia. All activities in Indonesia to spread or develop communism/Marxism-Leninism, in all forms and manifestations, and the use of all kinds of apparatus and media to spread or develop these ideologies/teachings are prohibited, which explains why the party ban index in Indonesia has remained at 3.19 throughout the reform era, as shown in the following graph.

Figure 12. Party Ban in Indonesia

4.2. Barriers to Forming a Party

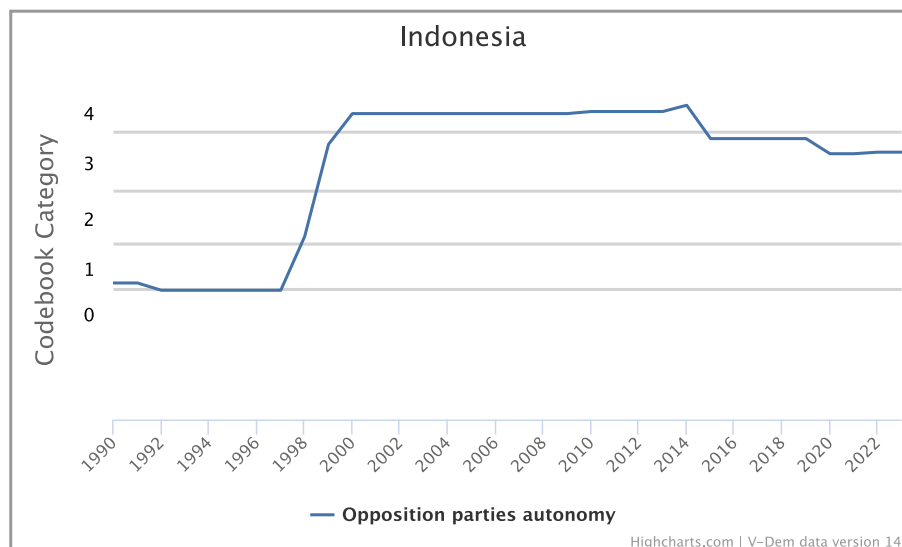
A democratic regime should support the formation of political parties without significant power. However, in practice, this action can arise from the prevailing political system, such as legal banking, party finance, or harassment. In Indonesia, the formation of political parties occurred during the New Order. However, the barriers to forming political parties were abolished when the democratic transition when the democratic transition began in 1998. Therefore, any person or certain group can establish a political party as long as there is no conflict with the Pancasila ideology and can meet the requirements set by law. These requirements for the formation of political parties are what indirectly encourage the growth of new political parties. These requirements require parties to have management in, within all of Indonesia, 75 percent of the number of districts/cities in the relevant province and 50 percent of the number of sub-districts in the relevant district/city. In addition, political parties must have permanent management offices at the central, provincial & district/city levels until the final stage of the election. These two requirements certainly have significant cost consequences for political parties to meet their requirements.

Figure 13. Barriers to Parties in Indonesia

4.3. Autonomy of the Opposition Party

Viewing the V-Dem data, there has been a decline in the autonomy score index of the opposition party since 2014. However, this score is still in the independent category because it is still at 3.12, which means that the most significant opposition parties are autonomous and independent of the ruling regime. The fact that there are no barriers or legal constraints in Indonesian regulation to prevent any political party from becoming an opposition party in the government supports this score, which is because the Political Party Law has guaranteed that political parties have the right to organize and manage the organization's household independently so that political parties can determine their political stance as long as it does not conflict with the Constitution. In other words, in de jure, all political parties hold their autonomy independently in terms of whether they want to take a side as opposed to a system of checks and balances on the president and his cabinet to hold the executives accountable. Despite the existence of the opposition in the Indonesian government system, it has not been constitutionally recognized, and there are no legal regulations governing the autonomy of opposition parties in government. The function of the opposition as a counterweight to the government, carried out by parties outside the government along with civil society, has become part of the political system in Indonesia.

Figure 14. Opposition Parties Autonomy in Indonesia



As de facto, opposition parties have existed even before the reform era. However, the number of political parties that take positions as the opposition is only a few. The following is a list of political parties that are the opposition in the post-election government of the reform era.

Table 4. Coalition and Opposition Parties in Reformation Era

Elections	Coalitional Parties	Opposition Parties
2004	Demokrat, PAN, PKS, PKB, PPP, PBB, dan PKPI, Golkar	PDIP, PBR, PDS
2009	Demokrat, PKS, PAN, PPP dan PKB, Golkar	PDI-P, Gerindra, dan Hanura
2014	PDI-P, Golkar, PAN, PKB, PPP, NasDem, Hanura, dan PKPI	Gerindra, PKS, Demokrat, dan PBB.
2019	PDI-P, Gerindra, Golkar, PKB, NasDem, PPP, Perindo, PSI, Hanura, PBB, dan PKPI	Demokrat, PKS, dan PAN
2024	Gerindra, Golkar, PAN, Demokrat, PBB, Gelora Indonesia, PSI, Partai Garuda, Nasdem, PKB, PKS, PPP, Perindo, Buruh, PDIP	No opposition parties

Based on the table above, the absence of an opposition party in the government after the 2024 election threatens Indonesia. The absence of an opposition party in government means there is no system of checks and balances on the president and his cabinet.

In de facto, the opposition parties only occur as a pseudo-opposition, formed at the time of the election to gain electoral benefit. Soon after the General Election Commission (KPU) determines the elected president and vice president, several political parties will begin to determine their stance. Some join the ranks of the government or coalition, and some consistently choose to be the opposition or oppose the government. If the opposition party loses in the election, it will unite with the winning party and become a coalition party with the aim to get a seat in the cabinet and become part of the government. The last two elections, namely 2019 and 2024, saw this occurrence. After the 2019 election, Gerindra and its coalition parties that opposed the government agreed to join the government after losing the election. A similar experience occurred after the 2024 election when all opposition parties that lost the presidential election decided to become government allies, including PDIP, PPP, PKB, and PKS. As a result, not a single opposition party can provide checks and balances on the new government formed for 2024-2029.

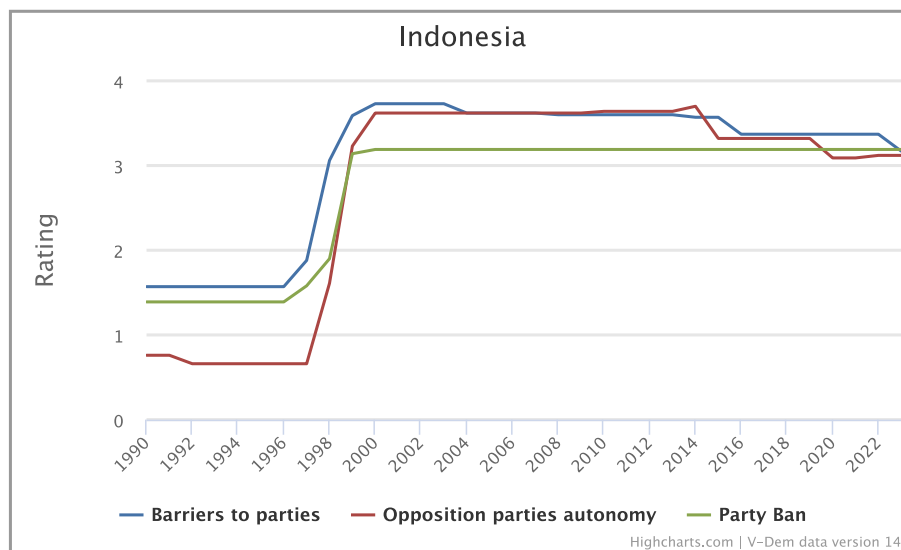
Based on the variables of political parties' quality, the summary of jure and de facto qualities can be seen in the table below.

Table 5. De Jure and De Facto Quality of Political Parties in Indonesia

Variable	De Jure Quality	De Facto Quality
Party ban	Article 28E paragraph (3), Article 2, Article 3, Article 4, Article 5 and Article 47 paragraph (1) of Law Number 2 of 2011 concerning political parties, TAP MPRS XXV/MPRS/1966	Almost none
Barriers to Party formation	Article 2 of Law No. 2 of 2008 concerning Political Parties	Almost none
Opposition parties' autonomies	Article 12 of Law No. 2 of 2008 concerning Political Parties	Highly autonomous from ruling regime

When comparing the three variables that form the quality of political parties, none weaken the quality of political parties de jure or de facto. The only variable that shows a level of decline is the political party opposition variable. However, the political party opposition variable has its own challenges in its implementation because not many political parties have the cheek to take steps to become the opposition. Thus, the failure of political parties to encourage vertical accountability lies in the attitude of political parties that do not dare enough to take a stance as the opposition and carry out their function as government controllers to carry out checks and balances on the president.

Figure 15. Comparative Variables for Political Parties' Quality in Indonesia



This political party problem certainly impacts political parties' abilities to encourage the creation of vertical accountability since it is essential for maintaining a healthy and vibrant democracy in Indonesia. It required political parties to remain connected to the electorate, responsive to their needs, and transparent in their operations. It also encourages parties to uphold their commitments, fostering trust and legitimacy among the citizenry. Unfortunately, these attempts are hard to achieve since the political parties have additional institutionalized problems that undermine their quality to serve people's aspirations in influencing public policies.

The problems of political parties comprise institutional aspects, including personalization issues, oligarchy, transparency, and internal democracy. Also, many studies reveal that political parties in the reform era have not been able to become public institutions that demonstrate their responsibility towards their voters. Compared to the regimes before reformation, in the New Order era, political parties became the ruling political machines, more directed at the interests of perpetuating the status quo of the existing political regime. Meanwhile, when entering reform, political parties faced huge demands from society, while political parties were not yet ready with good institutions. Several factors mean that the party's institutional level has not developed well. The existing parties are generally relatively new, so the party infrastructure has not been well-developed. Apart from that, parties often experience conflicts that drain energy and time so that there is no time to build political party institutions.

Considering these problems, political parties are unable to play their functions optimally. Political parties lack the ability to mobilize and represent citizens' interests or connect citizens with the government. Thus, the conditions of political parties reduce public trust in political parties, political party elites, and their

representative members. The ground level of party identification (party ID) proves this condition. Based on the results of a national survey conducted by *Indikator Politik* in 2021, the political party ID is approximately 7%, which is reflected by data that only 6.8 percent of 1,200 respondents across all provinces in Indonesia stated that there was a political party that the respondents felt close to. The remaining 92.3 percent answered none were attached to any political parties.

Therefore, the problem of the quality of political parties is not occurring because of a weak legal framework to support their autonomy and or forming political parties. The absence of opposition parties and the problem of the institutionalized parties hinder the system of checks and balances by political parties toward the government. The condition escalated to the rise of dominant political parties due to the recent election in 2024. Gerindra will be the leading political party since Prabowo, the elected president, comes from the Gerindra Party. As the leading political party that will rule Indonesia for the next five years of presidency, the party will be dominant enough to influence political dynamics in Indonesia. Considering no more opposition parties, the one-party dominant system is emerging and would generate the illusion of a multiparty system in Indonesia. This condition should alarm Indonesia because the rise of dominant political parties contributes to the resurgence of authoritarianism and impedes democracy support.

Eventually, compared to the previous regime, the quality of political party opposition in Indonesia tends to remain unchanged. All political parties take aside the coalition of government, prolonging the status quo of the problem of the quality of the autonomy of political parties embedded in Indonesia's electoral democracy practices. This shows that Indonesia experienced a status quo trap in which the political parties, to some extent, tend to maintain existing, similar patterns of behavior that influence their capacity to support democratic agenda and functioning checks and balances towards the government. This trap results in political party reform no longer being able to build strong and institutionalized political parties and, as a result, unable to produce political parties oriented toward policies that reflect the interests and aspirations of the people. In order to escape from the trap and improve the quality of political parties in Indonesia, the quality of political party autonomy must be improved. Thus, political parties can work independently from external pressure and focus on developing policies that are in accordance with their ideology and political platform.

Improving the autonomy of political parties in Indonesia can only be done by encouraging them to become functional opposition parties according to their orientation and ideology. The political parties have to develop a clear stance for their ideological values or policy platforms because a strong opposition party should not just oppose the ruling party for the sake of being an opposition party but to present their political ideology to provide better alternative options for governance to promote political accountability. As mentioned before, regulation is absent in opposition political parties in Indonesia. Therefore, this study recommends strengthening the legal and institutional framework for opposition political parties. This legal framework should ensure that opposition parties have equal access to parliamentary resources, such as committee memberships, budget allocation, access to information or the government agenda, priorities, and future agenda of policy development. Most importantly, the regulation should regulate the rights of opposition parties to access government information and give the key roles in the parliamentary committees equal to the non-opposition parties, especially in those related to oversight, budgeting, and public accountability. Moreover, the regulation itself should ensure that opposition parties can function without any political pressure from the ruling party of the president or government and also guarantee to protect opposition parties from harassment or disbandment.

5. Conclusion

As global trends show the decline of democratization in countries across the globe, many scholars have focused on studies on preventing democratic erosion from taking place. Laebens (2023) found that multiple accountability mechanisms involving pressure from the public and political elites worked together to avert further democratic decline. The moment in which accountability pressures succeeded in sanctioning the incumbent was dependent on the pre-existing strength of democratic institutions, such as elections and political parties, which were enabling factors of vertical accountability.

Conceptually, the vertical accountability mechanism is determined by the quality of elections and the quality of political parties. Unfortunately, vertical accountability has not been able to run effectively to ensure there is no arbitrary action by the president or presidential aggrandizement. In the context of Indonesia, elections, expected to be a channel for vertical accountability, cannot encourage the institutionalization of effective vertical accountability mechanisms because the KPU, as the election management body, is not autonomous and is thus difficult to be independent; therefore, affecting the quality of the election process and electoral outcome. In addition, political parties also still have problems in terms of opposition. The attitude of parties reluctant to become the opposition and carry out the system of checks and balances against the government makes political parties unqualified as political actors that represent the community's aspirations to influence public policies.

Overall, vertical accountability is still challenging to establish in the Indonesian government since all aspects previously listed have conditions that hinder citizens from playing their role in checking government accountability, specifically EMB autonomy, to ensure the quality of elections and the establishment of opposition parties. Although the reform movement has taken place since 1999, the improvement in elections and the quality of political parties has failed to sustain vertical accountability. The recent election also shows that the public has difficulty demanding the government, especially the incumbent president, to hold his power accountable. In the end, the intervention by the government in the 2024 election remains in place. This condition has violated the essence of the election itself, where the public has to give their voice through a vote-giving mechanism; however, as a result of intervention, the voices become meaningless. On the other side, the EMB failed to perform their duty independently.

Moreover, the political parties seem to have distance from the citizens and failed to perform their roles to bring the agenda of the public. It successfully cuts out the channel provided for the citizens to ensure that their demands for accountability are executed through the political parties' representatives in the parliament. The political parties' behavior of not siding in opposition to the government exacerbates this condition of political parties' quality. The dysfunction of political parties to perform checks and balances on the president and his cabinet puts the citizens in a difficult situation.

Both elections and political parties are not reliable enough to be the channels of citizens in demanding vertical accountability toward the power of the executive. The public initiatives that arose during the electoral campaign in the 2024 election did not influence interfering electoral outcomes. CSOs, called on to fight the battle and enter the electoral competition arena, released the movie "Dirty Votes," which comprises information on intentional electoral frauds committed by the government or ruling elites. In this regard, the film is a documentary that sheds light on the malpractices and irregularities in the Indonesian electoral process. The movie has sparked widespread public discourse and criticism regarding the integrity of elections in Indonesia by exposing vote-buying, voter intimidation, and other forms of electoral fraud. This cinematic exposé serves as a powerful tool for enhancing vertical accountability, compelling the public and

institutions to scrutinize and address these electoral issues. This movement shows how civil society has tried to save free and fair elections and Indonesian democracy, in which their attribution shows that diagonal accountability is in place to take over the weakness of vertical accountability in Indonesia. Thus, this study recommends the need for research on the role of CSOs in implementing diagonal accountability in democracy in Indonesia to encourage the accountability of the president and his cabinet during the election and the term of office of the new president.

In conclusion, the de facto condition of EMB autonomy and political parties' opposition autonomy failed to support the vertical accountability mechanism works to constrain executive aggrandizement. Considering the quality of elections and political parties in Indonesia, it is firm that vertical accountability alone can't halt the declining trend of democracy in Indonesia. As such, this paper supports Laebens' (2023) argument that multiple accountabilities should work together to constrain the government. Hence, we hope CSOs and the media pressure the government and political party elites to ensure the quality of the elections and political parties to support a democratic transition in Indonesia and generate good democratic governance for the betterment of society. In addition, the work of the judiciary and legislative branches to constitute horizontal accountability is needed to constrain the executives from abusing power and to prevent authoritarian executives from occurring in Indonesia's democratic consolidation.

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Country Case 3: Mongolia

Vertical Accountability in Mongolia: Challenges to Democratic Progress and the Power of the People

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1. Introduction: The State of Accountability of Mongolia

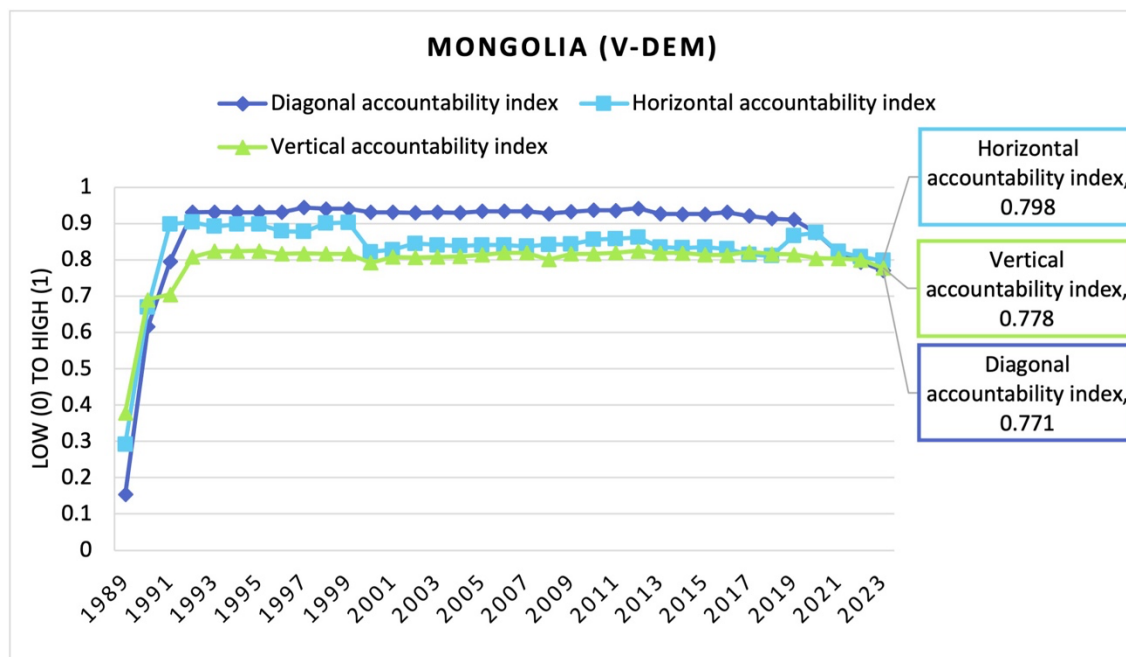
This report examines three types of accountability: government accountability to its citizens (vertical accountability), government responsibility to other institutions (horizontal accountability), and government accountability to the media and civil society groups (diagonal accountability). Existing research considers that in a system with vertical accountability, citizens can hold their government accountable through elections and political parties (Lührmann 2020, p. 813). This report will build on the previous report, “Horizontal Accountability in Mongolia” (Ganbat and Sumaadii 2024), where the main findings suggest a considerable deterioration in the system of checks and balances. It will assess the state of vertical accountability since citizens’ vigilance is one of the last bastions of resistance to the processes set by the government.

Among recent developments, the latest “Democracy Report 2024” placed Mongolia in the democratic “gray zone” between “electoral democracy” and “electoral autocracy.” From 1992 to 2022, Mongolian performance in V-Dem Projects accountability indices was consistently classified as an “electoral democracy.” On average, it scores relatively high in vertical and diagonal accountability indices, but its performance in horizontal accountability is declining (Figure 1). Since the institutionalization of democracy with the 1992 Constitution, its vertical accountability performance and subsequent decline make the case most similar to that of India (Figure 2).

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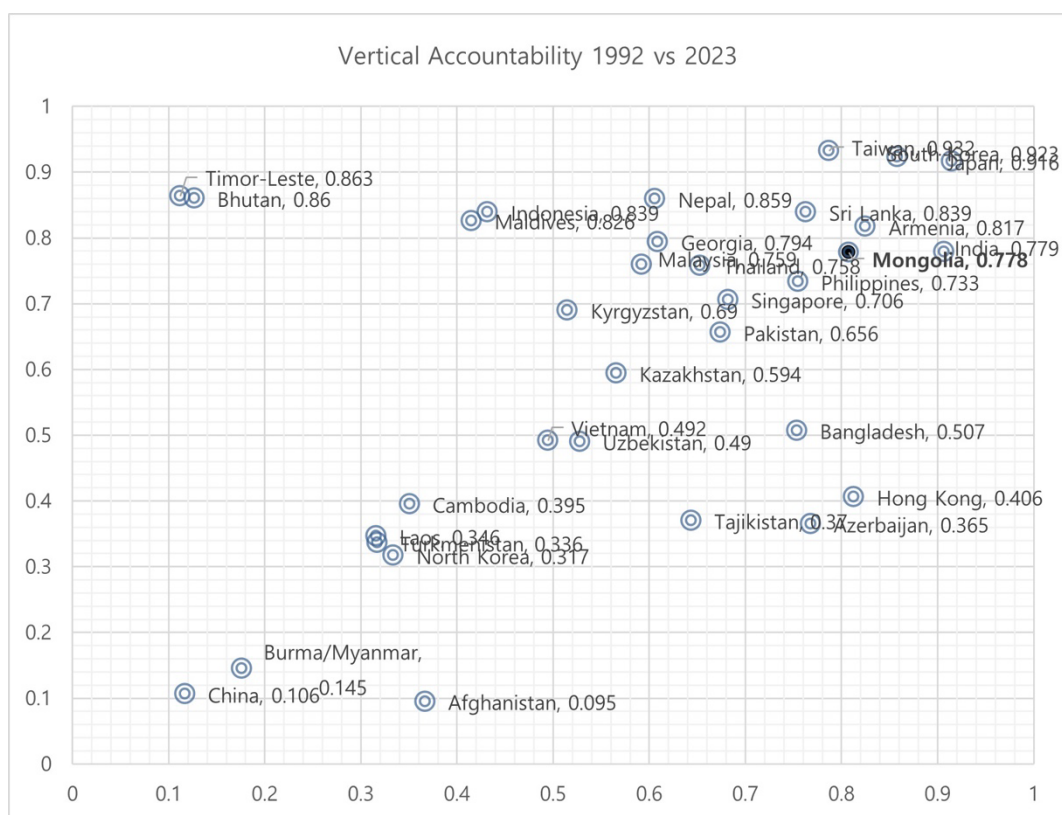
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Figure 1. V-Dem Accountability Indices: 1989 to 2023



Source: Data obtained from V-Dem Project

Figure 2. V-Dem Vertical Accountability Asia: 1992 vs. 2023



Source: Data obtained from V-Dem Project

In general, these scores describe a system where elections result in the transfer of power, but there are inherent flaws in the governance structure. In the case of Mongolia, these shortcomings pertain to (1) poor government accountability, (2) poor enforcement of legislation that is part of institutional control mechanisms and (3) mounting challenges with the freedom of the media. The principal obstacle to the analysis and evaluation of governmental performance and policy has been the absence of transparency in decision-making processes and the dearth of accessible administrative information. Moreover, most of the significant legislation introduced in recent years was introduced hastily with little challenge from the opposition or public oversight, which is required by the legislative process.

In view of these developments, a comprehensive approach is required to assess the government's accountability to its citizens (vertical accountability). Accordingly, we will start by examining electoral accountability, whereby citizens can hold the government to account through formal participation channels. We will then focus on the quality of elections and political parties. Subsequently, we will address diagonal accountability, whereby citizens utilize informal means to exert influence. This will entail an examination of media freedom, civil society organizations (CSOs), freedom of expression, and citizen engagement in politics.

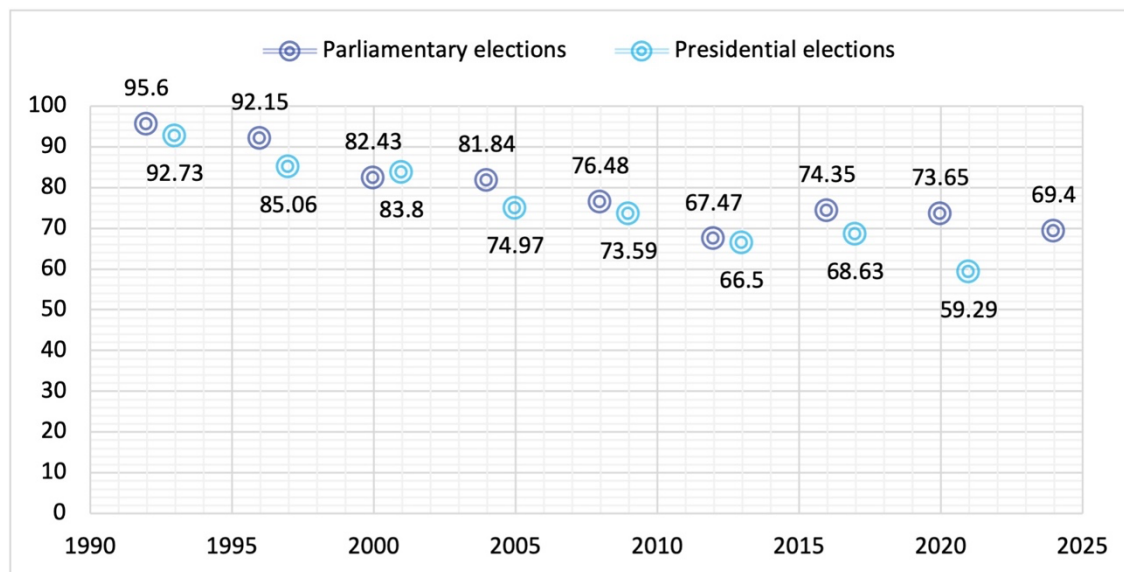
2. Electoral Accountability and Declining Party Competition

2.1. Elections: Revisions and Competition

Mongolian democracy was institutionalized by the 1992 Constitution. To date, there have been nine parliamentary and eight presidential elections, which have resulted in a relatively peaceful transition of power. By 2007, it was widely accepted that Mongolia had achieved a consolidated democratic system. However, considerable challenges remained in terms of the quality of its institutions and governance. The 1992 Constitution has been amended on several occasions (1999-12-24; 2000-12-04; 2019-11-14; 2022-08-25; 2023-05-31 see <https://legalinfo.mn/mn/detail?lawId=367>), but the electoral system was not specified in the constitution until 2023. The main electoral legislation was changed and revised numerous times, with each election cycle preceding a change in the Law on Political Parties, the Law on Parliamentary Elections, the Law on Presidential Elections, and the Law on Parliament.

From 1992 to 2024, Mongolia had 76 members of parliament (MPs) elected through different electoral systems (see TAF 2023, p. 27). Mongolia had predominantly utilized a majoritarian electoral system and only adopted a mixed electoral system for the 2012 parliamentary election (48 majoritarian seats and 28 proportional seats). In more recent times, the constitutional amendments in 2023 led to an enlargement of parliament to 126 seats, with 78 majoritarian seats elected in 13 constituencies and 48 proportional seats elected through nationwide lists.

Since the inaugural electoral cycle commenced in 1992, the voter turnout has remained relatively high. However, a gradual decline in voter participation has been observed over time (Figure 3). Voter turnout was notably high in the 1990s, mainly due to the novelty effects. However, in a manner similar to other democracies, enthusiasm for the electoral process has subsequently diminished over time. Nevertheless, voter turnout remains high for parliamentary elections, whereas it has decreased for presidential elections, highlighting the greater weight of parliament on the political system. The COVID-19 restrictions can explain the low turnout for the most recent 2021 presidential election. In the 2024 parliamentary elections, about two-thirds of the electorate participated, which represents a new norm.

Figure 3. Voter Turnout in Parliamentary and Presidential Elections since 1992

Source: Data from the General Election Committee of Mongolia

A further significant development is that the majoritarian system led to the dominance of two parties, as smaller parties were unable to compete outside of the capital. The challenges faced by smaller parties, newcomers, independents, and women in competing for office were primarily due to the increasing importance of resources in running campaigns, establishing and maintaining rural networks, and covering large electoral districts. In rural areas, the lack of developed infrastructure, vast geographic size, and scattered population required considerable funds for campaigning. Therefore, except for the two main parties, there was rarely any other political representation beyond the capital city of Ulaanbaatar. The Mongolian People's Party (MPP), successor to the Mongolian People's Revolutionary Party (MPRP), and the Democratic Party (DP), successor to the Democratic Union Coalition (DUC), are considered the two main political forces. Prior to the 2024 elections, the future of DP was uncertain, as it was unable to recover from its defeats in the past two elections. The introduction of a mixed electoral system and a high number of protest votes once again elevated it to a position of second major political force.

Table 1. Electoral System: 1992 to 2024

Elections	Electoral System	Number of Constituencies	Number of Seats	Mandates		MPRP/MPP		DUC/DP	
				Rural	Urban	% Votes	% Seats	% Votes	% seats
2024	Mixed*	13 + 1	78 + 48	54*	24*	35.0	53.9	30.1	33.3
2020	Majoritarian	29	76	52	24	49.3	81.6	24.5	14.5
2016	Majoritarian	76	76	48	28	46.5	85.5	34.2	11.8
2012	Mixed*	26 + 1	48 + 28	*	*	33.5	35.4	34.2	52.1
2008	Majoritarian	26	76	56	20	43.0	59.2	39.2	36.8
2004	Majoritarian	76	76	56	20	48.8	47.4	44.8	44.7
2000	Majoritarian	76	76	56	20	51.5	94.7	24.1	1.3
1996	Majoritarian	76	76	56	20	45.7	65.8	39.9	32.9
1992	Majoritarian	26	76	52	24	57.1	92.1	31.3	6.6

Source: Data from the General Election Committee of Mongolia

**Note: The 2012 and 2024 electoral systems are mixed (majoritarian and proportional), where the proportional part is based on a nationwide candidate list. This makes the allocation of rural vs urban number of mandates not directly applicable.*

In addition, Table 1 shows that the relationship between the total votes cast and the number of seats obtained by the two main parties in previous elections is not proportional. The type of electoral system, the number of constituencies (which is directly related to the size of the electorate), and, more recently, gerrymandering has resulted in distortions. In some instances, the discrepancies were considerable (see Figures 4 and 5), which also contributed to the growing criticism of the electoral system. Furthermore, the role of urban and rural cleavages and the related distribution of mandates in Ulaanbaatar and rural areas must be considered. Historically, rural constituencies have tended to favor the MPRP/MPP. Consequently, the high number of rural mandates in the rural area primarily benefited the ruling party.

Figure 4. MPRP and MPP Votes and Seats

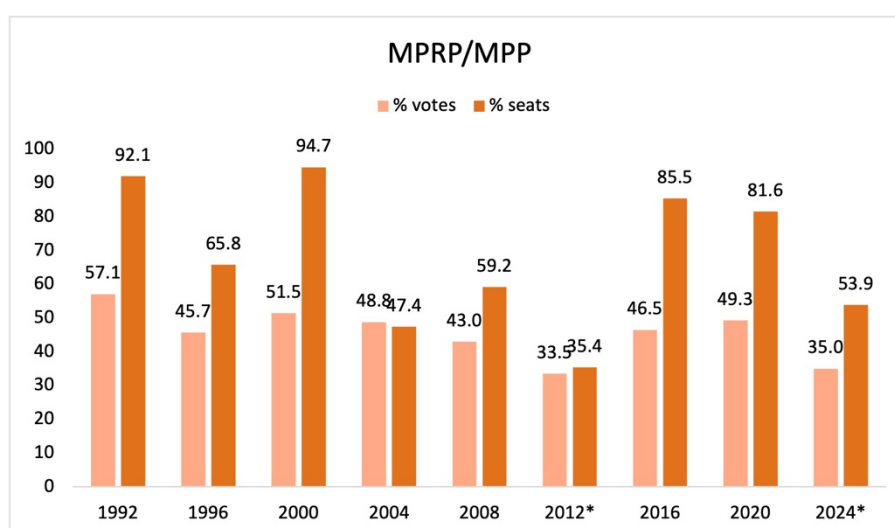
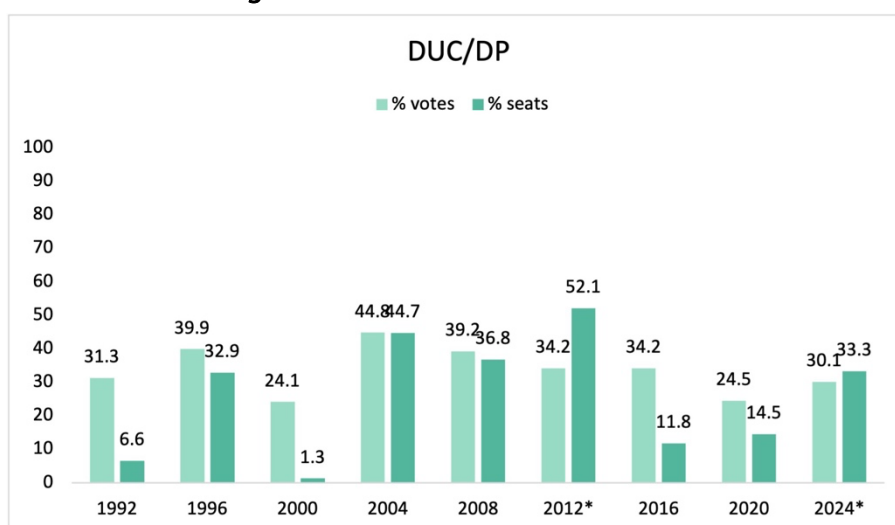


Figure 5. DUC and DP Votes and Seats



Source: Data from the General Election Committee of Mongolia

Concurrently, the process of political party registration was rarely a problem. Indeed, dozens of parties have been established in the period leading up to the elections, only to cease operations shortly thereafter. As previously stated, the primary obstacle confronting smaller parties was the lack of resources, which continuously disadvantaged them in rural areas and rendered them incapable of competing with larger parties. The size of electoral districts and the absence of established rural networks constituted a significant challenge that they were unable to surmount. These issues are directly linked to the political party finance system, which provided the ruling party with greater access to resources and legislative advantages, thereby creating an uneven playing field (Enkhtsetseg and Bat-Orgil 2024).

This was also the case for independent candidates, newcomers, and women, who lacked the support of a major party. Following the 2016 electoral defeat of DP and the subsequent internal crisis within the party, the party's influence and standing as a significant political force diminished considerably. Despite the recent recovery in 2024 by winning a third of the seats in parliament, critics have highlighted that it no longer fulfills the role of opposition, and a new coalition was formed with the MPP. This contributes to the prevailing political climate in which voters are lost in the fog (MANAN) and unable to find an alternative to the ruling party (Sorace and Jargalsaikhan 2019).³ In the past, this symbiotic relationship between the two mainstream parties contributed to the lack of distinction between the government and the opposition. Furthermore, this situation undermined DP's credibility as an alternative to the MPP.

The enlargement of parliament and the re-introduction of the mixed electoral system in 2024 resulted in a greater presence of other parties and women in parliament. However, introducing mixed majoritarian and proportional lists added more complexity to the electoral system. Despite this, the new system contrasts the results of majoritarian and proportional lists. Especially due to the proportional lists, the small parties' presence increased to 16 out of 126 seats (12.7 percent) in the 2024 parliament, compared to just 1 out of 76 seats (3 percent) in 2020. Notably, 14 out of 16 total seats were obtained through proportional lists.

After the 2023 changes in electoral legislation, the number of women parliamentarians has significantly increased from 13 out of 76 seats (17.1 percent) in 2020 to 32 out of 126 seats (25 percent) in 2024, which is the highest percentage of women in parliament in Mongolia's democratic history and can largely be attributed to the new gender quota measures. In the past, throughout eight parliamentary elections, there has never been a critical majority of women's representation in parliament, even after quota measures were enforced for candidates in 2012. It should be kept in mind the implementation of quota measures was not for women's seats in parliament but just for the proportion of women as candidates on each party's list. For the 2024 parliamentary election, the new legislation mandated that on the majoritarian list, at least 30 percent of all candidates must be women; on the proportional list, every other candidate must be of a different gender. Notably, the new 2024 electoral system contrasts the results of majoritarian and proportional competition. If we examine the results in detail, women only obtained 8 out of 78 majoritarian seats (10.3 percent). Even with increased candidate list quota measures compared to the past, this is similar to past majoritarian system elections. In comparison, the gender parity in proportional lists resulted in 24 out of 48 proportional seats (50 percent) due to the implemented gender parity on the lists.

³ The acronym MANAN is used to refer to the two major political parties in Mongolia: the Mongolian People's Party (in Mongolian, MAN) and the Democratic Party (in Mongolian, AN). Its direct translation is 'fog', but in Mongolian politics, the term is used to describe a coalition government between the DP and MPP.

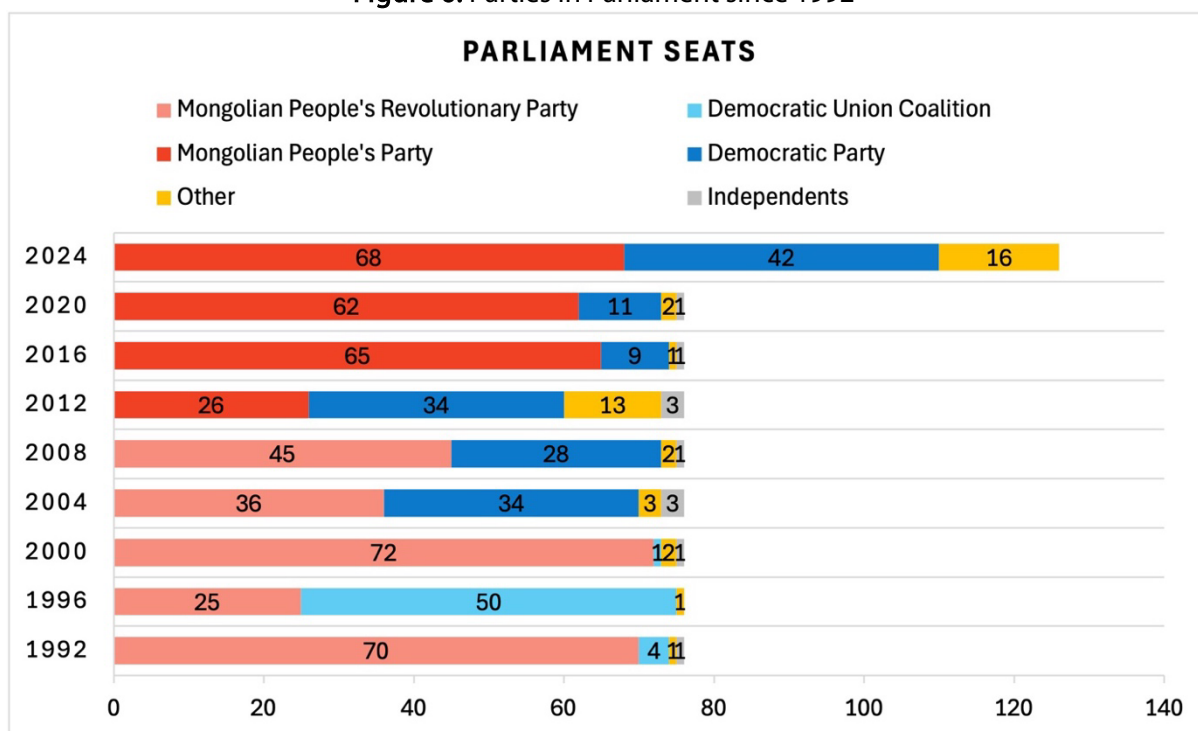
Table 2. Women in Parliament 1992 to 2024

	Electoral System	Number of Constituencies (MAJ)	Number of Seats		Women MPs		Women Candidate List Quota (%)		Women MPs (%)		
			MAJ	PR	MAJ seats	PR seats	MAJ list	PR list	Total	MAJ seats	PR seats
2024	Mixed	13	78	48	8	24	30	50	25	10.3	50
2020	Majoritarian	29	76		13		20		17.10		
2016		76	76		13		20		17.10		
2012	Mixed	26	48	28	6*	4*	20	20	13.15	12.5	14.3
2008	Majoritarian	26	76		3				3.94		
2004		76	76		5				6.57		
2000		76	76		8				10.52		
1996		76	76		9				11.84		
1992		26	76		3				3.94		

Source: Data from the General Election Committee of Mongolia

**Note: In the 2012 election, the exact number of women elected to parliament through majoritarian seats was reported as seven or six, depending on the source. It mainly is due the run-off elections that affected some candidates and also one candidate withdrew to participate in.*

Otherwise, in contrast to the increased presence of women and small parties, independent candidates did not manage to take seats, and the overall representation of national minorities remained at 3.9 percent (5 out of 126). Ideally, the representation of ethnic minorities in parliament should reflect their proportion in the general population to avoid potential issues. Kazakhs, who account for just over three percent of the electorate, previously had three out of 76 seats, giving them roughly 3.9 percent representation. In 2024, with the expansion to a larger parliament of 126 members (78 majoritarian and 48 proportional seats), Kazakhs secured three seats through majoritarian lists and two through proportional lists. Notably, a Kazakh woman has been elected to the parliament for the first time in history (Qazalem 2024). However, in terms of successful lobbying for regional interests, the parliamentary causes need to have at least twelve* members of parliament (MPs) (at the time of writing this report, there were still discussions on whether increasing the minimum threshold required to establish a party or coalition caucus in parliament from the eight to 12 seats would be approved). In that respect, smaller parties and groups would be further disadvantaged.

Figure 6. Parties in Parliament since 1992

Source: Data from the General Election Committee of Mongolia

The Mongolian People's Party (MPP) won the majority six times and held an absolute majority in four elections. In contrast, the Democratic Party (DP) won the majority once, and it was a simple majority. So, the electoral system consistently favored the main parties (Figure 6). The smaller parties got a record-high proportion of seats in the parliament and campaigned in opposition to the ruling party in 2024. Yet, once their members got into the parliament and the new government (cabinet) was formed, the media became full of public announcements of unity and coalitions, leaving the role of the opposition in the government. The primary critics of forming a coalition government argued that while the MPP secured the majority of seats in these elections (68 out of 126) and, by law, could fully form the government, leadership chose to invite members of other parties (Nambaryn 2024). In a public announcement, this joint government was presented as a gesture of unity, then, shortly after the elections, the chairpersons of the MPP, the DP (42 out of 126 seats), and the National Labour Party (KhUN Party) (8 out of 126 seats) signed a Memorandum of Understanding (MoU) (Oolun 2024a).

Yet, at a deeper level, the new coalition government undermines the oversight that these alternative parties could form. Ideally, the majority and minority forces exist in the parliament as part of the control system, especially since Mongolia struggles with systemic corruption and dismantling former institutional checks and balances. In the end, this result was not in line with voter expectations and intentions, and who voted for parties that campaigned on platforms that presented them as alternative political forces that would balance and control the MPP's dominance.

2.2. Political Party Landscape: Unequal Opportunities

After the democratic system was institutionalized in Mongolia, the monopoly of the former communist party shattered, and parties became central political players. Overall, the mainly majoritarian electoral system first

contributed to the creation of a two-party system with the Mongolian People's Party (MPP) and the Democratic Party (DP). Then, the electoral defeat in 2016 led to a prolonged crisis in the DP and added to the formation of a one-party dominant system. One of the current challenges is that the MPP maintained long-term electoral advantages that perpetuated its dominance within the political system and hindered the creation of a competitive multiparty system. The DP also had a limited vision about allowing alternative political forces in the system, and the temptation of a winner-takes-all system was too great. Under its support, the majoritarian system was re-introduced in 2016, which significantly backfired as it suffered a considerable defeat.

One main aspect of elections in Mongolia is that while the constitution established a multi-party system, the choice of the mainly majoritarian electoral system led to a two-party and then a prolonged period of one-party dominance. The main party, the Mongolian People's Party (formerly Mongolian People's Revolutionary Party), had inherited considerable institutional and financial advantages from the old communist system and remains the major player in the democratic system. It is one of the exceptional cases among post-communist party systems where the former communist party successfully rebranded itself in the democratic era and remained in power. Its primary challenger, the Democratic Party (formerly Democratic Union), remains highly fragmented and was in considerable disarray after the 2016 electoral defeat. While it managed to make a major comeback in the parliament in the 2024 parliamentary elections, the change was mainly linked to a rising number of protest votes and not due to the party's reform or campaign performance. In the past thirty years, numerous smaller parties have appeared, but the majority of them did not manage to keep a lasting presence. In the 2024 elections, the KhUN Party, the National Coalition, and the Civil Will-Green Party managed to secure several seats in parliament, but mainly through the proportional system. Overall, the elections were won by the MPRP/MPP six times, by DP-led coalitions twice, and resulted in a unity government once in 2004.

Another aspect of the elections and political parties in Mongolia relevant to vertical accountability is that party platforms and electoral campaign promises are rarely subject to public scrutiny. There are limits on how far in the past the records can be found; thus, a proper assessment of their contents is yet to be made. In addition, there is a lack of incentives for those in power to want it on record, so unsurprisingly, there are no studies to check whether politicians are fulfilling their promises. Even the 2024 parliamentary elections have demonstrated that campaign promises tend to be vague and policy debates superficial. In addition, there is disproportionate media coverage on the party lists, candidates, and their qualifications, not on party platforms and candidate messaging (IRI Mongolia June 14). In more detail, the coverage mainly focused on party slogans. For example, the MPP campaign slogan "Victory of the People", highlights its dedication to fighting corruption and prioritizing regional development reforms. The DP, using the slogan "Integral Mongolia, Full Democracy", has highlighted that their platform includes comprehensive economic strategies intended to address the numerous urgent issues citizens have experienced during the past eight years under MPP rule. The smaller opposition KhUN Party has adopted the slogan "We Will Change, It Is Time", while the newer National Coalition is campaigning with the slogan "Let's All Get Rich" (ibid.).

At one level, smaller party's weak institutionalization and growth are linked to the mainly majoritarian electoral system and its distorted level playing field. At a deeper level, the structure of the political finance regime and the MPP's "first mover's" advantage hinder the development of multi-party democracy with real and effective opposition (Enkhsetseg and Bat-Orgil 2024). Over time, the problems with this type of organization and overconcentration of power have accumulated, and the quality of Mongolian democracy has declined. A combination of factors was at play, ranging from the crises of political

parties to weak rule of law, systemic corruption, deterioration of freedom of the media and assembly, and draconian national security legislation. All of this added to the political environment where major political institutions had low public trust, and votes did not feel represented by parties (Sant Maral Foundation 2024).

In essence, the party system in Mongolia has not matured yet. It has not reached the level where politicians fulfill their fundamental role: to explain policies with detailed goals to their electorate. At most, government policies tend to be set with abstract horizons and no specific steps to implement them. Moreover, policy evaluation or longitudinal data are rarely used to assess the results. The lack of policy continuity has been endemic throughout the years, and politicians tended to come in with their one-time projects.

To date, the disregard for transparency in legislative procedure and public scrutiny, in tandem with the overall deterioration in horizontal accountability, invokes concerns. As evident from the adoption of recent legislation, the government continuously excluded stakeholders and undermined freedom of speech. Consecutive constitutional amendments, starting from the significant amendments in 2019, followed by a further amendment on August 25, 2022, and culminating in the May 31, 2023 amendment, introduced a mixed electoral system with 78 members of parliament elected by majoritarian and 48 by proportional representation.

Notably, the consequent changes in the 2024 electoral system sparked opposition from small parties without a seat in parliament because of the new electoral laws that decreased the number of electoral districts from 29 to 13 enlarged regional constituencies. Such large electoral districts are known to benefit large parties with extensive resources and networks in the rural areas, putting small parties and independent candidates at a considerable disadvantage in the upcoming 2024 parliamentary elections. In addition, the majoritarian seat distribution gave the urban constituencies only 24 mandates out of 78, further reducing their chances (Ulaanbaatar News 2023). Before the elections, the media reported that the Constitutional Court was “considering” whether to take on the case (Uyan 2024; Nomin 2024). Yet, that did not happen, and the 2024 parliamentary elections proceeded with the enlarged electoral districts for the majoritarian seats. In the end, while enlarged electoral districts disadvantage small parties and independents, the costs for the ruling party are lower.

At the official level, the existence of proportional seats was considered supplemental to such deficiencies, and the results of the election were declared to be “a new era” of democracy and a “victory of the people” (Ooolun 2024b). At the same time, the OSCE Election Observation concluded that “elections were well-administered, but competitiveness was negatively affected by the lack of a level playing field” (ODIHR 2024). In the end, it highlights that more must be done with the new electoral system to improve representation numerically and qualitatively.

3. Diagonal Accountability: Watchdog Institutions

3.1. Freedom of the Media

The 1992 Constitution established a new legal framework for the relationships between the government, media, and society in Mongolia, ensuring freedom of thought, opinion, and expression. It also set Western media as the normative model, leading to expectations that this new media would function as the ‘watchdog’ of the state or the ‘fourth estate.’ However, earlier research indicated significant challenges for Mongolian media in fulfilling this role (Nielsen 2009). Recent reports from the Press Institute of Mongolia (PIM) and Globe International Center (GIC) continue to highlight instances of political and financial pressure on

journalists, so the overall freedom of the media has gone from the initial period of liberalization to the currently increasing restrictions.

The Mongolian National Broadcaster's (MNB) monopoly was broken in the 1990s when there was an explosion of various media outlets. In the early 2010s, driven by technological changes and increasing internet penetration, the media expanded even further. At the same time, it also introduced greater government regulation. In general, the main positive trends were set in the 1990s with an expansion and variety of information sources for the population. A 2019 study by the Press Institute of Mongolia (PIM) listed 502 total media outlets: 84 newspapers, 51 radio stations, 140 TV stations, and 154 internet news portals (Soon and Patel 2022). The number of media outlets continues to grow, but the ownership information remains obscure. There are also a variety of international broadcasters available through subscriptions. Currently, Mongolian media is also facing challenges due to a broader trend in the changing media landscapes in Russia and China. Recent political shifts, including one-party dominance and reforms weakening democratic checks and balances, have placed the media system at a critical juncture.

The “Democracy Report 2024” notably classified Mongolia in the democratic “grey zone” between “electoral democracy” and “electoral autocracy” (V-Dem Project 2024). In this altered political environment, the future of media freedom and the quality of information are increasingly uncertain and at risk. The Reporters Without Borders (RSF) press freedom ranking mostly described Mongolia as a country with “noticeable problems”. In the past decades, the ranking initially improved from 98 in 2013 to 54 in 2015, then deteriorated to 88 in 2023. In 2024, the World Press Index for Mongolia declined to 109 and reached a historical low (RSF 2024). Accordingly, the press freedom situation changed from “problematic” to “difficult.” Overall, RSF described that while Mongolia took considerable steps in the liberalization of its media, its regulations still require considerable reforms guaranteeing editorial freedom for journalists. In addition, it emphasized that regulation should secure editorial independence and improve the protection of sources.

While there was a period of relaxation of communist-era regulation and increasing freedoms in the 1990s and early 2000s, the legal framework was continuously modified, and transparency of public bodies was mostly selective. Public bodies should disclose information regarding their operations, human resources, budgets, finances, and procurement activities to guarantee transparency and good governance. The Glass Account Law (2014) requires state entities to disclose detailed financial and operational information on a public website. Yet, compliance and implementation were limited from the beginning (Open Government Partnership 2018). Other than that, by the 2010s, numerous regulations related to the introduction of the Law on National Security (2001) and the widening State Secrets Act had decreased access to administrative information. Moreover, politicians have weaponized libel and defamation laws against journalists (Transparency International 2020).

Considering these broader trends and if the current legislation and the public sphere continue to tighten, it is likely to contribute to the development of a dual media system in Mongolia similar to the ‘Eurasian media model’ (De Smaele 1999). Its main characteristics are the significant interference from the government and informal business sectors in the media. It involves direct and indirect financial and political state control over media and describes media systems in Russia and several other countries with comparable histories and situations (Becker 2004, 159).

As a result, traditional media (television, radio, newspapers) becomes much more likely to be government-regulated and in line with the official narrative and legal restrictions. In contrast, social media takes over the role of an alternative news source as its regulation is more challenging to implement. This separation introduces a sharp distinction between the former “sanitized” journalism and the “raw” journalism.

In the post-fact world, advanced democracies need journalism to sort out truths and lies. Yet, in the context of a flawed democracy with a dual media system, the risk is that the quality of information will significantly deteriorate both from state “sanitation” and social media’s lack of quality control.

Following these trends, the state has been trying to introduce a more comprehensive regulation of all sources of information, culminating in the recent attempt at implementing controversial social media laws. These laws intended to grant the government broad control over online content, including censorship of discussions about officials and the ability to shut down the internet. After a considerable public outcry, the president’s veto stopped the final passing of the social media law previously approved by the Mongolian parliament (Buyanjargal 2023; Ooluun 2023). There was also condemnation from civil society groups and the international community (CIVICUS Monitor 2023; Jamgansuren 2023; Dulamkhorloo Baatar 2023).

The challenge in the legal environment in which journalists work is mainly in the complex, obscure, and clashing legislation introduced over the years. On the one hand, the 1992 Constitution guarantees citizens’ freedoms of opinion and expression, the right to publish, and the right to information. Parliament also enacted a Law on Media Freedom in 1998, a Law on Public Radio and Television in 2005, and a Law on Information Transparency and the Right to Information in 2011. The Law on Media Freedom (1998) banned all types of censorship. Generally, these laws establish the legal framework for the freedom of expression and access to information that journalists rely on.

On the other hand, defamation, the Law on State and Official Secrets (2016), and the Law on National Security considerably restrict what journalists can cover and publish in practice. These restrictive laws contribute to the malpractice of withholding information from the public under the guise of state or official “secret.” Thus, formally, there is freedom of information. Yet, in practice, there are many unknowns with barriers to accessing and publishing the information. The obscurity of concepts also leads to their arbitrary application.

As a considerably negative trend, the penalties for journalists are becoming more severe. They started with fines, but some notable cases have resulted in detention and harassment (U.S. State Department 2022, 2023). Most recently, a prominent journalist, Unurtsetseg Naran, known for critical coverage, was sentenced to five years in prison, which had a chilling effect on the media industry (Scott 2024). The sentencing of this high-profile case was held in a closed-door trial without attorneys right after the parliamentary elections, and its details remain largely undisclosed. Z. Borgilmaa, Vice President of the Confederation of Mongolian Journalists (CMJ), highlighted that this is the first instance in the past 30 years where a journalist has faced punishment for their professional activities (IRI Mongolia 2024b). She emphasized that this moment is crucial for advocating for journalists’ rights and press freedom in Mongolia. This case served as a warning example, likely to reinforce docile journalism.

The main challenge in this information environment is that the institutional and regulatory environment has not evolved to meet the normative standards of Western democracy and media ideals that promote plurality and independence. Despite their diversity, media outlets are at a high risk of politicization. The current legislation on classified information and a lack of whistleblower protection also contribute to insecure press freedom. As a result, the current structural conditions are unfavorable in creating a competitive media and significantly undermine public scrutiny of public institutions.

3.2. Civil Society Organizations: Changes and Challenges

A strong civil society can counterbalance and prevent an overly powerful state and offer ways for citizens to be involved in public issues beyond voting. Mongolia has a diverse civil society, and the NGO sector is considered one of the main contributors to Mongolia's successful democratization (Fish and Seeberg 2017). In the 1990s, the financial support of international donors focusing on democracy promotion boosted the development of NGOs in Mongolia considerably. By the second decade of the 2000s, the role of international support had declined, and many NGOs had become inactive. In 2021, there were 23,852 registered NGOs in Mongolia, with around 7,800 actively engaged in various initiatives (Bertelsmann Stiftung 2024). However, the number of publicly visible NGOs is much lower. The NGOs engage in various sectors and issue areas, and a number of prominent NGOs actively monitor government performance. Several NGOs were also allowed to monitor the electoral processes and their compliance.

Overall, while the political environment has been relatively favorable to the development of NGOs, the main challenge for them was finding a stable financial source. Limited resources mean that many NGOs are concentrated in the capital, and their rural networks are weak. In general, public understanding of NGOs remains limited, and domestic donations and donor/membership schemes are not well-developed enough and thus cannot effectively mobilize funding within the country. As a result, most Mongolian NGOs struggle financially, making them vulnerable to financial pressure.

Nonetheless, in recent years, NGOs have also become a target for government control. There were repeated attempts to increase state institutional control over the activities and funding of NGOs and subject them to regular inspection (IRI 2022). There were also changes to the tax system of NGOs. These attempts to shrink the space for civil society in Mongolia through the legal and regulatory environment received a public backlash and international condemnation and are currently on hold. It remains to be seen how the new government will proceed with them.

Despite these challenges, it is important to note that civil society tends to receive relatively high levels of trust from the population compared to government institutions (Politbarometer surveys). Therefore, the NGO sector has enough credibility to work with and represent the population's interests. This sector remains the most promising focal point between the public and the government to direct various issues.

3.3. Citizen Engagement: Elections and/or Public Outrage?

Several key factors have diminished citizens' incentives to engage with institutions or hold the government accountable through formal channels. First, the system of checks and balances among the government institutions has been undermined, which created an overconcentration of political power, and most institutions became packed with loyalists of the ruling party (Ganbat and Sumaadii 2024). Second, while the recent elections increased the diversity of parties elected to parliament, the subsequent formation of a coalition government with the MPP majority effectively diffused the larger opposition forces. Third, the watchdog institutions in the media and civil society sectors are weakened and under increasing pressure from the legal and regulatory environment, exacerbated only by their financial struggles. And finally, the legal ways for citizens to hold the government accountable have been ineffective.

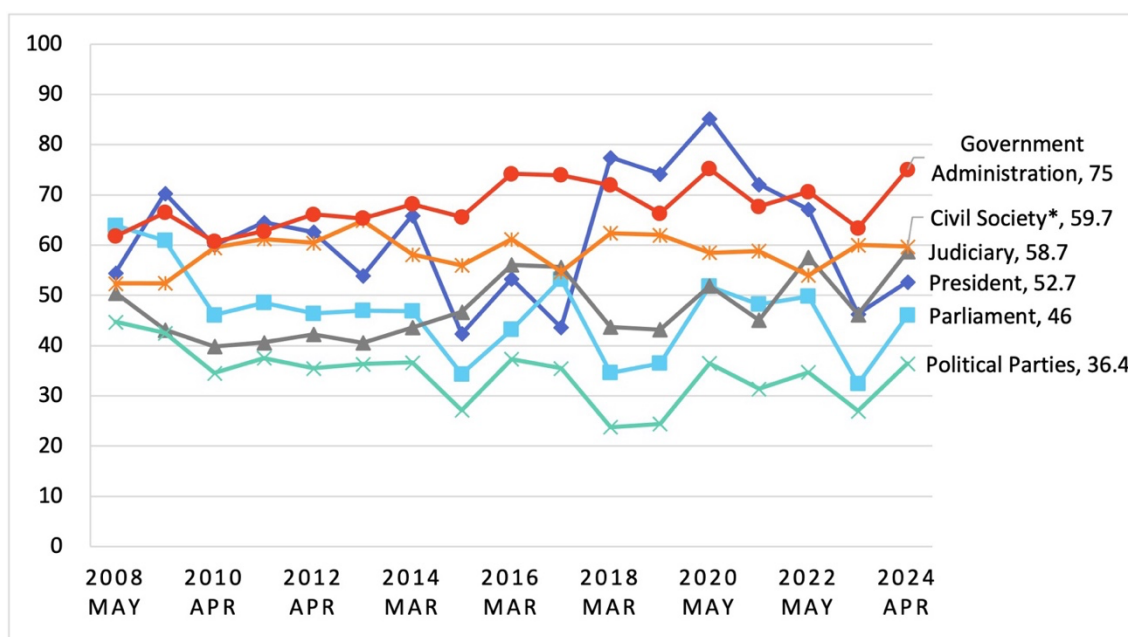
It is important to note that there are more than enough legal avenues to hold government officials accountable. However, as with much of other legislation in Mongolia, implementation problems exist. In the past thirty years, numerous measures have been introduced to remedy the country's corruption challenges.

More recently, the ‘whistleblower laws’ were attempted. Yet, as with most other legislation, the implementation ran into problems. Generally, since Mongolia has no law protecting whistleblowers yet, the current draft has been under review (for nearly ten years). In the meantime, there are no secure and easily accessible channels for reporting corruption. Thus, anti-corruption activists, whistleblowers, and witnesses are inadequately protected (Jamiyasuren 2023a).

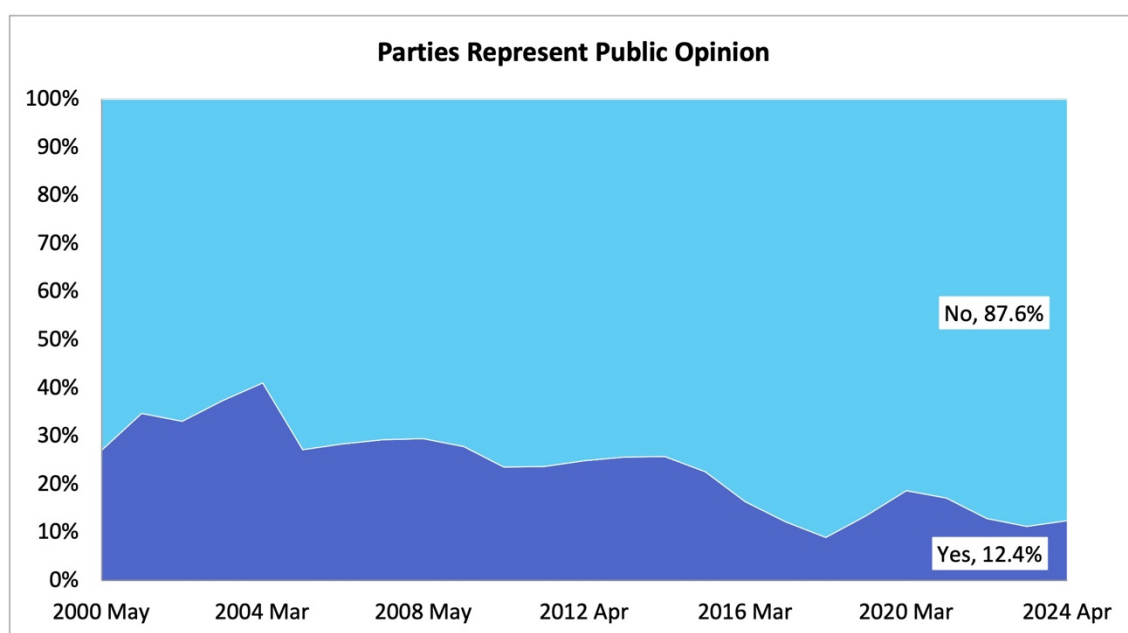
At a procedural level, a typical situation is when a misconduct claim ends in a legal void because it is constantly passed between different agencies until it becomes irrelevant or the claim period expires. Whether it is deliberate or due to general inefficiencies is debatable. However, it is common for a misconduct case to enter a so-called “legal oblivion” (Jamiyasuren 2023b). The typical case can involve three to four responsible authorities that delay response; each period of a claim typically lasts from 4 to 12 years or until the claim period expires by laws of administrative and criminal procedures - most likely until the claim becomes irrelevant or the responsible official is no longer in the related position (*ibid.*). Unsurprisingly, citizens became highly reluctant to use formal ways of resolving conflicts based on such widespread situations. In essence, this is a system in which the scope for political contestation has narrowed further, and there is a lack of institutional ways to direct public concerns. In a context where institutions capable of controlling power are compromised, how can the public form democratic pressure?

It can be surmised that the rising number of protesters in recent years is indicative of the significant institutional deficiencies. Despite the designation of 2023 as the “Year of Anti-Corruption” by Mongolian officials, Mongolia’s ranking on various global indices has exhibited a consistent decline over recent years. In Transparency International’s assessments in 2023, Mongolia’s corruption ranking further declined from previous years. Mongolia currently stands at 121 out of 180 with a Corruption Perception Index of 35, which places it among countries with a serious corruption problem (TI 2024). The Press Freedom Index ranked 109th in 2024 (RSF 2024). The World Justice Project Rule of Law Index Expert Survey revealed a decline from 35 to 33 points (WJP 2023).

A major challenge related to weak institutions is the prevalence of systemic corruption, which represents a significant concern for the citizens. The inability (or lack of political will) to address corruption over time has resulted in a political climate where there is a notable absence of public trust in government institutions. Historically, the majority of political institutions have been perceived as less trustworthy by the general public. Conversely, both civil society and the government administration are perceived as more trustworthy. Notably, the level of trust in the president was fluctuating but remained relatively high until recently. In comparison, trust in the judiciary has increased in recent years. It is noteworthy that political parties are the least trusted of all institutions, and there is a strong belief that the existing parties do not adequately reflect public opinion (see Figures 7 and 8). Furthermore, a majority of respondents indicated that corruption is a common practice in the country (Figure 9), which serves to reinforce public skepticism about government accountability.

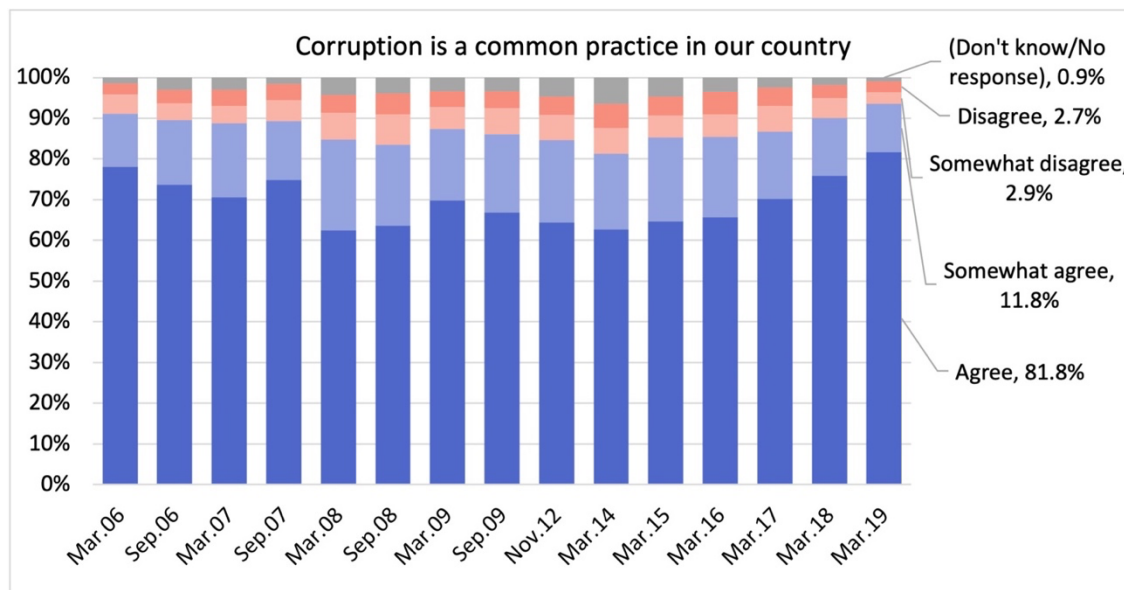
Figure 7. Trust in Political Institutions

Source: Data obtained from the Sant Maral Foundation, Politbarometer Surveys 2008-2024

Figure 8. Parties Represent Public Opinion

Source: Data obtained from the Sant Maral Foundation, Politbarometer Surveys 2000-2024

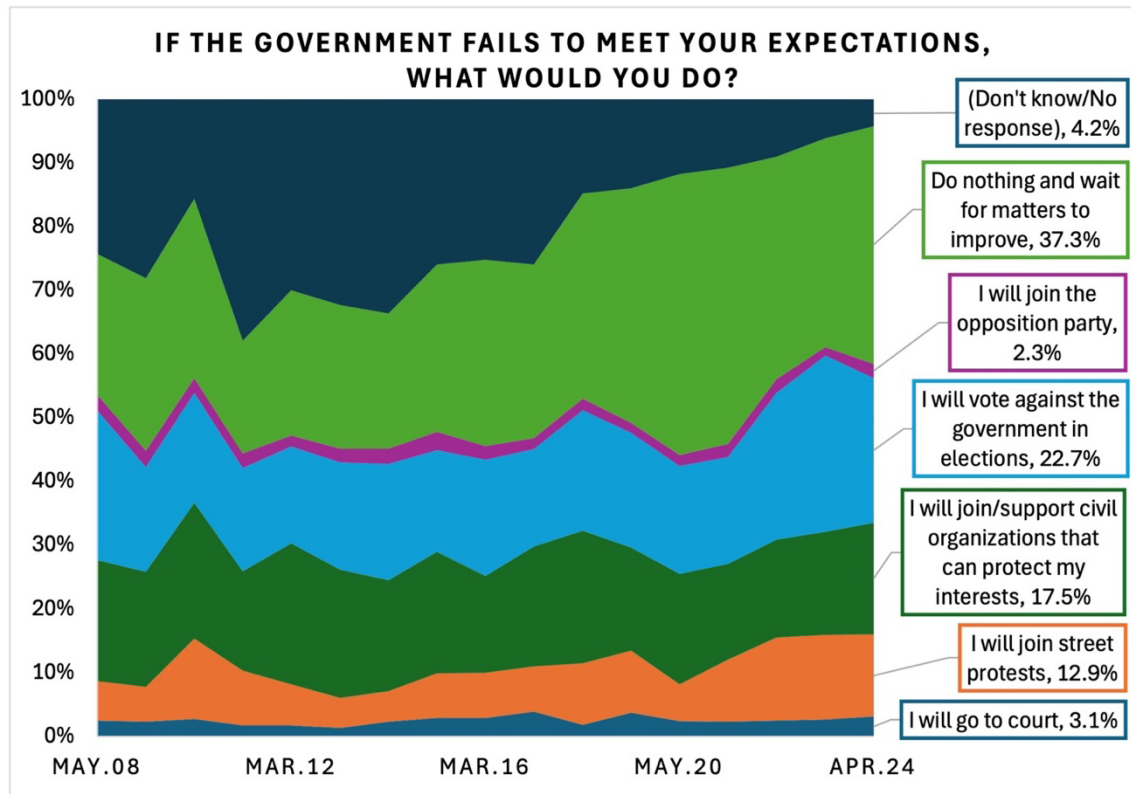
Figure 9. Perception of Corruption



Source: Data obtained from Sant Maral Foundation Corruption Benchmark Survey 2006-2019

In light of the prevailing lack of trust in institutional remedies, it is crucial to evaluate the probable actions citizens may pursue. Long-term surveys reveal a decline in the proportion of citizens who are undecided about how to respond to perceived governmental failures. While a third of respondents indicated a preference for a passive approach, awaiting improvement, there has been an uptick in those inclined to oppose the government through voting in elections. By 2023, slightly over a quarter of respondents favored this approach. At the same time, there has been an increase in the number of individuals contemplating the use of protest as a means of expressing their discontent. In recent years, one in seven respondents indicated a preference for this course of action. It should also be noted that legal channels and joining opposition parties are viewed with disfavor, underscoring the skepticism toward institutional solutions. Consequently, citizens perceive that they cannot hold the government accountable through any of the institutions and, more importantly, political parties. Ultimately, elections represent the primary institutional mechanism. In such a context, it seems probable that protest votes will increase, especially in urban constituencies (known to be more radicalized), and newcomers will have a better chance. Yet, the question remains whether the more established political forces will permit their inclusion and, if so, under what conditions.

Figure 10. What would you do if the government failed to meet your expectations?



Source: Data obtained from Sant Maral Foundation Politbarometer Surveys 2008-2024

Unsurprisingly, the increasing number of protests (with a temporary break during the COVID-19 restrictions) was a symptom of the mounting deficiencies in the institutional framework. The demonstrations concerning air pollution that occurred during the winter seasons of 2015 to 2019 were meticulously organized and had specific goals. Additionally, protests were instigated by instances of corruption scandals, including the “SME Scandal,” the “60 billion MNT Scandal,” the “Green Bus Scandal,” the “Do Your Job” protest, and most recently, the “Coal Theft Scandal,” which resulted in the protestors storming the government.

In response to the growing tide of protests within Mongolian society, the government reinstated a law dating back to 1994 that prohibits protests on Sukhbaatar Square in front of the Parliament Building. This action served only to reinforce the public perception that the government has been unable to effectively address the underlying causes of public discontent and is therefore resorting to the use of prohibitionist measures reminiscent of its former communist-style governance. This action further implied an inability to engage with criticism and a fear of public unrest.

4. Outlook and Recommendations

The 2024 electoral system brought greater diversity to parliament, but the key question remains whether this will trigger the renewal needed to prevent further democratic backsliding. The core challenge lies in the underdeveloped party system, which must evolve to ensure that ruling and opposition forces can effectively balance each other. The success and advancement of Mongolian democracy depend on the effectiveness of the system of checks and balances within the government and a shift to a competitive multi-party system.

At a deeper level, the political power remains concentrated in the MPP. Over the years, the party has evolved, mastering tactics to defeat, deter, and co-opt the opposition. After two cycles of absolute majority rule, which made it the target of widespread public frustration and blame, the MPP leadership sought to defuse the increasingly critical political situation marked by rising protests. The party strategically relaxed its absolute control, maintaining a strong majority but allowing a controlled degree of power-sharing. The MPP ensured its dominance through the majoritarian list by introducing a mixed electoral system. Meanwhile, the proportional lists provided limited diversity—enough to appear inclusive but insufficient to challenge its authority. This numerical diversity is unlikely to lead to a greater policy contestation, as the new government opted to form a coalition, effectively stifling substantial opposition despite the growing number of protest votes.

The current coalition government, composed of the MPP, DP, and KhUN, has left the National Coalition (4 seats) and Civil-Will Green Party (4 seats) as the sole opposition force, which has further consolidated power around the MPP, effectively diminishing the influence of protest votes. In 2024, these protest votes drove much of the success of smaller parties and the DP. However, in this coalitional setup, the elected government is likely to marginalize the opposition entirely. As a result, the balance of power will remain heavily skewed towards the ruling party in the foreseeable future. With such minimal representation, the opposition will struggle to advance alternative policies or hold the ruling coalition accountable. Consequently, protest voters' expectations for a robust opposition have not been met.

Our interpretation is that the government sought to address the “crisis of political parties” by expanding the parliament, including smaller parties, and introducing new candidates (Sumaadi and Ganbat 2022). Following the elections, the prime minister declared that Mongolia is moving toward a new phase of democratic development. However, given the track record of unfulfilled electoral promises, it's premature to be optimistic—especially since the situation for journalists worsened in the early weeks of the new administration. The high-profile case of journalist Unurtsetseg, who received a five-year jail sentence, serves as a stark warning. Regardless of the outcome of the appeal, the prominence of this case and the handling of the legal process send a powerful message with far-reaching implications for Mongolian democracy and damage to its reputation. To rebuild its reputation, the government must address the widening gap between promised and practiced media freedom, alongside the recent rise in restrictions.

Mongolian democratization follows the long story of how the MPP secured political survival in the post-communist era. Although multiparty democracy was supposed to be the culmination of the struggle against the one-party communist regime, the MPP, successor to the former communist party (MPRP), has proven to be among the most resilient in the post-communist world. Over the past thirty years, it experimented with various power-sharing arrangements and allowed some criticism. In times of money, it could buy reputation and buy off dissenters. At times, when state revenues fell, it started to tighten its restrictions on information, often placing journalists at the forefront of these crackdowns.

To counteract the concentration of power within a single party, it is crucial that watchdog institutions systematically monitor those in power. The constitution guarantees freedom of thought, opinion, expression, speech, press, and peaceful assembly (Article 16.16); however, there are too many state secrets and restrictions on access to information, which creates an environment where media freedom is insecure and watchdog institutions lack the capacity to serve the public interest. The current system is increasingly oriented toward silencing critical voices, relying on intimidation as a key principle to suppress inconvenient information.

A further concern is that, while trust in political parties is at an all-time low, the new electoral system has introduced a large number of proportional seats. While a proportional system has its merits, without a strong multi-party institutional foundation, it risks producing only numerical, not substantive, diversity, which has led to criticism that unelectable or unpopular candidates secured positions through internal mechanisms such as the “candidate tax” system (Enkhtsetseg and Bat-Orgil 2024). Another key issue with this proportional system is that these members of parliament become accountable to their party leadership rather than the electorate. In the short term, the new government’s primary task is to demonstrate to citizens that their interests are truly being represented and address those criticisms.

Overall, Mongolia needs to deepen its multiparty system. Currently, many parties operate superficially during election years, lacking concrete policies and implementation plans. Furthermore, there is no systematic tracking of whether politicians and parties fulfill their electoral promises. Political parties must develop clear platforms and engage in discussions with their electorate beyond election seasons. Explaining government policies and involving citizens in the legislative process are essential tasks for “doing the job.” So far, public outrage is becoming the primary feedback mechanism, and the government’s focus has been on calming the public rather than on political education and informing the public about upcoming legislation, policies, and challenges. The government continues to operate with an outdated mentality, believing it knows best and has little need for accountability and public discussions. At best, informing the public occurs after the fact. Mongolia needs a well-developed, free media system and a strong civil society to reach all audiences. The greatest risk is that if the new government fails to seize this opportunity for renewal and does not change its course from democratic backsliding, the ongoing crisis of political parties could escalate into a crisis of government legitimacy.

5. Conclusion

It is desirable that the constitution provides a stable framework for political processes. However, the extant electoral system has introduced distortions between votes and seats, impeding the development of a balanced and equitable multi-party system. As these challenges remain unresolved, public confidence in the current establishment’s capacity or willingness to enact genuine reforms has eroded.

In a democracy, a multi-party system broadens the range of political choices available to the electorate and provides an essential outlet for dissent. Yet, this ideal has not been fully actualized. The lack of opportunities for minor parties has entrenched the dominance of two major parties, which has ultimately resulted in the ascendancy of a single dominant party. The core issue lies in the electoral system, which must evolve to prioritize transparency, fairness, and inclusivity.

Furthermore, the significant lack of accountability and transparency in governance poses serious risks, including a heightened potential for corruption and a decline in governance quality. These issues are unlikely to be resolved under a politicized judiciary. These factors fuel public frustration and the perception that current political elites have reached the limits of their capacity, underscoring the need for a more professional approach to governance.

Recent public opinion polls reveal a growing demand for greater professionalism in government (Iveel M. 2024). The slogan “Do your job,” popularized during the 2022 youth protests, encapsulates the public’s frustration with the current state of governance. While elections remain as the primary means of holding the government accountable, protests are becoming an increasingly important tool for the active segments of the population.

Regarding electoral accountability, the scope for genuine political competition has narrowed, despite alterations in the composition of the government. This has resulted in the prevention of the emergence of a genuine opposition. Furthermore, there has been a decline in diagonal accountability, with watchdog institutions weakened by financial constraints and legal restrictions. Meanwhile, the government's expanding control over public communication is impeding media independence, and financial instability is diminishing the efficacy of civil society.

Given these circumstances, unless the new government modifies its approach, the prospects for vertical accountability in Mongolia remain bleak. The 2024 parliamentary elections represent a pivotal juncture in the trajectory of Mongolian democracy. The key question is whether political leaders will genuinely transform themselves to enhance democratic governance. The new government must move beyond mere numerical diversity and genuinely represent the public's diverse interests, particularly by engaging with the electorate outside of election cycles. The stakes are high, with significant social tensions accumulating. The resolution of these tensions will require not censorship, punishment, or bureaucracy, but a genuine response to critical feedback. The manner in which the recently elected officials address these issues, both in terms of timing and substance, will determine whether the system can facilitate further institutional change or whether citizens will be compelled to pursue alternative avenues for change.

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Country Case 4: Pakistan

Vertical Accountability in Pakistan

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1. Background and Literature Review

When reviewing academic literature on the subject, it becomes apparent that researchers have worked diligently to refine the definition of accountability in the political and governmental spheres. For the purposes of this paper, we define accountability as “the de facto constraints on the government’s use of political power through requirements for justification of its actions and potential sanctions by both citizens and oversight institutions” (Lührmann, Marquardt, and Mechkova 2020). Further, we define vertical accountability as “the ability of a state’s population to hold its government accountable through elections and political parties” (Plattner, Diamond, and Schedler 1999). Meanwhile, horizontal accountability refers to state institutions keeping each other in check, while diagonal accountability involves non-state actors such as civil society organizations and the media holding governments accountable. While the research on vertical accountability specific to Pakistan is limited, academics and journalists have written extensively on the relevant topics of democracy and elections in Pakistan. These writings, historical evidence and election indices can be used to assess the state of vertical accountability in Pakistan.

The Varieties of Democracy (V-Dem) Institute at the University of Gothenburg measures democracy in countries across the world, using multiple indicators and indices. In their 2024 report, they concur that democracy across the globe is in decline. They evaluated countries’ democratic standing based on their performance on the Liberal Democracy Index (LDI), which includes the Electoral Democracy Index as well as indicators for institutional checks and balances and respect for civil liberties. Thus, inexplicitly the LDI assesses vertical, horizontal and diagonal accountability respectively. As per the V-Dem LDI, South and Central Asia is the second most autocratic region in the world, with India, Pakistan and Bangladesh all qualifying as electoral autocracies. Thus, 93% of the population in this region live in an electoral autocracy. In the report, an electoral autocracy is defined as a country that holds multiparty elections for the executive but has insufficient levels of fundamental freedoms including the freedom of expression, freedom of association and free and fair elections. The V-Dem Institute has forecast further autocratization in both India and Pakistan. In fact, only one country in the entire region, the Maldives, is not autocratizing but rather democratizing.

The yardsticks of vertical accountability are specifically gauged by the V-Dem Electoral Democracy Index (EDI), which consists of indicators such as free and fair elections, freedom of expression and suffrage. According to the V-Dem report, the quality of elections has worsened globally and the

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autonomy of Election Management Bodies is under attack. In 2013, V-Dem identified a net improvement in electoral processes in twice as many countries as there were instances of deterioration. In 2023, this trend had undergone a complete reversal. The Institute contends that elections are often the last institution that is autocratized, which could mean that the weakening of democracies is at an advanced stage globally. The 2023 V-Dem Electoral Democracy Index (EDI) is reproduced as Figure 1 below.

Figure 1. Electoral Democracy Index 2023 (V-Dem)

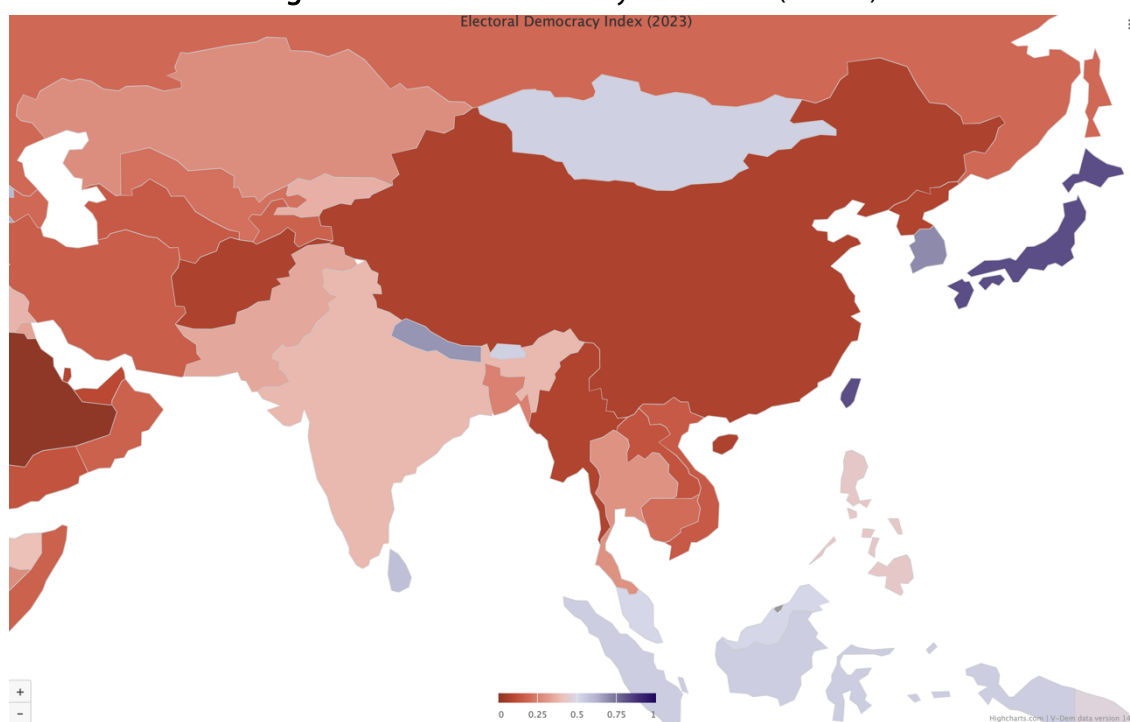
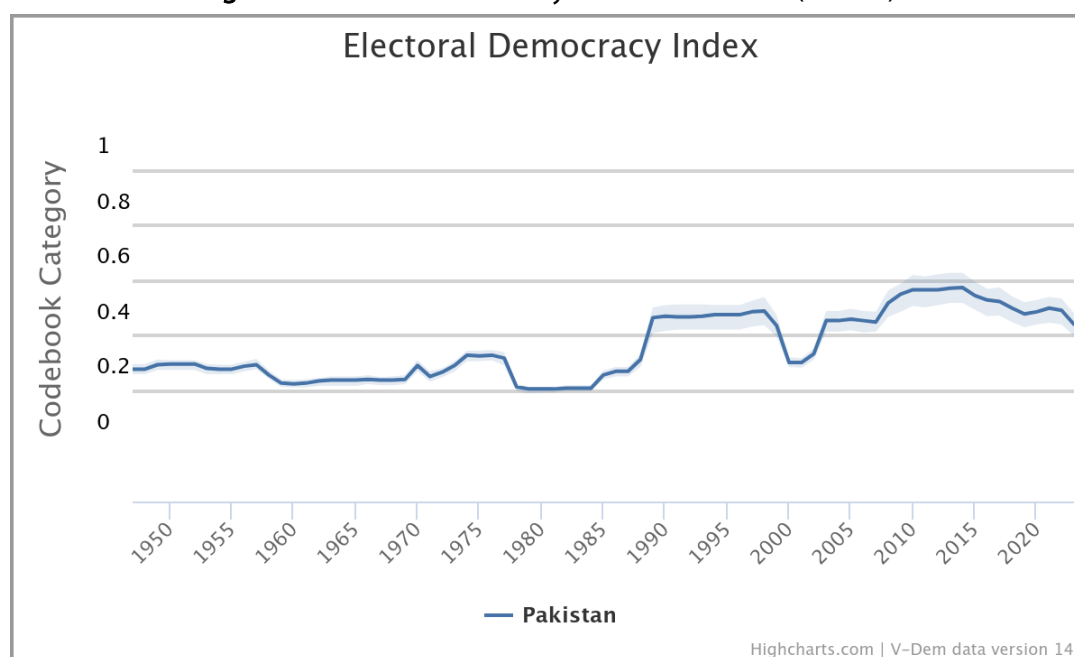


Figure 2. Electoral Democracy Index for Pakistan (V-Dem)



Pakistan ranked as the 118th country on V-Dem's Electoral Democracy Index 2023, out of a total of 179 countries. A review of the historical graph, reproduced as Figure 2, reveals a precipitous decline in Pakistan's score during periods of military rule. During the 76 years since Pakistan's independence, the country has experienced more than three decades of military dictatorships: 1958-1971, 1977-1988, 1999-2008. It is widely acknowledged that even during periods of democratic governance in Pakistan, the military establishment has exerted considerable influence over the electoral process, the rise and fall of governments, and the implementation of day-to-day governance and policy. After the election victory of opposition parties and the resignation of military dictator Pervez Musharraf as President in 2008, there was an upward trend in Pakistan's scores until about 2014. From 2014 to the present, the trend has largely been downward. This decline in Pakistan's EDI score is reflective of a decade of political upheaval and backsliding on democratic progress, which reached a crescendo in 2023.

The V-Dem 2024 report classifies Pakistan as a country that has witnessed a reversal of liberal democratic progress, as evidenced by a shift from democratization to autocratization within a maximum of five years following the end of democratic advances. From 2008 to 2014, there was a worthy effort by governments to establish the supremacy of civilian governments. However, street agitations, allegedly backed by the military establishment, swiftly undermined the stability of successive governments. From 2018 to 2021, the military leadership appeared to maintain a positive working relationship with Prime Minister Imran Khan, who they supported in the 2018 General Election. This contributed to the phenomenon of "bell-turn," which describes the reversal of democratic progress towards autocratization. Following a dispute between Khan and the military leadership in 2022, the subsequent increase in political repression and delay in elections led to a further autocratization. This entailed an augmented role for the military influence over policymaking and governance.

While Pakistan's 12th General Election, which constituted the largest mobilization of polling staff and material in the history of the fifth most populous democracy in the world, was finally held on February 8th, 2024, it did not necessarily represent a positive development for vertical accountability in and of itself. As the V-Dem report indicates, elections are "critical events" that can serve as a pivotal determinant in a country's trajectory towards democratization or autocratization. As demonstrated by Mechkova et al. (2019), robust vertical accountability frequently serves as a precursor to the emergence of horizontal and diagonal accountability (Walsh 2020). The following sections of this paper will discuss Pakistan's institutional and legal framework for elections and political parties. They will also assess the performance of these frameworks and finally make recommendations to ensure that Pakistan's trajectory post-2024 is towards democratization and more robust vertical accountability, rather than towards further autocratization.

2. Mechanisms of Vertical Accountability in Pakistan

There are two broad measures of vertical accountability. The first measure is elections –whether executives are directly elected, whether there is universal suffrage, whether elections are free and fair, and whether the election management body is autonomous and performs its role adequately. The second measure is political parties – whether there is a diversity of political parties, whether barriers exist to forming or joining a party and whether all parties are given a level playing field. The legal and institutional frameworks for both elections and political parties in Pakistan are described in detail in the sections below.

2.1. Elections In Pakistan

The Electoral System

Pakistan has a federal, parliamentary system of government, with two houses of Parliament (the National Assembly and the Senate) and four Provincial Assemblies. The members of the Assemblies are directly elected through the First Past the Post (FPTP) system. The majority party or alliance of parties (which may include independent, non-affiliated members), in the National Assembly and in each Provincial Assembly assumes the role of government at the federal and provincial levels, respectively. The Assemblies elect the Leaders of the Houses, namely the Prime Minister and the Chief Ministers, who serve as the heads of the cabinets. The Senate, on the other hand, is elected indirectly, through a voting process conducted by members of the National and Provincial Assemblies. The proportional representation system by single transferable vote is used for the election of senators. The National Assembly, the Senate, and all four Provincial Assemblies collectively constitute the electoral college responsible for electing the President, who serves as the ceremonial head of state. Additionally, the President appoints Governors to each province, who serve as the ceremonial heads of those provinces.

In 2024, there are 266 constituencies in Pakistan's National Assembly and 593 constituencies in the four Provincial Assemblies. These 859 constituencies are filled by directly elected representatives for a term of 5 years. Pakistan's electoral system is founded upon the principle of universal suffrage. The Constitution of Pakistan assures suffrage to all Pakistani citizens who have reached the age of 18, are of sound mind, and are registered in the electoral rolls. Furthermore, the Election Acts 2017, designed to enhance gender parity in voting, mandates that any constituency where women's votes constitute less than 10% of the total votes cast will be required to hold a re-election. Additionally, there are 60 seats reserved for women and 10 for non-Muslim minorities in the National Assembly, while there are 132 seats reserved for women and 24 for non-Muslim minorities in the Provincial Assemblies. These reserved seats are allotted to political parties based on the proportion of directly elected seats that they win. The reserved seats are filled by a list of candidates, in preferential order, that political parties are required to submit before the general election. Meanwhile, the Senate is made up of 96 seats, with each Senator serving a term of six years. Senate elections are held every three years, with half of the seats being subject to election. According to Article 224 of the Constitution of Pakistan, a General Election must take place within 60 days of an Assembly completing its term, or within 90 days if an Assembly is dissolved prematurely. In the meantime, the Senate must hold elections within 30 days of the occurrence of a vacancy.

The Election Management Body

The Election Commission of Pakistan (ECP) is the election management body of Pakistan. The ECP Secretariat is in Islamabad but it has offices at the provincial, divisional and district level. Article 218 of the Constitution of Pakistan tasks the Election Commission with conducting "election to both Houses of Majlis-e-Shoora (Parliament), Provincial Assemblies and for election to such other public offices as may be specified by law." The ECP consists of the Chief Election Commissioner and four additional members representing each province. Other than holding elections, the ECP is also responsible for preparing electoral rolls, appointing election tribunals and delimiting constituencies. Under Article 220 of the Constitution of Pakistan, all executive branches of government are required to assist the ECP in performing their duties. Article 218 of the Constitution, which calls for constituting an Election Commission, is reproduced below:

218. (1) For the purpose of election to both Houses of Majlis-e-Shoora (Parliament), Provincial Assemblies and for election to such other public offices as may be specified by law, a permanent Election Commission shall be constituted in accordance with this Article.

(2) The Election Commission shall consist of—

(a) the Commissioner who shall be Chairman of the Commission; and

(b) four members, one from each Province, each of whom shall be a person who has been a judge of a High Court or has been a senior civil servant or is a technocrat and is not more than sixty-five years of age, to be appointed by the President in the manner provided for appointment of the Commissioner in clauses (2A) and (2B) of Article 213.

(3) It shall be the duty of the Election Commission ⁴[Omitted] to organize and conduct the election and to make such arrangements as are necessary to ensure that the election is conducted honestly, justly, fairly and in accordance with law, and that corrupt practices are guarded against.

With the passage of the Elections Act, 2017, the ECP was made financially and administratively autonomous. One aspect of this is evidenced in the part of the Act reproduced below:

4. Power to issue directions — (1) The Commission shall have the power to issue such directions or orders as may be necessary for the performance of its functions and duties, including an order for doing complete justice in any matter pending before it and an order for the purpose of securing the attendance of any person or the discovery or production of any document.

(2) Any such direction or order shall be enforceable throughout Pakistan and shall be executed as if it had been issued by the High Court.

(3) Anything required to be done for carrying out the purposes of this Act, for which no provision or no sufficient provision exists, shall be done by such authority and in such manner as the Commission may direct.

Additionally, the system was designed with built-in transparency and accountability. The ECP was given specific deadlines for announcing and uploading election results, and was also required to prepare annual performance reports. Furthermore, a specific Results Management System was delineated to guarantee the punctuality and accuracy of the election results. This section is reproduced below:

13. Establishment of results management system — (1) The Commission shall establish a transparent results management system for expeditious counting, tabulation, compilation, transmission, dissemination and publication of results in the official Gazette and on the website of the Commission.

(2) The Presiding Officer shall immediately take snapshot of the result of the count and, as soon as connectivity is available and it is practicable, send it electronically or through other appropriate technologies to the Commission and the Returning Officer before sending the original documents under section 90:

Provided that in case connectivity is not available and it is not practicable to send the results electronically or through other appropriate technologies, the Presiding Officer shall immediately proceed physically with the results to the Returning Officer as provided in sub-section (18) of section 90.

(3) The Returning Officer shall compile the complete provisional results as early as possible and shall communicate these results electronically to the Commission:

Provided that if, for any reason, the results are incomplete by 02:00 a.m. on the day immediately following the polling day, the Returning Officer shall communicate to the Commission provisional results as consolidated till that time along with reasons for the delay, in writing, while listing the polling stations from which results are awaited and thereafter shall send the complete provisional results as soon as compiled but not later than 10:00 a.m.]

(4) The Returning Officer shall electronically send to the Commission—

(a) scanned copy of the provisional results compiled under sub-section (3); and

(b) scanned copies of the Consolidated Statement of the Results of the Count, Final Consolidated Result together with Results of the Count and the Ballot Paper Accounts, as received by him from the Presiding Officers under sub-section (18) of section 90.

(5) The Returning Officer shall also send to the Commission original copies of documents mentioned in sub-sections (3) and (4) through special messenger or any other swift means of communication including urgent mail service or courier service, as may be directed by the Commission.

(6) The Commission shall publish the documents received under subsection (3) along with gender disaggregated data of turnout on its website [as early as possible].

Eligibility Criteria for Parliamentarians

A further significant element of Pakistan's electoral system is the set of criteria that must be met in order for individuals to participate in electoral processes. In order to be a member of the National Assembly, an individual must be at least 25 years of age. Similarly, to be a Senator, one must be at least 30 years of age. Furthermore, according to Article 62 of Pakistan's Constitution, those who aspire to become members of Parliament must possess a "good moral reputation." Additionally, if they are Muslim, they are expected to demonstrate "adequate knowledge of Islamic teachings and practices obligatory duties prescribed by Islam as well as abstain from major sins." The precise nature of these moral requirements is challenging to quantify, yet they are readily exploited for political gain. This constitutional provision was introduced by the military dictator General Zia-ul-Haq and has since been used on numerous occasions to disqualify politicians who have fallen out of favor with the military establishment.

Caretaker Governments

Lastly, another important aspect of Pakistan's electoral framework is the concept of caretaker governments. Article 224 of the Constitution delineates the appointment of caretaker governments for the interim period between the dissolution of an Assembly and the oath-taking of the new Assembly. The responsibility of overseeing the electoral process and ensuring its impartiality falls upon the shoulders of the aforementioned caretaker governments. However, in recent years, the utility and necessity of these caretaker governments have been increasingly called into question.

2.2. Political Parties in Pakistan

Freedom of Association

The constitution of Pakistan guarantees citizens the fundamental right to form associations, unions, or political parties, as outlined in Article 17. This right is subject to restrictions imposed by law to protect

national sovereignty, integrity, public order, or morality. The article also stipulates that non-government employees may establish or join political parties, provided such activities comply with restrictions. Political parties are required to account for their funding sources, and the Federal Government may seek a Supreme Court ruling if a party's actions are deemed harmful to national integrity.

Chapter 11 of the Elections Act 2017 further lists the requirements for a political party, including having a distinct identity, structure and name. It also prohibits political parties from acting against the Constitution of Pakistan, undermining the sovereignty of Pakistan, promoting hatred or animosity, giving members military training and receiving foreign funding. The same Act also spells out the requirements to enlist a party with the ECP in order to participate as a political party in General Elections under a common symbol. However, it is not required to join a party to contest elections; thus, many candidates also contest elections as independents, without any party affiliation.

Pakistan's 166 Political Parties

Although 166 political parties have been registered with the ECP, only 13 are represented in the National Assembly and 11 in the Senate. A total of 8, 3, 5 and 9 political parties are represented in the Provincial Assemblies of Punjab, Sindh, Khyber Pakhtunkhwa and Balochistan, respectively. Following the removal of repetitions, a total of 20 parties are represented across Pakistan's legislative bodies in 2024. Pakistan's two legacy political parties are the Pakistan Peoples' Party and the Pakistan Muslim League (Nawaz). These two parties, which have a dynastic lineage, have been in power for the majority of Pakistan's democratic years. However, over the past decade, a new force has emerged and effectively compelled the establishment of a tri-party system. The third party is the Pakistan Tehreek-e-Insaf (PTI), which was founded by former Prime Minister Imran Khan. Additionally, in each province, there are also popular regional parties that continue to secure a considerable mandate in elections. Moreover, there are non-affiliated, independent candidates who secure seats in each election.

Party Discipline Laws

Article 63A of the Constitution mandates party discipline within legislative assemblies, prohibiting members of political parties from switching allegiances or voting against party directives on critical matters such as money bills, constitutional amendments, votes of confidence or no-confidence, or elections of the Prime Minister and the Chief Minister. Members who defy these rules can be declared defectors by their party head, who must provide the member an opportunity to explain their actions before issuing such a declaration.

3. The Performance of Mechanisms of Vertical Accountability in Pakistan

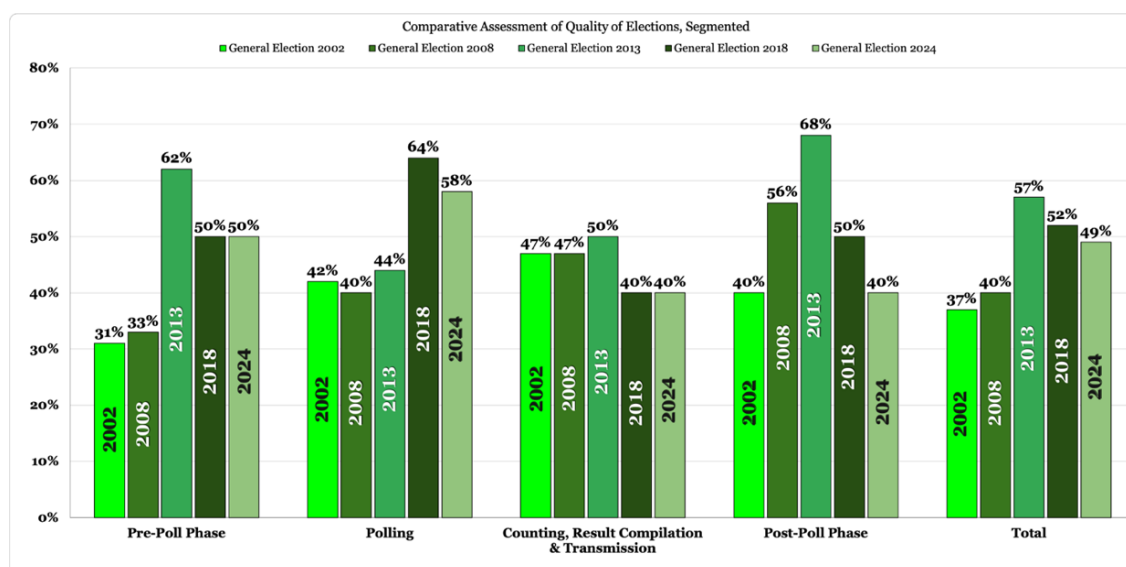
As outlined above, Pakistan has a comprehensive legal framework governing electoral processes and political parties. However, the practical reality is starkly different. In its Democracy Index 2023, the Economist Intelligence Unit downgraded Pakistan from a "hybrid regime" to an "authoritarian regime." The Freedom House categorized Pakistan as a "partly free" country. Pakistan received a score of 15 out of 40 on political rights, which was based on an analysis of the electoral process, political pluralism, and the participation and functioning of government. The discrepancy between these low scores and the comprehensive legal framework indicates that the challenges to vertical accountability in Pakistan are not due to a dearth of legislation but rather to the inadequate enforcement of existing laws. This lack of consistent implementation can be attributed to the influence of the military establishment on Pakistan's political affairs, which tends to override any legal rules

and institutional norms. Consequently, despite the existence of a robust electoral framework, the ultimate outcome of the majority of general elections is frequently the subject of contention. The following section employs the 2024 General Election as a case study to elucidate this ground reality. Additionally, the subsequent section presents an analysis of the undemocratic internal operations of political parties, which further impedes vertical accountability in Pakistan.

3.1. General Election 2024: A Case Study of Electoral Accountability

The fairness of elections in Pakistan is undergoing a concerning decline, as corroborated by the Pakistan Institute of Legislative Development and Transparency (PILDAT)'s report on the most recent General Election held on February 8, 2024. The 2024 General Election scored 49% in PILDAT's assessment. This can be compared to 52% in the 2018, 57% in the 2013 and 40% in the 2008 General Elections. PILDAT analyzed the election in a segmented fashion, assigning scores to the pre-poll, polling day and post-poll phases. Figure 3, reproduced from PILDAT's Assessment of the Quality of General Election 2024, shows that there was a decline in quality and fairness across all election phases: pre-poll, polling, counting and results, and post-poll.

Figure 3. PILDAT's Assessment of the Quality of General Election 2024



Delay in Elections

In the period preceding the election, despite the existence of clear constitutionally mandated time limits, there were considerable delays in scheduling the General Election 2024. On April 10, 2022, Imran Khan was removed from his position as Prime Minister through a vote of no confidence, having served in the role for more than three and a half years. The PDM coalition, in collaboration with the Pakistan People's Party (PPP), assumed control of the remainder of the National Assembly term. This change in government is widely accepted as a consequence of Imran Khan falling out of favor with Pakistan's military establishment. Pushing back, Imran Khan's PTI dissolved the Provincial Assemblies of Punjab and Khyber Pakhtunkhwa ahead of schedule on January 14, 2023, and January 18, 2023, respectively. This resulted in the invocation of Article 224 of the Constitution of Pakistan, which stipulates that the General Election must be held within 60 days of the completion of the Assembly term or within 90 days of the premature dissolution of the Assembly.

Consequently, the General Election for the Punjab Assembly was required to be held by April 14, 2023, and for the KP Assembly by April 18, 2023. In spite of the Supreme Court's ruling on March 1, 2023, that the General Election must be held within 90 days, the ECP ultimately determined that, due to security concerns and financial constraints, elections in both provinces could not be conducted until October. Notwithstanding a Supreme Court ruling on May 14 that this delay was unconstitutional, no consequences ensued, and the elections did not take place by October. Meanwhile, just a few days before the term of the National Assembly was set to expire in August 2023, the outgoing government approved the results of the 2023 Population Census. This action triggered a constitutional requirement for the delimitation of constituencies, further delaying the General Election. On November 3, 2023, the ECP announced that the General Election would take place on February 8, 2024, following a Supreme Court directive for the presidency and the ECP to convene and set a date. The final list of constituencies was published on November 30, 2023, and the General Election finally took place on February 8, 2024.

Institutional Biases

In the period preceding the election, it became evident that the military establishment, which had previously endorsed Imran Khan's ascension to power in the 2018 General Election, had lost its support for him. Instead, it appeared that the Pakistan Muslim League (Nawaz) and the Pakistan Peoples' Party were now the recipients of the establishment's support. This lack of impartiality permeated into other institutions that are subject to the influence of the military, including the judiciary, caretaker governments, and the media. It is evident that the conditions were not conducive to a level playing field for all contesting parties and candidates. As the confrontation between Khan's PTI and the military intensified, the party faced a series of challenges, including censorship, legal battles, and mass arrests. The situation reached a crescendo on May 9, 2023, when Khan's supporters launched an assault on military installations in response to his arrest. A significant portion of the party's leadership was incarcerated and only released upon publicly declaring their departure from the PTI. Moreover, the federal government, with the public support of the military leadership (ISPR 2023), declared its intention to initiate military trials against the civilians involved in the May 9 incidents. In the aftermath of the events of May 9, there was also an increase in media censorship, including the shutdown of social media applications such as X (formerly Twitter).

As the General Election drew nearer, the ECP imposed a further restriction on the PTI by revoking their election symbol, 'bat', on the grounds that the party had not held intra-party elections. As a result of this action, PTI candidates were compelled to participate in the election as independent candidates, lacking a unified symbol that would be easily recognizable to Pakistani voters, a significant portion of whom are illiterate. The ECP's decision, although legally sound, was not a firmly established norm, and to many observers it appeared to be a punishment imposed on the PTI as a consequence of its fallout with the establishment. This sentiment was further reinforced in the week preceding the General Election, when Imran Khan was subjected to three hasty convictions. These included a 10-year sentence for the dissemination of state secrets, a 7-year sentence for the contravention of marriage laws, and a 14-year sentence for the illicit sale of state gifts. Meanwhile, the convictions of former Prime Minister Nawaz Sharif were overturned by the courts in advance of the General Election. It should be noted that these circumstances were not without precedent, as the circumstances of the 2018 General Election were not markedly different. The sole distinction was that it had been Nawaz Sharif who had been the object of the establishment's displeasure in 2018 and now it was Imran Khan. The overarching power of the establishment to manipulate the rules to produce the desired conditions remained constant.

Internet and Mobile Services Shutdown

On polling day, the most controversial event was the Caretaker Government's decision to suspend mobile phone and internet services, which created problems for public participation in the electoral process and made it difficult for election observers and the media to monitor and report on the polling processes. Additionally, the shutdown apparently compromised the ECP's Election Management System (EMS), which was designed to digitize the reporting of results. The Presiding Officer (PO) of each polling station in a constituency was responsible to complete the Form-45 following the counting of votes. The new EMS app was utilized by each PO to photograph the aforementioned form and send it to the Returning Officer (RO) of the constituency. The RO would also use the EMS to tabulate the consolidated results for the entire constituency into the Form-47. This would serve as the provisional constituency result, with a copy subsequently transmitted to the ECP.

On the day of the General Election, the shutdown of mobile and internet services resulted in the failure of the system, necessitating the physical transportation of forms by POs to the ROs, which caused significant delays. Despite the stipulation in the electoral legislation that the results must be announced by 10 a.m. the following day, nearly half of the constituencies had not met this deadline. The failure of the EMS created a *déjà vu* moment, reminding voters of the 2018 general election, which became contentious when the ECP's Result Transmission System (RTS) apparently failed, and election results stopped coming in from across the country. There is a widespread perception amongst the electorate that the actual cause of the RTS and EMS malfunctions was not the technical difficulties themselves, but rather, the use of these incident as a pretext for conducting irregularities in the polls to ensure certain specific candidates' victory. This perception is not unfounded, as the ECP had previously asserted that the EMS would function effectively in both online and offline environments prior to the election. Furthermore, the incident involving the RTS was never subjected to an official investigation. These concerns were further exacerbated when PTI-backed independents flooded social media with what they claimed were correct Form-45s, which yielded a disparate outcome for their constituencies compared to the Form-47s released by the ECP.

Government Formation

In the post-poll phase, the electorate and political parties did not accept the results of the General Election. Despite the absence of violent demonstrations, the general public exhibited a notable lack of confidence in the electoral outcome. This was further exacerbated by the ECP's failure to publish the required forms on its websites within the 14-day legally mandated deadline. The low voter turnout in Pakistan's General Elections is indicative of the lack of public faith in the mechanisms of vertical accountability in Pakistan. Turnout in the 2024 election was 48%, even worse than 2018, when it was 52%. Meanwhile, public confidence in the institution conducting the elections was also low. In Gallup's most recent survey before the 2024 General Election, only 42% of Pakistanis approved of the ECP.

There was also a belief amongst the public that government formation was influenced by the military establishment. The 2024 General Election yielded no clear winner in the National Assembly of Pakistan. In a surprising turn of events, the PTI-backed independents secured the greatest number of seats, with a total of 93. In the meantime, the PML-N won 75 seats, while the PPP won 54 seats. Despite securing the greatest number of seats, the PTI declined to engage in negotiations with one of the other major parties with the objective of forming a coalition government. As a result, the two legacy parties formed a coalition government on their own. To qualify for the reserved seats for women and non-Muslims, the PTI-backed

independents were required to join a political party that had contested the General Election. Thus, they allied with the Sunni Ittehad Council (SIC), which had no prior representation in the National Assembly. However, at the time of writing this paper, the SIC and the ECP are engaged in litigation regarding the question of whether the SIC is entitled to the reserved seats in the Supreme Court.

Military Interference: The Constant in Pakistan's Volatile History

The practice of the military establishment undermining electoral accountability in Pakistan is not a novel phenomenon. Indeed, this form of interference represents a constant in the country's political history. The Freedom House contends that a political party's ability to prosper in Pakistan is directly linked to the quality of their relationship with unelected military elites "which have used legal and extra-legal means to sideline figures they object to." A review of historical data on civilian governments suggests that this is indeed the case. To date, no Prime Minister in Pakistan has completed their five-year term. On more than one occasion, former military officials have admitted to engineering their political fates. In an affidavit submitted to the Supreme Court, former intelligence head Lieutenant General (Retd) Asad Durrani admitted that the military establishment had distributed cash amongst politicians in advance of the 1990 General Election. In a television interview, another former intelligence head, General (Retd) Hamid Gul, conceded that he had played a role in the creation of the Islami Jamhoori Ittehad (IJI) in 1988. He stated that this was done with the intention of preventing Benazir Bhutto from securing an electoral victory. In a recent public event in November 2022, the outgoing army chief, General Qamar Javed Bajwa, admitted that the military is subjected to significant public criticism due to its interference in political affairs:

"A major reason for this is the army's interference in politics for the last 70 years which is unconstitutional. This is why in February last year the army, after great deliberation, decided that it would never interfere in any political matter again. I assure you we are strictly adamant on this and will remain so."

Despite these open admissions, the military's involvement in politics is becoming more pronounced. Moreover, their involvement in governance is becoming increasingly institutionalized. In June 2023, the Special Investment Facilitation Council (SIFC) was established, with the Chief of Army Staff designated as a member of this newly constituted body. The SIFC's objective is to attract foreign investment. Additionally, army officials were appointed to the roles of national coordinator, head of the implementation committee, and director general of the executive committee of the SIFC. As recently as May 2024, the ISPR Director General (DG), Maj-Gen Ahmed Sharif, held a press conference and openly discussed political affairs, asserting that the military will not engage in dialogue with the PTI unless it issues a genuine apology for the events of May 9 and implements reforms. In conclusion, it can be stated that the role of the military in electoral politics is strong and visible in Pakistan.

Political Leaders' Narratives of Victimhood

The involvement of the military in governance and the formation of political alliances provides politicians with a means of avoiding accountability for their election promises. This contributes to the further erosion of vertical accountability in Pakistan. Politicians are able to portray themselves as victims who were never truly afforded autonomy and were not granted sufficient time in government to fulfill their objectives. Thus, the primary focus of the election campaigns has been on portraying the candidates as victims, rather than on presenting their

governance credentials. This strategy was employed by the PMLN in the 2018 election and by the PTI in the 2024 General Election. For instance, during the 2018 General Election, the PMLN campaign centered on the purported politically motivated convictions of Nawaz Sharif, which it argued prevented him from fulfilling his term as Prime Minister and delivering on his governance promises. Similarly, the PTI alleged that Imran Khan's government was upended by certain elements in the military establishment, preventing him from delivering on his governance promises. Thus, the public was once again encouraged to cast their vote in favor of the underdog, rather than focusing on the specifics of governance or policy.

3.2. Shrinking Space for, and within, Political Parties

As previously stated, while Pakistan has 166 enlisted political parties, the dominant actors are a mere handful. To assess the state of vertical accountability in Pakistan, it is important to assess the health of political parties as well. This includes not only the simplicity of establishing and joining a political party, which is delineated in the legal framework, but also the internal dynamics and interactions among political parties themselves. The following section will examine the dearth of democratic and diverse practices within and among Pakistan's principal political parties.

Political Dynasties

Despite espousing democracy as a system for the country, Pakistan's political parties are autocratic and undemocratic in their internal governance. These parties are frequently dynastic, relying on trusted family members and appointing them to key positions within the party structure. While the Pakistan Peoples' Party is currently led by the third generation of Bhuttos, the Pakistan Muslim League (Nawaz) is dominated by the families of brothers Nawaz and Shehbaz Sharif. Despite its outward stance against dynastic politics, the Pakistan Tehreek-e-Insaf (PTI) has been described as a cult of personality led by Imran Khan. The failure of the party to hold intra-party elections in advance of the 2024 General Election is illustrative of this fact. Political parties in Pakistan have failed to democratize their internal structures and establish elected leadership structures. Instead, they have become increasingly more insular and have preferred to maintain the status quo by retaining the existing leadership. This insularity can be partially attributed to the intense state pressure that political parties are subjected to.

A pivotal moment in the history of Pakistani politics was the execution of former Prime Minister Zulfikar Ali Bhutto in 1979. This event served as a stark warning to all those in positions of power, indicating the potential consequences of challenging the established order. As a deliberate strategy to maintain control and continuity in the face of uncertainty, the PPP leadership has been passed down each generation in the Bhutto bloodline. By maintaining control within the family, the risk of betrayal or defection is mitigated. It must be noted that these risks are a tangible reality in a country where political leaders are frequently imprisoned or compelled to alter their allegiances. However, this strategy inevitably undermines democratic governance within political parties and concentrates power in the hands of a few, while marginalizing the voices of ordinary party members. Moreover, it stymies the growth of new leadership and innovative ideas. The lack of incentive for policy research and intra-party elections is a consequence of the fact that party loyalty is often based on personal allegiances rather than ideological commitments. In practice, there is minimal differentiation between the leading political parties, with the exception of their figureheads. Thus, the lack of democratic processes within Pakistan's political parties results in the formulation of

suboptimal policies and the provision of inadequate services. Furthermore, this ultimately reduces the choices available to the electorate, thereby undermining vertical accountability.

In an assessment conducted in 2016, PILDAT utilized 11 indicators to evaluate the level of democracy within 8 political parties in Pakistan. The indicators included an analysis of the party constitution, party elections, meetings of parliamentary parties, the funding structure, and the tolerance of dissent. The assessment wielded a score below 50 percent for all three major parties with regard to internal democracy, with the PML-N exhibiting the least satisfactory performance. It is unlikely that any significant changes will be made to these parties in the near future, as evidenced by the lack of structural changes that would result in a notable shift in the scores. Indeed, all three parties continue to be led by the same families in key leadership roles.

Intolerance of Dissent

In addition to the dearth of diversity within political parties, there is also a paucity of diversity amongst them. Those political parties that do not align with a particular worldview are subject to the full extent of state intervention. For example, nationalist parties from Balochistan that advocate for greater political and economic rights for their people, and grassroots movements like the *Pashtun Tahafuz Movement* (PTM) that highlight human rights abuses such as enforced disappearances and extrajudicial killings, are not given political space. Instead, they face considerable state repression, including the accusation of being “anti-state”. The use of this anti-state label is becoming increasingly common, especially against individuals and parties that do not espouse a right-wing, hawkish worldview. The final result of this repression is a political system where diversity of thought and representation is severely stunted. This precludes the electorate from having a genuine choice at the polls, significantly constraining the range of available options.

Another reason for the lack of diversity in political thought and the general lack of political awareness is the dire state of education, and more specifically civic education, in Pakistan. Specifically, the prohibition of student unions, initially enacted by the military dictator General Zia-ul-Haq in 1984, has led to low levels of political awareness among the younger generation, who are largely uninformed about their political and voting rights. Student unions had previously provided a pathway for youth from lower and middle-class backgrounds to gain access to political parties. The field of politics, including student politics, is currently depicted to Pakistani youth as a less prestigious, less serious and less appropriate pursuit. This has resulted in a reduction in the number of individuals willing to engage in professional politics, thereby further perpetuating the trend of dynastic leadership within political parties. In a more general sense, the prohibition of student unions and the relatively low levels of literacy contribute to an electorate that is not only apathetic towards politics but also unaware of its right to electoral accountability.

Another reason for the lack of diversity and youth in political parties can be discerned by examining the process of awarding party tickets during election cycles. Political parties charge an ‘application fee’ from individuals seeking party tickets. The price of these non-refundable deposits is rising annually, which may contribute to the growing perception that politics is increasingly dominated by the affluent, who also tend to be older. Despite the fact that 45 percent of the total registered voters in Pakistan are 35 years and below, their representation in the election candidates fielded by the top 10 political parties was only 19 percent (Mehboob 2023).

4. Recommendations for Improving Vertical Accountability in Pakistan

This paper makes clear that the continuation of military intervention from behind the scenes precludes the flourishing of democracy and the establishment of robust vertical accountability in Pakistan. However, while the gap in the institutional ideals and the political realities appears to have widened in the last few years, two recent developments inspire cautious optimism. Firstly, the judiciary appears to be resisting external influence, as evidenced by a letter written to the Supreme Court by six judges of the Islamabad High Court, which alleges the interference of the military establishment in judicial decisions. The letter asserted that judges had been subjected to intimidation and blackmail. An investigation into these allegations is currently underway at the Supreme Court. The second noteworthy development is the growing public opposition to military interference in civilian governance. The limited but notable victory of Imran Khan's party, despite significant obstacles, provides insight into the prevailing public sentiment. To further build on these developments, the following short-term remedies and long-term solutions can help strengthen democracy and vertical accountability in Pakistan. The short-term measures seek to strengthen the integrity of the electoral process, renew public trust, and increase public participation. At the same time, the long-term solutions set the tone for a common agenda to unite political parties for a democratic path forward.

In the short term, the Election Commission of Pakistan and the newly elected government must work to restore public confidence in the election process. This can be achieved by expediting the resolution of electoral disputes through increased resources for election tribunals. Additionally, Parliament can deliberate on forming an independent inquiry commission, akin to the one formed to probe the 2013 elections, to investigate any allegations of electoral wrongdoing, specifically focusing on the performance of the ECP and the wrongful involvement of any state institutions. It is imperative that any actors found responsible for wrongdoing face accountability, and that electoral and legal reforms are implemented to prevent such malpractices from recurring.

In the long term, there is a need to strengthen democratic norms and practices across state institutions. A clear delineation of powers is required among the military establishment, the judiciary, and the executive to prevent unconstitutional interference. Political parties must unite around the agenda of democratic principles, prioritizing the collective interests of Pakistani democracy over short-term individual gains. This unity is essential for creating a resilient democratic framework that can withstand the pressures exerted by internal and external forces. The short-term measures may help in reducing antagonism between the government and opposition parties, thereby enhancing the probability of attaining a consensus on a democratic agenda. To achieve a delineation of powers, it is essential to utilize multi-stakeholder initiatives, which will facilitate an open and frank discussion on the separation of powers among all state institutions. An existing forum for such a discussion is the National Security Committee (NSC), which has been underutilized despite its composition of both civilian and military leadership. The NSC would be an appropriate forum for sustained discussions on this subject.

Without political actors making a long-term and steadfast commitment to strengthening vertical accountability — i.e., elections and political parties — Pakistan's democracy will remain fragile and vulnerable to autocratic tendencies. Through a vibrant political party landscape as well as truly free and fair elections, the Pakistani electorate can hold governments accountable and begin to build further accountability structures such as horizontal and diagonal accountability frameworks. Building these layers of accountability into Pakistan's democratic system will lead to a more robust and healthy democracy.

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Country Case 5: South Korea

Vertical Accountability in South Korea: Analyzing Its de jure and de facto Performance¹

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1. Introduction

To what extent do political institutions in South Korea meet the democratic norm of vertical accountability? Do they actually demonstrate accountability to voters? If the de jure institutions of vertical accountability do not align with the de facto performance of such accountability, where are the discrepancies? Despite the theoretical and practical importance of accountability in the political system, few studies have provided empirical evidence on both the de jure institutions of vertical accountability and their de facto performance.

To address this gap, this project examines the de jure institutions of vertical accountability and the de facto performance of vertical accountability in South Korea. Specifically, the study addresses four research questions: (1) Which constitutional and legal mechanisms hold the Korean government accountable? (de jure accountability) (2) To what extent do these accountability mechanisms function effectively? (de facto accountability) (3) Are there discrepancies between the de jure and de facto accountability? (4) What short-term remedies and long-term reforms could address these discrepancies? As a first step toward answering these questions, this memo reviews electoral accountability in South Korea.

In terms of methodology, this memo employs mixed methods. A review of de jure accountability is based on articles and chapters of the constitution and relevant laws.³ To evaluate de facto accountability, I use Varieties of Democracy (V-Dem) data from 1980 to 2022. Cross-national comparisons will also be conducted to provide a more comprehensive understanding of the Korean case. The mean performance of three sets of countries is used as a comparison: (1) OECD countries, (2) ADRN participants, and (3) 18 third-wave democracies: Indonesia, Mongolia, the Philippines, South Korea, Taiwan, Thailand, Bulgaria, the Czech Republic, Hungary, Poland, Romania, Slovakia, Argentina, Brazil, Chile, Colombia, Mexico, and Peru. These 18 cases consist of the six largest third-wave democracies in each region. The selection criterion follows Kim (2022).

The structure of this memo is as follows. The next chapter defines vertical accountability and describes its subtypes, domains, and the items used to assess each. Chapter 3 reviews de jure and de facto

¹ The analysis in this manuscript is based on the Korean political situation as of September 2024 and does not account for the events of December 2024, including martial law and the impeachment proceedings.

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³ For the English translations of Korean laws, I rely on the Korean Law Translation Center founded by the Korea Legislation Research Institute, https://elaw.klri.re.kr/kor_service/main.do

electoral accountability in Korea, while Chapter 4 discusses diagonal accountability. The concluding chapter discusses short-term remedies and long-term reforms that could mitigate the discrepancies between *de jure* and *de facto* accountability in South Korea.

2. Definitions and Subtypes of Vertical Accountability

As accountability is at the center of democratic governance and policymaking, numerous studies have defined accountability and its subtypes. For example, Luhrmann et al. (2020) define accountability as “*de facto* constraints on the governments use of political power through requirements for justification of its actions and potential sanctions” (Luhrmann et al. 2020, 811). Accountability is organized by the spatial relationship between the government and voters, bodies within the government, and the government and civil society. Vertical accountability or electoral accountability is the accountability between the government and voters. Schedler and colleagues define it as “the ability of a state’s population to hold its government accountable through elections and political parties” (Schedler et al. 1999). Thus, the level of electoral accountability is decided by the quality of elections and parties.⁴

Electoral accountability tends to be stronger when civil society holds the government accountable, for example, by providing information about the government or pressuring it to change its policies (Grimes 2013; Malena and Forster 2004; Peruzzotti and Smulovitz 2006). Electoral accountability describes citizens’ power to hold the government accountable by participating through formal channels such as elections. In contrast, diagonal accountability denotes the ability or power of citizens to hold the government accountable via non-electoral and informal tools.

Recognizing this mutually reinforcing electoral and diagonal accountability, this report conceptualizes vertical accountability broadly to include both electoral and diagonal accountability as its two subtypes. Vertical accountability should capture both citizens’ formal and informal power to hold the government accountable.

Each vertical accountability subtype has several domains. Electoral accountability has two domains: the quality of elections and the quality of political parties. This is because the primary mechanism through which citizens hold the government accountable is by voting. The Evaluation of the quality of elections is typically concerned with the eligibility of voters, the ease of the voting process, the fairness and competitiveness of elections, the regularity and peaceful conduct of elections, and the supervision of electoral processes by a capable and autonomous electoral management body. The Evaluation of the quality of political parties focuses on party formation and the independence of the opposition from the ruling regime. To evaluate the *de jure* and *de facto* characteristics of elections using empirical evidence, items that reflect these two domains are selected from the V-Dem variables, as indicated in Table 1.

The domains of diagonal accountability concentrate on the extent to which citizens can engage in policy-making processes that extend beyond electoral participation. They are evaluated by observing media freedom, civil society organizations (CSOs), freedom of expression, and citizens’ engagement in politics. The items that assess diagonal accountability are listed in Table 1.

⁴ Scholars distinguish this vertical accountability from horizontal accountability, where state institutions hold the executive branch of the government accountable. This type of accountability consists of the checks and balances between the executive body and the legislative body and judicial oversight of the executive body, which can include demands for information and punishment of improper behavior (O’Donnell 1998; Rose-Ackerman 1996).

Table 1. Domains and Items to Assess Vertical Accountability

	Domain	Item
Electoral Accountability	Quality of elections	Voting rights restrictions
		Accuracy of the voter registry
		Free and fair elections
		Multi-party elections
		Intentional irregularities
		Intimidation and harassment
		Autonomy of the EMB
		Capacity of the EMB
	Quality of parties	Barriers to party formation
		Independence of the opposition
Diagonal Accountability	Quality of media freedom	Censorship on the media and the internet
		Harassment on journalists
		Media criticizing the government
		Media Bias against the opposition
		Media representing wide perspectives
		Media's Self-censorship
	Quality of freedom of expression	Citizens' freedom to discuss political issues
		Gender gap in freedom of expression
		Freedom of academic and cultural expression
	Quality of CSOs and civic engagement	Citizens' voluntary participation in CSOs
		Governmental Control on CSOs
		Governmental Oppression on CSOs
		The width and depth of public deliberations
		Reasoned justifications
		Respect counterarguments

3. De Jure and De Facto Electoral Accountability in Korea

3.1. De Jure Quality of Elections

In South Korea, the de jure quality of elections is secured via the Constitution and electoral laws. Firstly, voting rights are the primary measure of election quality, such as whether there are restrictions on voting rights and how accurate the voter registry is. Article 15 of the Public Official Election Act states that all Korean citizens over the age of 18 have equal voting rights. Furthermore, the voter registry is uncomplicated; all Korean citizens over the age of 18 are automatically registered as voters in accordance with Chapter 5 of the Public Official Election Act.

Secondly, the democratic process of elections is well institutionalized in Korea. Multi-party elections are dictated by Article 8 of the Constitution, which states that “the establishment of political parties shall be free, and the plural party system shall be guaranteed.” Free and fair elections are also secured by

Articles 41⁵ and 67⁶ of the Constitution, which declare free, fair, and direct elections for the legislature and the President, respectively. The Public Official Election Act defines the principles and rules for all elections. The Act's Article 1 declares that the goal of the law is to make all elections free, fair, and democratic. Article 7 stipulates that candidates and parties should compete fairly and abide by laws.

Any intentional interference with the electoral process is subject to legal sanction. Articles 237 to 239 of the Public Official Election Act delineate the actions deemed to be obstructions to the freedom of elections and prescribe the penalties for such actions.

Thirdly, the quality of elections is determined by the autonomy and capacity of the Electoral Management Body (EMB). To determine the *de jure* autonomy of the EMB, an evaluation of the regulations pertaining to the appointment of members, term limits, and the protection of the EMB from political pressure must be conducted. The Constitution defines the establishment and purpose of the EMB. Article 114, Paragraph 2 describes the process of appointing nine members to the EMB, three by the President, with three appointments made by the National Assembly, and three by the Chief Justice of the Supreme Court. Their six-year terms are secured under Article 114, Paragraph 3. It is also noteworthy that the members' terms are protected unless they commit a serious crime.⁷ Article 114, Paragraph 6⁸ and Article 115, Paragraph 1⁹ provide a legal basis for enhancing the capacity of the EMB, citing the EMB's legal authority to establish regulations and issue instructions regarding the administration of elections. Additionally, Article 5 of the Public Official Election Law permits the EMB to request assistance from any government office with priority. This confers additional capacity upon the EMB. The second row of Table 1 provides a summary of the *de jure* and *de facto* qualities of elections in Korea.

3.2. De Facto Quality of Elections

The evaluation of the *de facto* quality of elections in South Korea is based on eight variables from V-Dem, as illustrated in Figures 1 and 2. The figures show the temporal trajectory of eight variables from 1981 to 2022. Universal suffrage was instituted beginning with the first elections in 1948. Universal adult enrollment on the voter registry is easy and clear. Elections have been conducted in a free and fair manner since the country's democratization in 1987.

Prior to the 1970s, elections conducted under authoritarian regimes had been competitive, with significant opposition parties. However, the opposition parties became weak after dictator Park Chung-hee's auto-coup in 1972, which resulted in the dissolution of all parties and the legislature (Kim 2008). A jump in the quality of multi-party elections transpired in 1985, when the 12th legislative elections ended with the unexpected victory

⁵ Article 41 Paragraph 1 states that "the National Assembly shall be composed of members elected by universal, equal, direct and secret ballot by the citizens."

⁶ Article 67 Paragraph 1 states that "the President shall be elected by universal, equal, direct and secret ballot by the people."

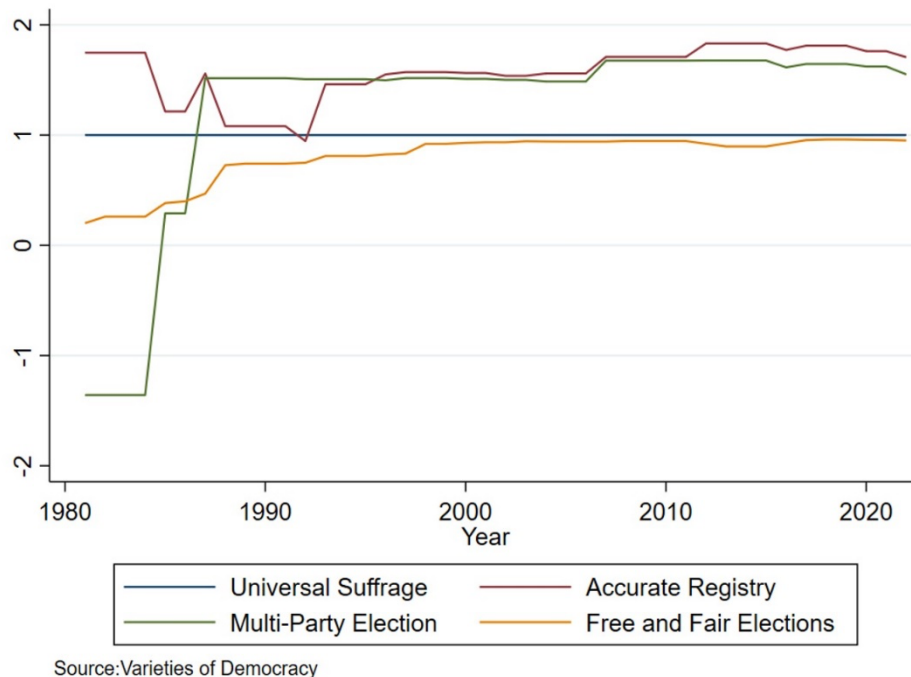
⁷ Paragraph 5 of Article 114 states that "No member of the Commission shall be expelled from office except by impeachment or a sentence of imprisonment without prison labor or heavier punishment."

⁸ Paragraph 6 of Article 114 states that "The National Election Commission may establish, within the limit of Acts and decrees, regulations relating to the management of elections, national referenda, and administrative affairs concerning political parties and may also establish regulations relating to internal discipline that are compatible with the Act."

⁹ Paragraph 1 of Article 115 states that "Election commissions at each level may issue necessary instructions to administrative agencies concerned with respect to administrative affairs pertaining to elections and national referenda such as the preparation of the pollbooks."

of a nascent opposition party. A second jump occurred in 1987, when the inaugural fully democratic presidential elections were held. Since then, South Korea has scored highly on the multi-party election item.

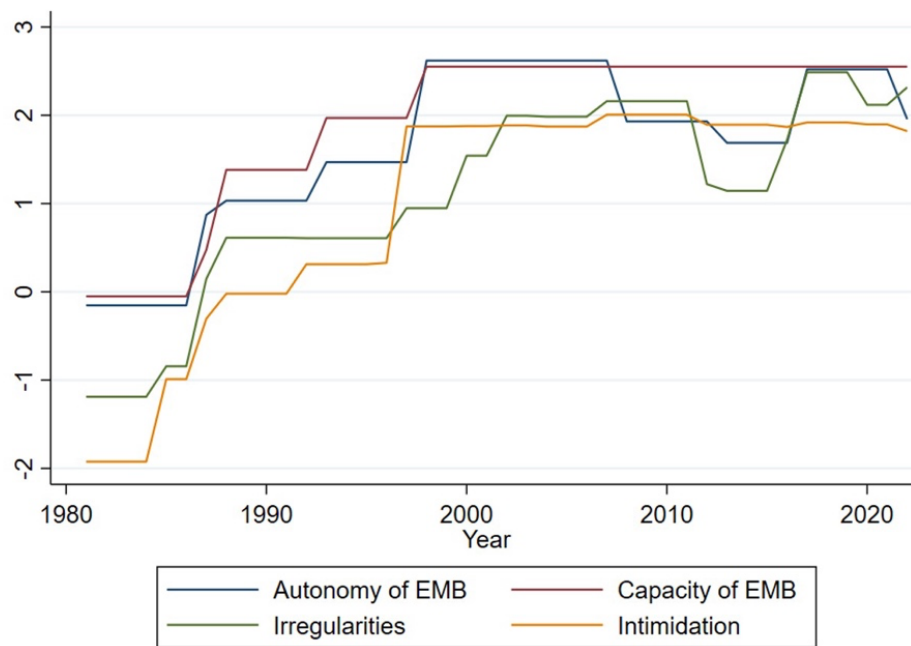
Figure 1. De facto Quality of Elections



Intentional irregularities are defined as cases where the incumbent and/or opposition parties engage in intentional actions that interrupt the electoral process. These actions may include the use of duplicate IDs, an intentional lack of voting materials, ballot-stuffing, misreporting of votes, or false collation of votes. While some irregularities observed prior to the year 2000, there have been few instances of such occurrences since that time, with a notable exception. The sudden drop in the irregularities score between 2012 and 2015 reflects the National Intelligence Service (NIS) public opinion manipulation scandal. In this scandal, agents of the NIS, working on behalf of then-incumbent presidential candidate Park Geun-hye, engaged in illegal surveillance of some opposition politicians and posted pro-government opinions on social media to sway public opinion.¹⁰

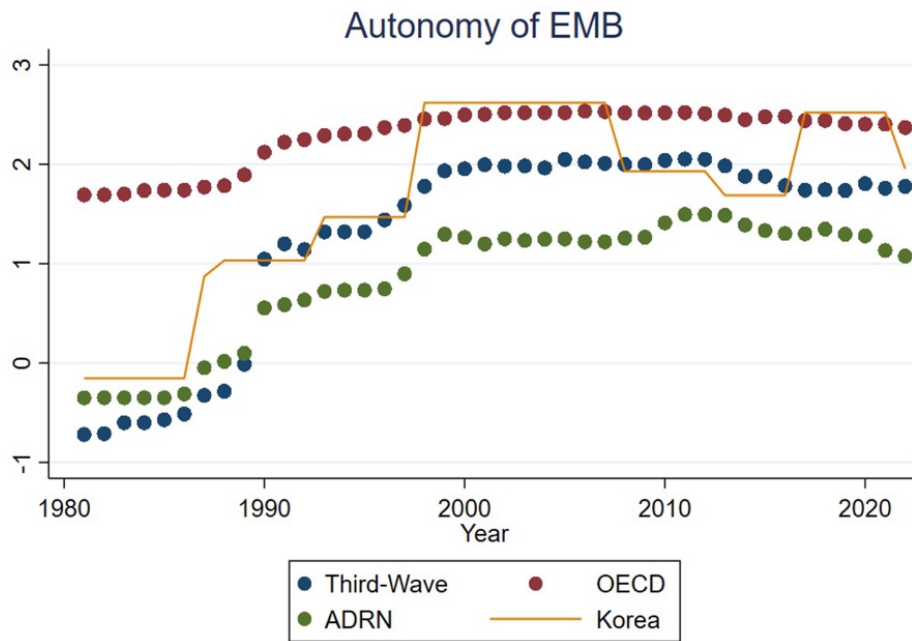
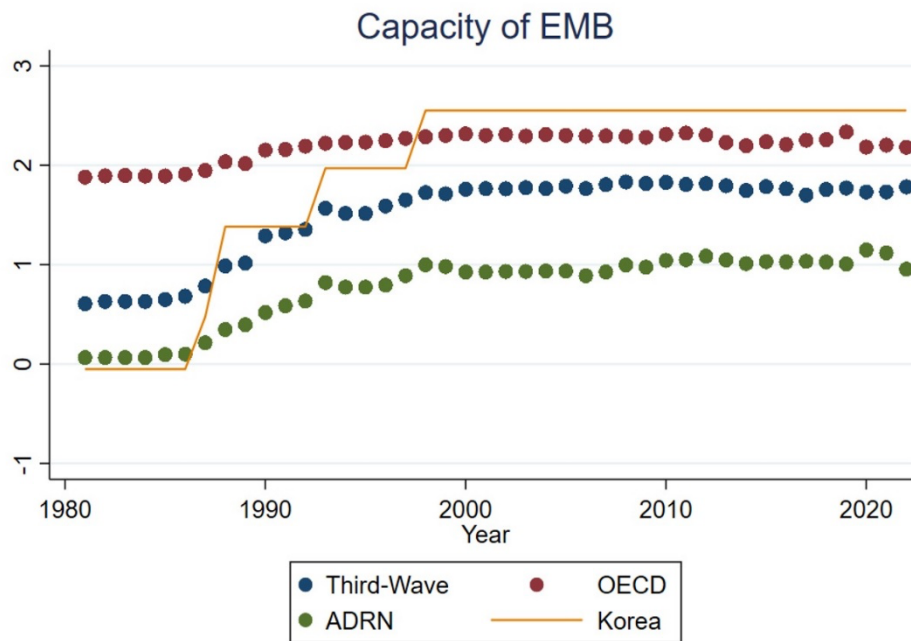
Intimidation and harassment refer to situations in which opposition parties are subjected to repression, intimidation, violence, or harassment by the government or the ruling party. Such incidents were frequent under the authoritarian regime but became less frequent following democratization. Since 1996, there have been no documented incidents of intimidation and harassment.

¹⁰ See this news article for more details: <https://www.bbc.com/news/world-asia-40824793> (Accessed on March 2, 2024).

Figure 2. De facto Quality of Elections

Source: Varieties of Democracy

A crucial yet understudied aspect of electoral quality in Korea is the autonomy and capacity of the EMB. Since democratization, the EMB has gradually increased its capacity and autonomy. To evaluate the increase in the capacity and autonomy of the EMB, Figures 3 and 4 present a comparison between the autonomy and capacity of Korea's EMB with the mean values for third-wave democracies, OECD countries, and ADRN participants, respectively. As a consequence of the democratization occurred in numerous countries during the late 1980s, the level of autonomy increased in third-wave countries and ADRN participants, including South Korea.

Figure 3. Comparison of the Autonomy of EMBs**Figure 4.** Comparison of the Capacity of EMBs

An interesting point of increase occurred in 1998. The gradual expansion of the EMB's legal authority and experience contributed to an increase in its autonomy and capacity. In 1992, a new law was enacted that allowed members of the EMB to issue suspensions or warnings and to request investigations into violations of election laws under Article 14, Paragraph 2 of the Election Commission Act.¹¹ In 1994, the Public Official Election Act merged several existing electoral laws, thereby reinforcing the EMB's capacity to oversee the electoral process and to investigate any illicit activities connected with it. In accordance with this legal authority, the EMB assumed responsibility for monitoring all electoral processes, preventing any violations of election law, and punishing illegal election tampering. The National Election Commission (NEC) has on numerous occasions requested that prosecutors file criminal charges using their investigation records regarding election crimes committed by high-ranking politicians, both within the government and in opposition parties.

An analysis by Choi and Cho (2020) posited an additional rationale for the EMB's elevated degree of autonomy and capacity. In a comparative analysis of 35 countries based on ELECT data from 2016, the South Korean EMB was found to have the fourth largest staff and the second largest budget. A substantial investment in human capital and financial resources would serve to enhance the power of the EMB.

Table 2 provides a summary of the de jure and de facto quality of elections in Korea. In sum, both the Constitution and the Election Act secure the de jure quality of elections. Figures 1 and 2 illustrate that the quality of elections in Korea has been improved since the country's democratization, with no strong retreat and backsliding observed. In terms of the Korean EMB, a comparison to third-wave democracies, OECD countries and ADRN member countries reveals that the de facto quality of Korean elections is high as shown in Figures 3 and 4. Table 2 provides a synthesis of the findings presented in Sections 1 and 2, organized into eight categories to encompass both the de jure and de facto quality of elections.

Table 2. De Jure and De Facto Quality of Elections

Item	De Jure Quality	De Facto Quality
Voting rights restrictions	Election Act, Article 15	No restrictions
Accuracy of the voter registry	Election Act, Chapter 5	Easy and clear
Free and fair elections	Constitution, Article 8, 41, 67	Highly free and fair
Multi-party elections	Constitution, Article 8	Highly competitive
Intentional irregularities		Rarely observed
Intimidation and harassment	Election Act, Articles 237 to 239	Rarely observed
Autonomy of the EMB	Constitution, Article 114	High
Capacity of the EMB	Constitution, Article 114-115	High

¹¹ Article 14, Paragraph 1 (Suspension, Warning, etc. for Violations of Election Laws) states that where a member or staff of each election commission discovers a violation of an election law in the course of performing his/her duties, he/she shall halt the violation, issue a warning or corrective order, and may request a competent investigation authority to launch an investigation or file a criminal charge if such violation is deemed significantly detrimental to the impartiality of an election or an order of suspension, warning, or correction is not complied with.

3.3. De Jure Quality of Political Parties

The quality of parties assesses the independence of the opposition and the existence of any barriers to the formation of political parties. The de jure quality is ensured by Article 8 of the Constitution. Article 8, Paragraph 1 states that the establishment of political parties shall be free, and the plural party system shall be guaranteed. Additionally, the Political Parties Act, Chapter VI, provides a legal basis guaranteeing the activities of political parties. The Political Parties Act, Article 37, Paragraph 1 states that political parties shall have freedom in the activities provided for in the Constitution and statutes.

Both the Constitution and the Political Parties Act provide a legal basis for securing the independence of parties by requiring that the government support their activities. Constitution Article 8, Paragraph 3 grants the protection of the State to political parties and also requires government to provide parties with financial support. Such support provides financial independence to opposition parties. The Political Parties Act, Article 37, Paragraph 2¹² enshrines the freedom of party activities, stipulating that activities such as the recruitment of party members and the promotion of policies and current issues through printed materials, facilities, and advertisements should be guaranteed as normal activities of political parties.

The Constitution does not impose any restrictions on the formation of political parties, except in cases where a party's actions are deemed to be in violation of the democratic order. Paragraph 4¹³ defines a condition for party dissolution, stating that the Constitutional Court can dissolve a party whose purpose or activities are contrary to the fundamental democratic order.

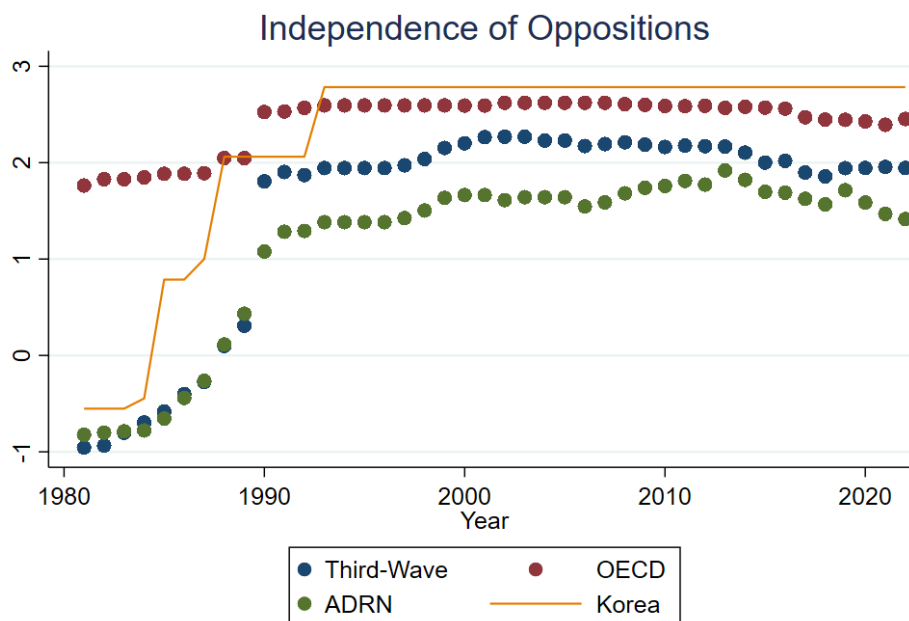
3.4. De Facto Quality of Political Parties

The de facto quality of political parties in Korea can be assessed through two variables from the V-Dem dataset, as illustrated in Figures 5 and 6. Since democratization, the level of opposition party independence has exhibited a marked increase and has remained stable, slightly exceeding the mean score of OECD countries (Figure 5). This relatively high level of independence can be attributed to the particularities of South Korea's political history. Prior to democratization, elections held under authoritarian regimes were relatively competitive, and opposition parties played a significant role in the subsequent democratization movement after the mid-1980s. Consequently, opposition parties were able to achieve a relatively quick degree of independence from the government following the transition to democracy. Subsequently, there have been no discernible efforts to curtail the independence of opposition parties.

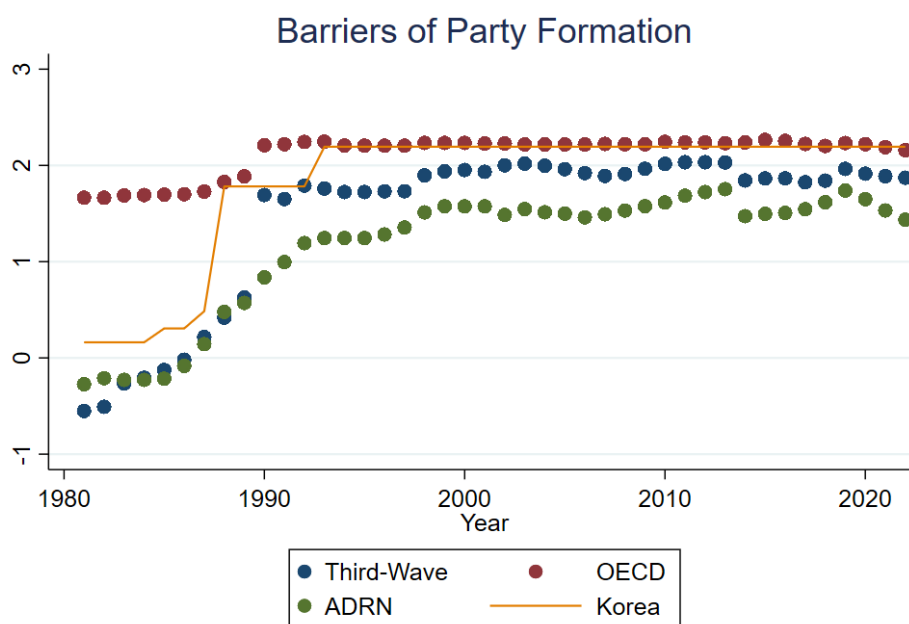
Figure 6 presents the degree of barriers to party formation, with higher scores indicating a lower number of barriers. Since democratization, South Korea has exhibited a complete absence of barriers to the formation of political parties. Its score is in close proximity to the mean among OECD countries (Figure 6).

¹² The Political Parties Act, Article 37, Paragraph 2 states that the activities of political parties promoting their own policies and current political issues without supporting and recommending the specific political parties or the candidates for election to public offices (including persons intending to become the candidates) or opposing them by utilizing printed materials, facilities, advertisements, etc., and activities for recruiting party members (excluding door-to-door visits) shall be guaranteed as normal activities of political parties.

¹³ The Political Parties Act, Article 37, Paragraph 4 states that if the purposes or activities of a political party are contrary to the fundamental democratic order, the Government may bring an action against it in the Constitutional Court for its dissolution, and the political party shall be dissolved in accordance with the decision of the Constitutional Court.

Figure 3. Comparison of the Independence of Opposition Parties

Source: Varieties of Democracy

Figure 4. Comparison of Barriers to Party Formation

Source: Varieties of Democracy

Notwithstanding these positive indicators regarding the autonomy and formation of political parties, the recent constitutional appeal pertaining to the establishment of a local party raises questions about the capacity of the extant legislative framework to support a diverse and vibrant party system in South Korea, particularly at the local level. The Political Parties Act establishes minimum requirements for the establishment of political parties, which have been the subject of debate. Article 3 mandates the establishment of a central party in the capital, along with provincial-level branches. Furthermore, Articles 17

and 18 stipulate that parties must possess at least five branches at the city (Si, in Korean) or provincial (Do, in Korean) level, each with a minimum of 1,000 members. These provisions make it impossible to establish a local party with a primary focus on local issues, independent of national-level politics.

Some observers posit that the establishment of a local party could revitalize South Korean local politics, which are often perceived as being overly dependent on central politics. In 2023, several NGOs filed a petition to the Constitutional Court, challenging the constitutionality of Articles 3, 17, and 18 of the Political Parties Act on the grounds that they violate Article 8, Paragraph 1 of the Constitution, which guarantees freedom of party establishment. On October 4, 2023, the petition was rejected due to the lack of quorum in the Constitutional Court. However, five judges dissented, expressing their opinion that these articles were unconstitutional.

Table 3 summarizes the primary findings of Sections 3 and 4, which pertain to the de jure and de facto quality of political parties. These findings indicate that South Korea's party system has achieved a significant degree of both de jure and de facto quality, with the prevailing legal framework seemingly conducive to the autonomy of the opposition party. While South Korea has made progress in the quality of its political parties, marked by the robust opposition party independence and the absence of barriers to party formation, the constitutional appeal regarding local party formation has prompted concerns about the flexibility of the existing legal framework in addressing evolving political demands.

Table 3. De Jure and De Facto Quality of Parties

Item	De Jure Quality	De Facto Quality
Barriers to party formation	Constitution Article 8, Paragraph 4	No restrictions
Independence of the opposition	Constitution Article 8, Paragraphs 1 and 3, The Political Parties Act Article 37, Paragraphs 1 and 2	Very independent

4. Diagonal Accountability in Korea

This chapter presents a review of the de jure and de facto qualities of diagonal accountability in Korea, with a particular focus on three key areas: the quality of media freedom, the quality of freedom of expression, and the quality of CSOs and civic engagement.

4.1. De jure Quality of Media Freedom

The constitutional foundation of media freedom is Article 21. Article 21, Paragraph 1 stipulates that all citizens shall enjoy freedom of speech and the press, and freedom of assembly and association. Paragraph 2 dictates that licensing or censorship of speech and the press, and licensing of assembly and association, shall not be recognized.

Several acts regarding the press mention media freedom as a fundamental principle. These include the Act on the Promotion of Newspapers (Articles 1 and 3), the Act on Broadcasting (Articles 1 and 4), and the Act on Press Arbitration and Damage Remedies.

The Act on the Promotion of Newspapers establishes the legal framework for the publication of newspapers and the newspaper industry as a whole. Articles 1 and 3 also pertain to the issue of media

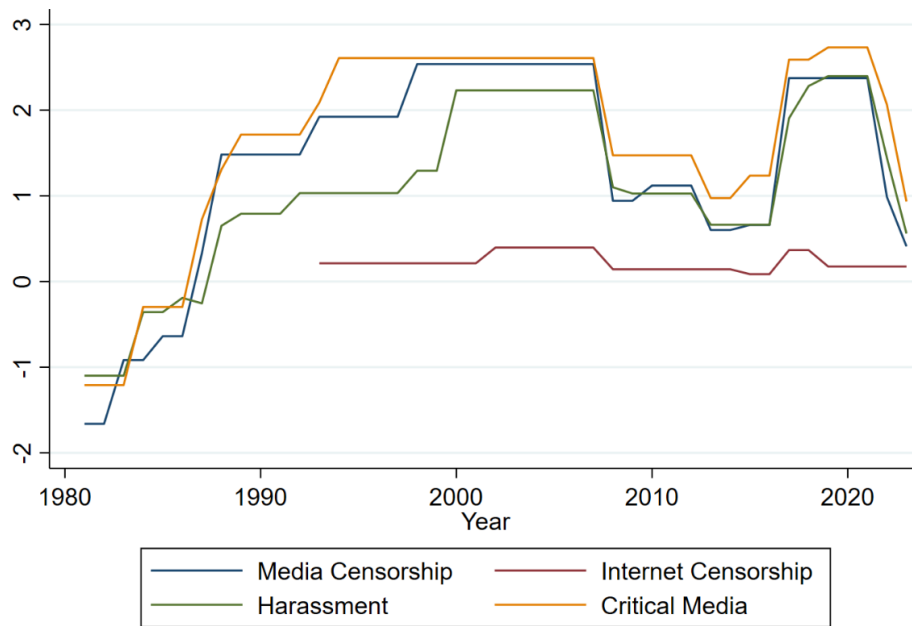
freedom. Article 1 states that the purpose of Act is to contribute to the expansion of press freedom and to democratically mold public opinion by guaranteeing the freedom and independence of publication of newspapers, and other similar media, by promoting a sense of social responsibility regarding the aforementioned media, and by assisting and fostering the newspaper industry. Article 3 establishes the principles of freedom and responsibility regarding newspapers; Paragraph 1 sets forth the guarantee of freedom and independence of the press for newspapers and online newspapers. Paragraph 2 states that newspapers and online newspapers shall have a right to free access to information sources, which constitutes a form of press freedom as set forth in Paragraph 1. Additionally, they are granted the freedom to disseminate information that they have obtained through their reporting without undue restrictions.

The Act on Broadcasting specifies the legal framework that governs broadcasting activities. Article 1 states that the purpose of this legislation is to protect the rights and interests of viewers, form democratic public opinion, improve national culture, and contribute to the development of broadcasting and the promotion of public welfare. This is to be achieved by guaranteeing the freedom and independence of broadcasting and increasing the public responsibility of broadcasting. Article 4 also asserts the freedom and independence of broadcast programming (Paragraph 1) and the legal protection of broadcast programming (Paragraph 2). It stipulates that no individual or entity may regulate or interfere with broadcast programming in any manner except in accordance with the provisions set forth in the Act or other applicable laws.

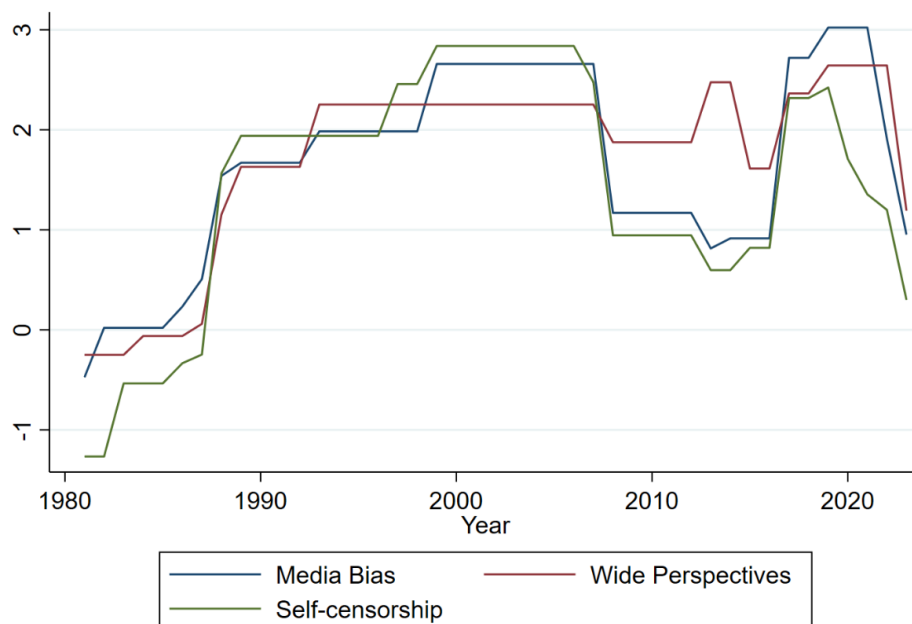
The Act on Press Arbitration and Damage Remedies deals with any issues and disputes regarding media reports. Article 3, Paragraph 1 asserts the inviolability of press freedom and independence. Paragraph 2 of the article states that no individual or entity may regulate or interfere with the freedom and independence of the press. Paragraph 3 asserts the press's right to freely access information sources and the freedom to freely publish the information it has collected. Finally, Paragraph 4 reiterates that the Constitution guarantees media freedom, and that the freedoms and rights set forth in Paragraphs 1 to 3 shall not be restricted except in accordance with the Constitution and applicable laws.

4.2. De facto Quality of Media Freedom

The de facto quality of media freedom can be understood in terms of two interrelated aspects: the extent to which the government respects media freedom and the extent to which the media provides information to the public. The V-Dem dataset reviews the following seven items to evaluate media freedom: (1) the extent to which the government attempts to censor the media (media censorship), (2) information on the internet (internet censorship), (3) harassment of journalists (harassment), (4) the extent to which the media criticizes the government (critical media), (5) a bias against opposition (media bias), (6) the extent to which the media offers a wide array of political perspectives in their coverage (wide perspectives), and (7) self-censorship on salient issues for the government (self-censorship). Figure 7 displays the time trend of four variables, namely media censorship, internet censorship, harassment of journalists, and critical media. Figure 8 displays the time trend of three variables, namely media bias, media's wide perspectives, and self-censorship.

Figure 5. Quality of Media Freedom

Source: Varieties of Democracy

Figure 6. Quality of Media Freedom

Source: Varieties of Democracy

All seven items exhibit a strikingly analogous trajectory over time. Since the advent of democratization in 1987, the scores of all items pertaining to media freedom have exhibited a gradual increase until 2007. However, from 2008 to 2016, there was a notable decline in the scores of all items. While the scores rebounded between 2017 and 2021, they subsequently declined in 2022. In 2023, the scores are approaching those observed in the late 1980s, nearly three decades ago. To illustrate this discrepancy, one might consider

the scores for two items to display the largest gap: media censorship and self-censorship. In 2007, the score for media censorship reached its highest point at 2.538, but declined to 0.942 in 2008-2009. Following a brief period of recovery, during which the score reached 1.12 between 2010 and 2012, the quality of media censorship dropped again, scoring 0.601 between 2013 and 2014 and 0.66 in 2015 and 2016. From 2017 to 2021, the score exhibited an upward trajectory, reaching a value of 2.374. However, in 2022, it declined once more. The score in 2023 is the lowest recorded to date, at 0.41. Similarly, the press's self-censorship demonstrates a comparable trajectory, reaching its peak in 2007 and reaching its nadir in 2021. The score was 2.477 in 2007, 0.945 in 2008-2012, 0.597 in 2013-2014, 0.82 in 2015-2016, 2.318 in 2017-2018, 1.709 in 2020, 1.355 in 2021, 1.2 in 2022, and finally 0.299 in 2023.

The initial decline in media freedom occurred in 2008, when the former President Lee Myung-Bak appointed his close supporters to key position in major broadcasting companies such as MBC, KBS, and YTN. Those appointees, who were not affiliated with the networks, meddled and even censored investigative programs. For example, the MBC investigative program "PD Notebook" aired critical reports on the government's control of US beef imports during the height of the mad cow disease panic, which precipitated significant anti-government protests in 2008. The producers of the program were subjected to disciplinary measures, including suspension and salary reduction. In 2012, the unionized workers of MBC, KBS, and YTN engaged in a huge strike. The 2012 strike in MBC is the longest strike in the country's broadcasting industry.

Media freedom is under threat again after 2022. A number of observers have expressed concern about the state of media freedom, including organizations such as Reporters Without Borders, Freedom House, and the U.S. Department of State's annual report on human rights. They highlighted the contentious between the incumbent President Yoon Suk Yeol and the press. For example, following the MBC's report that President Yoon used vulgar language after meeting with U.S. President Biden, MBC reporters were prohibited from boarding the president's plane on the next overseas trip. The government and the ruling party members initiated legal proceedings against MBC staff on grounds of defamation. In its annual report on human rights, the U.S. Department of State described this event as "violence and harassment on freedom of expression."

4.3. De jure Quality of Freedom of expression

The South Korean Constitution guarantees the principle of freedom of expression in Article 21. Paragraph 1 asserts the right of all citizens to freedom of speech, press, assembly, and association. Paragraph 2 further strengthens this guarantee by prohibiting licensing or censorship of speech, press, assembly, and association. Article 22 extends this protection to academic and cultural expression, thereby affirming the freedom of learning and the arts for all citizens.

Despite these constitutional provisions, two legal issues present challenges to the comprehensive realization of freedom of expression in South Korea. The initial issue pertains to the intricate equilibrium between the right to freedom of expression and the prohibition of defamation. Article 21, Paragraph 4 of the Constitution states that neither speech nor the press shall violate the honor or rights of other persons or undermine public morals or social ethics. It also allows for claims for damages resulting from such violations. This provision has been the subject of concerns regarding its potential for abuse, as it can be utilized to stifle criticism based on factual evidence, thereby creating a chilling effect on freedom of expression.

The second issue relates to the stringent legal framework that governs assembly and demonstration. While Article 21 of the Constitution, alongside the Assembly and Demonstration Act, aims

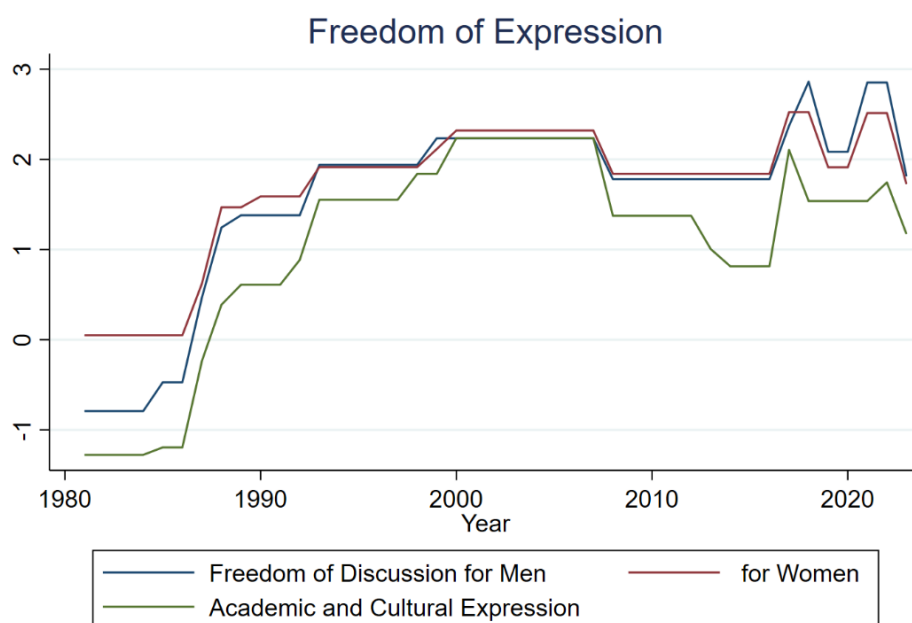
to strike a balance between the right to assemble and demonstrate and the need for public peace and order, the law frequently prioritizes regulation over protection. For example, in 2008, the National Human Rights Commission of Korea (NHRC) recommended revisions to several articles and paragraphs within the Assembly and Demonstration Act, arguing that they unduly restrict freedom of assembly and demonstration. One such provision is Article 12, which grants the head of the relevant government agency the authority to ban or restrict assemblies or demonstrations based on concerns regarding traffic flow. The NHRC argued that such a broad prohibition, based solely on the grounds of traffic inconvenience, is excessive. Additionally, while Articles 5, Paragraph 1, Item 2 and 8, Paragraph 5 stipulate that assemblies and demonstrations should not pose a threat to public peace and order, these provisions have been the subject of concerns regarding their potential for misuse by law enforcement agencies as a pretext to ban demonstrations.

4.4. De facto Quality of Freedom of expression

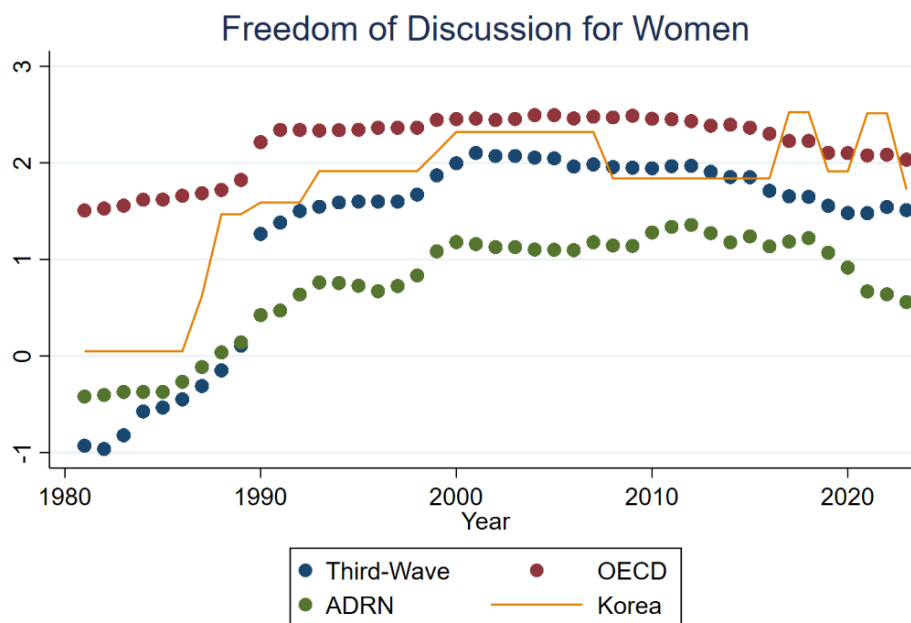
With regard to the de facto quality of freedom of expression in political issues, South Korea has not encountered any significant constraints since democratization, as evidenced by Figure 9. This figure depicts the extent to which men (blue line) and women (red line) are able to engage in open discourse on political issues in both private and public spheres without fear of harassment. The data presented in Figure 9 indicates a notable absence of a gender gap in freedom of expression.

Figure 10 provides a comparative perspective on the freedom of discussion for women in Korea relative to other countries. Since democratization, the level of freedom of discussion for women in South Korea has consistently exceeded the average observed in other third-wave democracies. However, it remains lower than that of OECD countries. Figures 9 and 10 suggest a generally positive de facto quality of freedom of expression in political issues within Korea.

Figure 7. Freedom of Expression



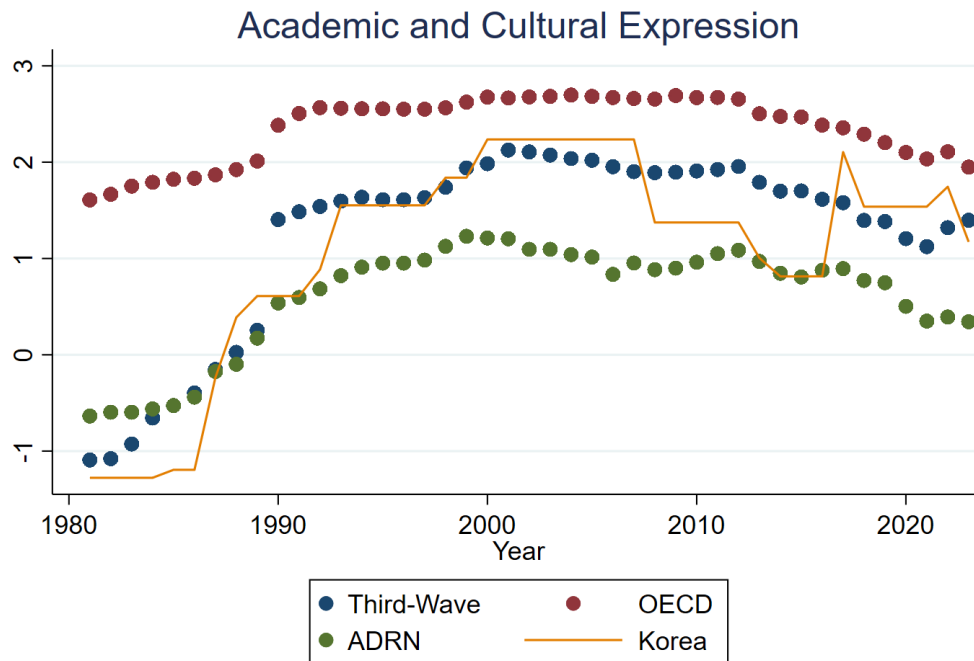
Source: Varieties of Democracy

Figure 8. Freedom of Discussion for Women: Comparison with Other Countries

Source: Varieties of Democracy

However, Figure 11, which examines academic freedom and freedom of cultural expression in the context of political issues, indicates potential concerns regarding de facto quality of these areas. While the level of academic and cultural freedom has generally reflected the average observed in third-wave democracies since democratization, there has been a significant drop in 2008 and again in 2012. These declines, particularly during the administration of President Park Geun Hye, highlighted a concerning trend. Thousands of artists and scholars who had expressed views critical of the government were included on a blacklist. As reported by the civilian-government truth committee, 9,473 artists on the blacklist were excluded from state funding due to their criticism of Park's handling of the Sewol ferry sinking or their public support for opposition parties.

In conclusion, while South Korea has generally achieved a generally positive de facto quality of freedom of expression in political discourse, concerns regarding academic and cultural freedom, particularly during the Park Geun-hye administration, highlighted the necessity for continued vigilance and a commitment to the safeguarding of these vital rights.

Figure 9. Freedom of Academic and Cultural Expression: Comparison with Other Countries

Source: Varieties of Democracy

4.5. De jure Quality of Civil Society Organization and Civic Engagement

Article 21 of the Constitution provides the legal basis for all forms of civic participation. In addition, the Nonprofit, Non-governmental Organization Support Act, which was passed in 2000, is designed to facilitate active participation by CSOs and to encourage civic engagement. Article 1 of this Act states that its purpose is to encourage public interest activities by non-profit, non-governmental organizations, guarantee their voluntary activities, and support their growth into sound civil organizations, ultimately contributing to the development of a democratic society.

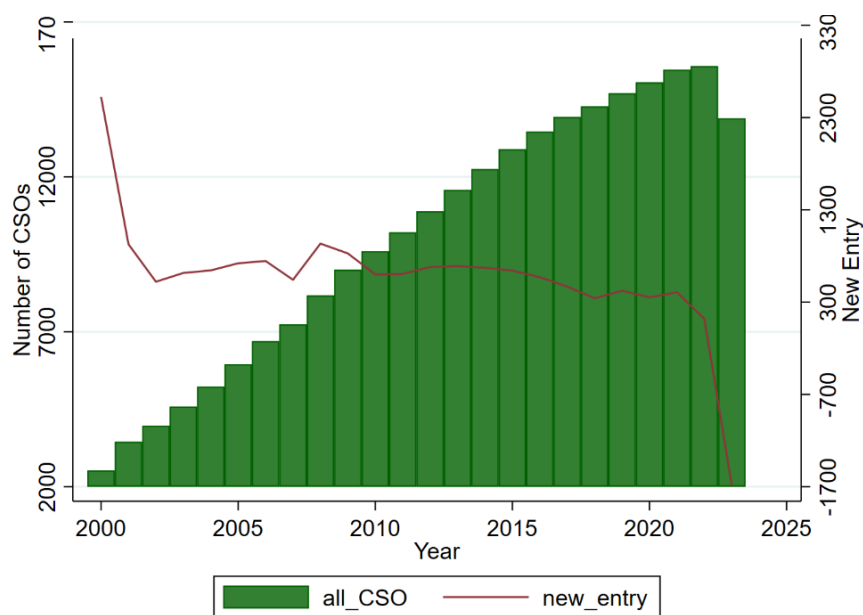
Article 5, Paragraph 1 of the Act emphasizes the independence of CSOs from government control. Article 5, Paragraph 2 and Article 6 stipulate that government entities, such as the Minister of the Interior and Safety, provincial governors, or mayors, may provide financial subsidies to CSOs. Articles 8 and 9 outline specific requirements for CSOs must fulfill in order to qualify for subsidies. These include the submission of a business plan prior to receiving funding and the subsequent disclosure of project performance and costs. The enactment of this legislation has enabled a considerable number of CSOs in accessing national or local governmental subsidies, thereby alleviating their financial constraints and promoting their sustainability.

Furthermore, the establishment of the position of Senior Secretary for Civil Society in 2004 indicated a commitment to fostering civic engagement and enhancing coordination between the government and civil society.

4.6. De facto Quality of CSOs and Civic Engagement

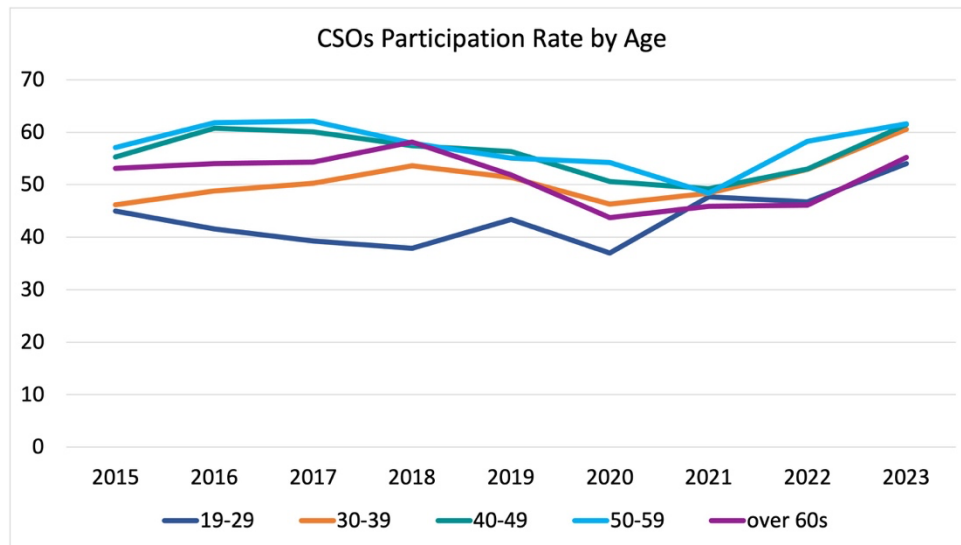
The quantity of CSOs and civil engagement has exhibited a complex trajectory. Following the democratization in 1987, the emergence of various CSOs, often formed by democratic movement activities, fueled a surge in civil engagement aimed at achieving greater social progress and democratic ideals. The number of CSOs steadily increased until the early 2000s. However, the rate of new CSO formation has since declined (Figure 12).

Figure 10. Number of CSOs

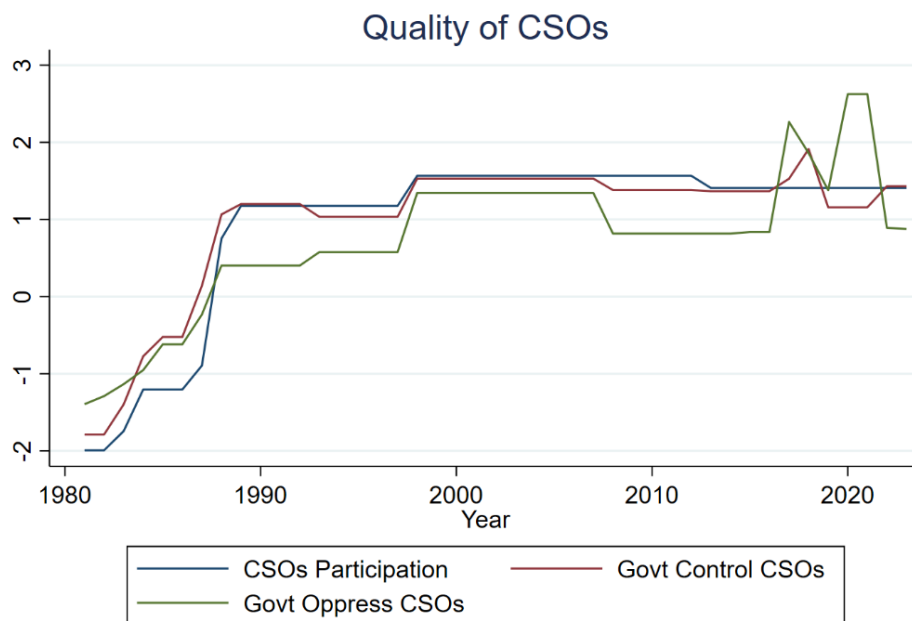


Source: Ministry of the Interior and Safety

Figure 13, based on data from the Korean Social Integration Survey conducted by the Korea Institute of Public Administration, displays the participation rates of citizens in CSOs across different age groups. In this context, the term “participation rate” is defined as the proportion of survey respondents who reported having engaged in any form of CSOs at some point during the survey year. While the overall participation rates have exhibited a slight downward trend, a more pronounced pattern emerges when comparing age groups. In general, younger generations have demonstrated lower participation rates than older generations, with the exception of 2022.

Figure 11. CSOs Participation Rate by Age

Source: Korea Social Integration Survey

Figure 12. Quality of CSOs

Source: Varieties of Democracy

Figure 14 presents three indices of de facto quality of CSOs, derived from the V-Dem dataset. The blue line represents the participatory environment of CSOs. A score of 1 indicates the presence of voluntary CSOs with limited active participation, while a score of 2 suggests a diverse range of CSOs but minimal popular involvement. The participatory environment of CSOs in South Korea is situated between these two scores, indicating a relative dearth of extensive public engagement despite the presence of a considerable number of CSOs.

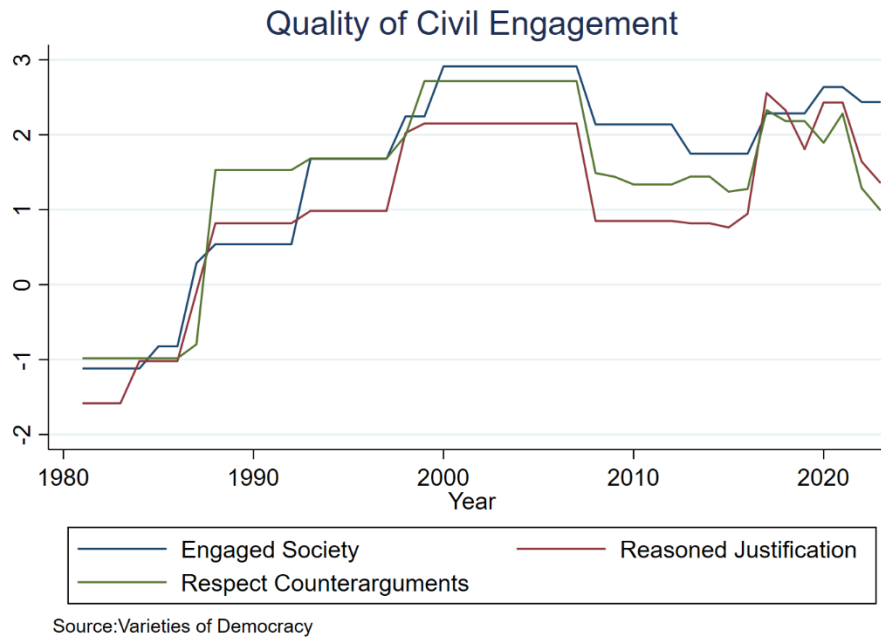
Meanwhile, the red line in Figure 14 illustrates the degree of governmental control over the entry and exit of CSOs. Since the early 1990s, the score has remained within the range of 1 to 2, suggesting that while the government does not prohibit independent CSOs entirely, certain restrictions are in place. Despite these restrictions, some organizations have managed to play an active political role.

The trajectory of governmental repression on CSOs, depicted by the green line in Figure 14, has historically been slightly lower than the level of governmental control. However, there has been a discernible improvement in recent years. Since 2018, the score has fluctuated between 2 and 3, indicating that while the government may utilize material sanctions or onerous registration procedures to discourage CSO activity, there is no evidence of legal harassment or repression.

Figure 15 employs three key indicators to assess the de facto quality of civil engagement in politics. Firstly, the blue line depicts the quality of an engaged society, assessing the extent to which public deliberations are both inclusive and independent when significant policy changes are being considered. Since democratization, this indicator has oscillated between scores of 1 and 3. A score of 1 indicates that public deliberations are limited and that non-elite actors are typically unaware of or excluded from policy discussions. A score of 2 indicates that public deliberation is not actively suppressed but remains infrequent and non-elite actors are typically controlled and/or constrained by elites. A score of 3 suggests that public deliberation is encouraged with some autonomous non-elite groups participating, albeit often with specialized areas and often involving the same groups across issues.

Secondly, the red line represents the degree of reasoned justification, measuring the extent to which political elites provide public and reasoned justifications for their positions. Since democratization, this indicator has fluctuated between scores of 1 and 2. A score of 1 suggests that while elites may provide reasons for their positions, these reasons are often illogical or false. A score of 2 indicates that elites offer a single, simple justification for the proposed policies.

Thirdly, the green line represents the degree of respect for counterarguments, examining the extent to which political elites acknowledge and respect counterarguments. This indicator fluctuated between scores of 1 to 3. A score of 1 denotes that while counterarguments are permitted from at least some parties, they are almost always disregarded. A score of 2 suggests that while elites tend to acknowledge counterarguments, they may degrade them by making negative statements about the arguments themselves or the individuals and groups that propose them. A score of 3 indicates that elites acknowledge counterarguments without explicitly expressing a negative or positive statements about them.

Figure 13. Quality of Civic Engagement

An examination of the trends illustrated in Figure 15 reveals a similar pattern of ups and downs across the three indicators. Following the process of democratization, three indicators showed improvement until 2007. However, a decline was observed in 2008, followed by a period of stagnation until 2017. While these indicators saw a brief recovery from 2017 to 2022, they decreased again in 2022. This cyclical pattern suggests the possibility of a correlation between the political orientation of presidents and the quality of civic engagement. Presidents affiliated with conservative parties tend to demonstrate less regard for democratic communication with citizens, political persuasion, and public deliberation. Indeed, former presidents have been the subject of criticism for their lack of engagement and communication with the public. For example, an analysis of newspaper articles mentioning both “president” and “non-communication” revealed that Park Geun Hye was mentioned 14,957 times for her perceived isolation from the public, while Moon Jae-In was mentioned 6,017 times. The incumbent President Yoon Suk Yeol, during the first half of his term, was mentioned as 5,703 times in relation to these keywords.¹⁴

In sum, although South Korea has made considerable strides in developing a robust civil society, marked by a proliferation of CSOs and a constitutional framework that supports civic participation, the recent trends in civic engagement, particularly the decline in public deliberation and the potential for governmental influence over CSOs, warrant continued vigilance and a commitment to ensuring the full realization of democratic values in South Korea.

5. Concluding Remarks

The primary objective of this paper is to examine the constitutional and legal mechanisms of vertical accountability in South Korea, assess the de facto performance of accountability, identify any discrepancies between de jure and de facto accountability, and explore potential solutions for addressing such discrepancies.

¹⁴ The number of newspaper articles is searched by Big Kinds, a new big data analysis service: www.bigkinds.or.kr

First, an analysis of electoral accountability reveals well-designed *de jure* institutions, as enshrined in the Constitution and reinforced by legislation such as the Election Act and the Political Parties Act. In terms of *de facto* performance, South Korea's electoral accountability consistently meets or exceeds the mean values observed among OECD countries. Furthermore, in several indicators, Korea's performance surpasses the mean values observed in both third-wave democracies and ADRN countries. This evidence suggests that electoral accountability functions effectively without any serious discrepancy between *de jure* and *de facto* electoral accountability.

Second, an examination of diagonal accountability in South Korea reveals a more complex and dynamic picture. While Articles 21 and 22 of the Constitution guarantee *de jure* quality of diagonal accountability, encompassing media freedom, freedom of expression, and the rights of CSOs participation and civil engagement in politics, challenges persist in ensuring the effective implementation of these principles in practice. For example, media freedom was threatened between 2008 and 2016, when the preceding government attempted to interfere with several investigative programs and high-ranking personnel, and again after 2022, when the incumbent government confronted critical news coverage. Similarly, while South Korea has generally achieved a positive *de facto* quality of freedom of expression, the political orientations of the incumbent government have prompted concerns regarding its potential impact on freedom of expression. Moreover, the quality of civic engagement in South Korea remains vulnerable to political shifts, necessitating continuous monitoring and reform efforts to maintain a vibrant and inclusive civil society.

Addressing the discrepancies between the *de jure* and *de facto* qualities of diagonal accountability requires both short-term and long-term remedies in three domains: media freedom, CSOs participation, and civil engagement.

In the short term, a solution to this accountability gap requires a commitment from the government to uphold the principle of freedom. In light of past instances of government interference with media freedom and freedom of academic and cultural expression, it is imperative that all incumbent governments prioritize the safeguarding of the principle of freedom, regardless of their political orientations. Such a commitment should include an active embrace of critical voices from the media.

Long-term solutions for media freedom demand reforms to the governance structure of public broadcasting. Currently, the Korea Broadcasting and Communications Commission (KCC), which is responsible for the supervision of public broadcasting, has demonstrated a tendency to be influenced by governmental actions. The establishment of the KCC as a fully independent entity, shielded from political interference, is a necessary condition for the realization of true media freedom. In a comparative analysis of KBS, NHK, and BBC, Choi (2020) underscored the pivotal role of independent public broadcasting appointments and sanctions. While this reform is of significant importance, its implementation presents a number of challenges. During the 2024 congressional sessions, the main opposition party attempted to pass broadcasting bills aimed at reducing government influence over public broadcasters. However, these bills were met with opposition from the ruling party, who argued that such revisions could compromise impartiality in public broadcasting. This impasse underscores the necessity for a broad consensus across political parties regarding the optimal reforms to ensure media freedom in South Korea.

Secondly, the involvement of CSOs can be strengthened by encouraging a more diverse range of citizens, particularly those from younger generations. One potential solution to increase active participation among younger individuals is to address their specific concerns and amplify their voices on issues that are crucial to their generation. This can be accomplished by engaging with younger individuals to ascertain their challenges and priorities and by incorporating their perspectives into the activities and advocacy efforts of CSOs.

In the long run, investment in capacity-building programs and resources for CSOs is essential for promoting their sustainability and effectiveness. This could entail the implementation of training programs in organizational management, fundraising, and project management, as well as creating platforms for knowledge sharing and collaboration among CSOs. Such initiatives would facilitate more effective engagement with diverse audiences and advocacy for their priorities on the part of CSOs.

Finally, achieving a more robust and equitable level of civic engagement requires the implementation of concerted efforts to improve both the de jure and de facto qualities of political participation. One crucial area for improvement lies in the quality of policymaking and policy deliberation on policy decisions. While central and local governments have established procedures for engaging residents in the policy-making process and hearings, these mechanisms are not effectively implemented or receive sufficient public attention. To improve public deliberation and engagement in policymaking, it is crucial to adopt a collaborative approach that involves both government and civil society actors. The establishment of a dedicated governmental entity for public deliberation could prove to be a significant factor in facilitating the process. Simultaneously, civil society must play an active role in these dialogues, engaging in constructive discussions, promoting public forums and debates, and empowering citizens to participate in policy discussions.

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Country Case 6: Thailand

Electoral Accountability in Thailand: Analyzing the Laws of the 2023 Election

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Introduction

Electoral accountability, or in other words, vertical accountability, is the accountability that deals with the ability of the people to hold their government and public institutions accountable through formal and informal measures (Lührmann, Marquardt and Mechkova 2020).

V-Dem's method, a new approach to conceptualizing and measuring democracy, can be used to measure electoral accountability. This method defines accountability as constraints on the government's use of political power through requirements to justify their actions and potential sanctions. According to V-Dem, vertical accountability is the ability of the people to hold their government accountable through elections and political parties. Therefore, the measurements of vertical accountability, according to V-Dem, relate to the election commission and the political parties (Lührmann, Marquardt and Mechkova 2017).

In this sense, since this type of accountability directly deals with certain government and public institutions, it is undeniable that the law plays a crucial role as it not only stipulates the duty of the government and political institutions but also how the people can hold such governmental bodies accountable. With that said, analyzing laws relating to electoral accountability enables a deeper understanding of what each governmental body that relates to the vertical accountability measurements has to do and how the people can hold them accountable.

Definition of Terms

- Constitution of the Kingdom of Thailand B.E. 2560 (2017) hereinafter 2017 Constitution
- Transitory Provisions of the Constitution of the Kingdom of Thailand B.E. 2560 2017 hereinafter 2017 Constitution (Transitory Provisions)
- Organic Act re: the Election Commission B.E. 2560 (2017) hereinafter Organic Act re: the Election Commission 2017
- Election Commission Regulation re: Election of the members of the House of Representatives B.E. 2566 (2023) hereinafter Election Commission Regulation re: Election of the members of the House of Representatives 2023

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- Organic Act re: the Election of Members of the House of Representatives B.E. 2561 (2018) or Organic Act re: the Election of Members of the House of Representatives B.E. 2566 (No. 2) (2023) hereinafter Organic Act re: the Election of Members of the House of Representatives 2018 or 2023
- Organic Act re: Political Parties B.E. 2560 (2017), Organic Act re: Political Parties B.E. 2564 (No. 1) (2021), or Organic Act re: Political Parties B.E. 2566 (No. 2) (2023) hereinafter Organic Act re: Political Parties 2017, 2021, or 2023

1. The 2023 Election in Thailand

In 2014, a coup d'état led by the military expelled an elected government, leading to the suspension of the constitution and elections until there were “political reforms.” The National Council of Peace and Order promised to restore peace and create political reforms, and an election was held in 2019; however, there were complaints of cheating, vote buying, and other political techniques used against parties opposed to the military. Moreover, the dissolution of the opposition parties before and after the 2019 election was a huge sign for the people that the promise made to commit to democracy was not well kept. The 2019 election was another victory for the military government, allowing them to remain in the parliament (*Reuters* 2020-08-06; *BBC* 2014-05-22; Raymond 2023).

With that said, the 2023 election in Thailand was reported as one of the elections in which people had high hopes for change. Many have also hoped to see improvements in transparency, accountability, and other democratic principles (The Nation 2023b).

Nonetheless, it is undeniable that the constitution, the law itself, holds a significant position in shaping the democratic society; however, Thai law, like any other law, faces the question of whether it is just a mere tool of oppression or justice. Indeed, a legal system alone cannot ensure a fair and equal society (Pirie 2021); therefore, in this author's view, both the law and the law in practice shall be examined to improve not only the tool itself but also the level of electoral accountability the people have hoped for.

2. Legal Arrangement of Electoral Accountability in Thailand

Laws that shall be taken into consideration when discussing electoral accountability are as follows:

2.1. The 2017 Constitution (Transitory Provisions)

The 2017 Constitution (Transitory Provisions) was enacted on April 6, 2020. The purpose of enacting the 2017 Constitution (Transitory Provision) was to ensure that the operation and establishment of governmental organs were smooth during the transition from the 2014 Constitution (Interim) to the 2017 Constitution (Legal Department 2020).

Transitory Provision is apparent in laws at various levels, such as the Constitution, the Organic Acts, and regulations. The purpose of the transitory provision is to ensure smoothness in transitioning from one version of the law to the other, which also includes, but is not limited to, ensuring that the operations of governmental organizations according to the law that is currently in its transition period, will not be paused; ensuring that the rights of people granted in the law, remain valid; and setting a legal measure or mechanism during the first period of the transition (Chuenprasert 2021).

According to Professor Dr. Nantawat Boramanand, the transitory provision of a constitution is a crucial “tool” that will allow governmental organizations within the constitution to continue their work and operation; however, it could also be a tool to “transfer power and authority” from the previous constitution to the new constitution for the “new” constitutional initiator to remain in power (Boramanand 1998).

2.2. The 2017 Constitution

The 2017 Constitution was enacted on April 6, 2020. The purpose of drafting the 2017 Constitution was to prescribe new mechanisms to reform and strengthen governance in the country, as stated in the preamble of the Constitution. This Constitution has taken the “ aims” of the NCPO, which aims to create an internationally accepted constitution; however, it shall be in accordance with Thai culture. Public participation was also taken into consideration while drafting the Constitution (The Secretariat of The House of Representatives 2019).

The 2017 Constitution has added new chapters that are the Duties of the State and National Reform, which were never written before in other Constitutions in the past (The Secretariat of The House of Representatives 2019).

It is worth noting that Thailand went through various constitutional changes because previous constitutions did not reflect the people’s will. Rather, they were objects to satisfy the constitution drafters. From the first constitution in 1932 to the latest in 2017, Thailand has experienced 20 constitutions. The constitutions shall be considered in sets as follows:

The first set of constitutions were from 1932 to 1957. Constitution changes during this period resulted from a competition for power between military revolutionists led by Marshal P. Phibunsongkhram and civilian revolutionists led by Mr. Pridi Banomyong.

The second set of constitutions were from 1957 to 1980. Constitution changes during this period resulted from a competition between military revolutionists, who wanted the Kingdom to remain a “democratic form of government with the King as head of state,” and the communists.

The last set of constitutions was from 1980 to the current 2017 Constitution. The changes in constitutions during this period mainly resulted from competition for power between political capital groups that used democracy as an excuse to exploit the system for personal gains through populist policies and corruption (Kongbenjapuch and Sothonpraphakorn 2021).

With that said, the 2017 Constitution, as much as it tries to incorporate elements of public participation during the drafting period, still faces questions from youth groups because they do not feel that this Constitution reflects their will, and certain articles cannot be criticized. Moreover, Tyrell Haberkorn from the Australian National University also commented that “the new constitution creates a permanent place for the military in government and seeks to normalize their intervention” (Treesuwan 2020; Head 2017).

2.3. Organic Act re: the Election Commission 2017

The Organic Act re: the Election Commission 2017 was enacted on September 13, 2017. Per the Constitution, This Organic Act stipulates that the Organic Act shall be drafted to establish the Election Commission and for such a commission to carry out the duties stated in the Constitution.

After Thailand changed its regiment from an absolute monarchy to a democratic form of government with the King as head of state, hosting elections was part of the executive branch’s duty, or the

Ministry of Interior. Nonetheless, a political uprising on October 14th, 1973, ignited the idea of supervising the election. Thus, the Election Supervision Commission was established to oversee the election on April 4th, 1975. However, the established commissions or groups were not from the government; therefore, a central organization was established on September 13th, 1992.

As a result of the commissions and organizations that were set up, the Constitution in 1995 established the Election Commission; however, because a new constitution, the 1997 Constitution, was enacted, the Election Commission was officially established in 1997 with four commissioners in the beginning (Niyomthai 2011).

2.4. Organic Act re: the Election of Members of the House of Representatives

The Organic Act re: the Election of Members of the House of Representatives 2018 was enacted on September 12, 2018, to create a fair election according to the Constitution of the Kingdom of Thailand. This Organic Act sets out the rules of the election and how it shall be conducted.

Nonetheless, as the election rule has been amended in the Constitution, the Organic Act re: the Election of Members of the House of Representatives 2023 was enacted on January 28, 2023, along with the Organic Act re: Political Parties (No. 2) 2023 as part of the election law to be used during the 2023 Election (*Thai PBS* 2023-01-28).

The Organic Act re: the Election of Members of the House of Representatives 2023 mainly amends and updates the election rule stated in the Organic Act re: the Election of Members of the House of Representatives 2018. The Cabinet, Pheu Thai Party, Palang Pracharath Party, and Move Forward Party proposed four drafts in which the amendments were proposed because the Constitution has amended the ratio between representatives from the constituency system and the party-list system and also the number of ballots has changed (iLaw 2022).

As a result, the new amendments are as follows: 1) the House of Representatives shall consist of five hundred members, with four hundred members elected under the constituency system and one hundred elected under the party-list system; and 2) there shall be one ballot for the election of members of the House of Representatives under each system and a calculation of the proportion of the party-list candidates for the House of Representatives for each political party to be elected which shall ensure the proportion which directly corresponds to the votes obtained by each political party throughout the country (Prachachat 2023).

2.5. Election Commission Regulation re: Election of the members of the House of Representatives 2023

The Election Commission Regulation re: Election of the members of the House of Representatives 2023 was enacted on February 15, 2023, to improve the regulations regarding the election of the members of the House of Representatives and the Organic Act re: Election of the members of the House of Representatives 2021.

Other regulations in regards to the 2023 election are The Election Commission Regulation re: expense usage of the election of the members of the House of Representatives 2023, The Election Commission Regulation re: Election of the members of the House of Representatives aboard 2023, The Election Commission Regulation re: Income and expense account of the election of the members of the House of Representatives 2023, The Election Commission Regulation re: Auditing expenses of the election of the members of the House of Representatives 2023, and The Election Commission Regulation re:

Principles and method in supporting political campaigning of the election of the members of the House of Representatives 2023.

Most regulations are attached to examples and templates for the local election commission to consider when supervising an election.

2.6. Organic Act re: Political Parties

The Organic Act re: Political Parties 2017 was enacted on September 30, 2017, to comply with the freedom of party formation stipulated in the latest 2017 Constitution. The Organic Act lays the foundation rules for political party management, provides opportunities for party members to participate in policy determination and nomination of election candidates, and create measures to ensure political parties and their members' independence and other rules in such matters.

As mentioned earlier in 2.4., the election rule in the Constitution has been amended, and the Organic Act re: Political Party 2017, thus, needed to be amended, too. The purpose of the first amendment made in 2021 was to adjust the proportion of members of the House of Representatives from a total of five hundred members which three hundred fifty members come from the constituency system and one hundred fifty members come from a party-list system to a total of five hundred members which four hundred come from the constituency system and one member come from a party-list system to close the gap of the relationship between the member of the House of Representative and the people in their respective constituency. Moreover, the method of calculating the vote for party-list members shall be transparent and truly respect the principle of one man, one vote; therefore, having two voting ballots, one for the party and the other for the candidate in the constituency, would allow the people to express their will in the election more honestly.

Since the amendment of the proportion of members of the House of Representatives has been made, therefore, the fees and dues, which shall be paid to the political party, shall be adjusted accordingly. Such adjustment resulted in an enactment of Organic Act re: Political Parties (No. 2) 2023, amending the previous Organic Act, on January 28, 2023.

Here, we shall examine the Articles and Laws related to each element of electoral accountability. There are three main elements: composition and structure of elections, election management body and the election, and political parties, with each category embodying several sub-categories.

First, regarding the composition of elections, there are three subsets: (1) percent suffrage, (2) elected head of executive, and (3) regular scheduled election. For percent suffrage, Article 95 of the 2017 Constitution stipulates that voters should be Thai nationals, at least 18 years old, and registered in their constituency for at least 90 days before the election. The Organic Act on the Election of the Members of the House of Representatives delineates specific guidelines for voters voting outside of the Kingdom.

Concerning the second subset, elected head of the executive, the 2017 Constitution (Transitory Provisions) presents different laws from the 2017 Constitution. For instance, Articles 107 and 109 of the Transitory Provisions of the 2017 Constitution stipulated that the Senate has 200 members selected based on their expertise, with a five-year term beginning upon the announcement of the selection results. Article 269 also rules that the Senate comprises 250 members appointed by the King based on National Council for Peace and Order recommendations. The 2017 Constitution, on the other hand, offers more detailed provisions: Articles 79, 158, and 159 provide that members of the National Assembly are unable to serve both in the House of Representatives and the Senate simultaneously, and here, the King appoints the prime

minister for the House of Representatives who can serve up to eight years. According to Article 272, for the first five years of the first National Assembly's installation, the prime minister has to be approved by the House of Representative, as stipulated by Section 159, or by a joint sitting of the National Assembly or by acquiring more than half of the votes combined from both Houses.

Concerning the third element of regularly scheduled elections, Article 99 of the 2017 Constitution stipulates that the term of the House of Representatives be for four years from election day and that no political party mergers be allowed during this period. Additionally, upon this term's expiration, the King must call a general election within 45 days, according to Article 102. Article 103 also provides that the King has the authority to dissolve the House of Representatives and call for a new general election, which must occur within 45 to 60 days after a Royal Decree, with the same election date across the country.

The second category of the election management body and the election includes five sub-categories: (1) autonomy of the election management body, (2) capacity of the election management body, (3) election voter registry, (4) election irregularities, and (5) multiparty elections. First, regarding the election management body's autonomy, Article 269 of the Transitory Provisions mainly grants the King the authority to appoint 250 members of the Senate, whereas Articles 215 and 222 of the 2017 Constitution underscore the independence of certain government bodies, such as an independent organ and the Senate, to perform their duties and advise the King. Second, other laws besides the 2017 Constitution, such as Organic Act re: the Election Commission 2017, prescribe the election management body's capacity; Articles 50, 51, 60, 61, 62, and 63 tasks the Office of the Election Commission with supporting the Commission in fulfilling its duties and educating political parties on legal compliance, as a juristic person under the Commission's supervision. The Act also outlines the financial capacity of the Commission and Office in terms of receiving and allocating subsidies, generating income from fees and donations, and retaining its earnings independently from the national treasury.

Third, for the election voter registry, the Organic Act re: the Election of Members of the House of Representatives 2018 mandates that after the announcement of an election date, the Election Commission must compile and announce the voter registry for each district. Similarly, the Election Commission Regulation re: Election of the members of the House of Representatives 2023 requires district or local registrars to prepare and submit voter lists to the district election commission 25 days before the election date. Fourth, regarding election irregularities, Organic Act re: the Election of Members of the House of Representatives 2018 (amended by Article 12 of Organic Act re: the Election of Members of the House of Representatives (No.2) 2023) prohibits candidates or individuals from engaging in actions that induce voters to vote for themselves, other candidates, or abstain from voting through methods such as offering monetary or material benefits, organizing entertainment campaigns, and employing coercion or deception. Fifth, concerning multiparty elections, Articles 2, 3, 45, 79, and 83 of the 2017 Constitution stipulated that Thailand operate under a democratic regime with the King as head of state, where sovereign power resides with the people and is exercised through the National Assembly, the Council of Ministers, and the courts, along with the freedom to form political parties; the National Assembly comprises the House of Representatives and the Senate, with the House consisting of 500 members elected from constituencies and party lists.

The last aspect of political parties involves three core elements: (1) party ban, (2) barriers to party formation, and (3) autonomy of opposition parties. For the party ban, Article 92 of Organic Act re: Political Parties 2017 empowers the Commission to petition the Constitutional Court for the dissolution of a political party if there is credible evidence that the party seeks to overthrow the democratic government or engages in other actions that threaten the democratic system; upon finding sufficient evidence, the Court can order the

party's dissolution and disqualify its executive committee from future elections. Regarding barriers to party formation, Article 45 of the 2017 Constitution grants individuals the right to form political parties under Thailand's democratic regime, stipulating that relevant laws ensure transparency, accountability, member participation in policy-making and candidate nominations, independence from external influence, and mechanisms to prevent legal violations by party members. Additionally, Articles 9, 33, 90, and 91 and 33 of the Organic Act re: Political Parties 2017 states that a political party can be founded by at least 500 individuals sharing a common political ideology and that a party may lose its status if it fails to meet specific operational requirements, is ordered dissolved by the Constitutional Court, or merges with another party. Moreover, parties must gather a minimum number of members and establish branches in each region within specified timeframes to maintain their status. Lastly, concerning the autonomy of opposition parties, Article 106 of the 2017 Constitution establishes that the King appoints the Leader of the Opposition in the House of Representatives from the largest political party not holding ministerial positions, with the appointment countersigned by the President of the House. In case of a tie, the decision is made by drawing lots, and the Leader vacates the office if disqualified or under certain specified conditions, prompting the King to appoint a replacement.

3. Analyzing Related Laws

3.1. The 2017 Constitution (Transitory Provisions)

As mentioned earlier in 2.1, the Transitory Provision can be a tool to transfer power from the previous constitution to the new constitution for the constitution drafters, and the 2017 Constitution (Transitory Provisions) did not fail to fit such a definition.

The Transitory Provisions of the 2017 Constitution serve as a tool for power transition from the 2014 Constitution (Interim) that was enacted on July 22nd, 2014, which was drafted by the National Council for Peace and Order (NCPO) as seen in the preamble of such Constitution, to the 2017 Constitution in which the drafter, according to Article 39/1 of the 2014 Constitution (Interim), was appointed by the NCPO (Maschamadol n.d.).

With that said, any state organ or government affairs that requires the Senate to approve or appoint can be influenced by the people who have appointed the Senate. It is worth noting that the term of the Senate did not expire during the 2023 election and will remain until a prime minister is elected.

3.2. The 2017 Constitution

The 2017 Constitution can be analyzed in three parts as follows:

The first part concerns the general aspects of the 2023 general election regarding the percentage of adult citizens with the legal right to vote. It should be noted that the age of the eligible citizen has been amended from the previous constitutions that stipulated that a person must not be less than eighteen years of age on the 1st January of the year of the election to a person must not be less than eighteen years of age on the election day. This amendment results in an increased number of adult citizens eligible to vote. Apart from the percent suffrage, there is also the election of the head of the executive, as mentioned earlier in the previous section. Thirdly, the 2017 Constitution has also stipulated that Thailand uses a multi-party system where anyone can form a political party, and each elected party shall be part of the National Assembly, which

will elect the prime minister. Last is the schedule of elections. An election shall be held every four years according to the term of the House of Representatives. However, such a date can be shifted if the House of Representatives is dissolved.

The second part concerns the independent constitutional organs, which, in discussing electoral accountability, we will mainly focus on the Electoral Management Body - the Election Commission of Thailand. The King, upon the advice of the Senate, appoints the commissioners of the Election Commission (Mishra, Rahman and Rosales 2023). It is apparent that the Election Commission is one of the mechanisms in the 2017 Constitution implanted for the NCPO to remain in power as a constitution initiator.

The last part concerns the political parties. Political party formation is one of the rights and freedoms of the Thai people. It is worth highlighting that the second paragraph of Article 45 is unique to the 2017 Constitution as the drafters would like to answer to the aims of the 2014 Constitution (Interim), which stipulates that the constitution drafters shall create an efficient mechanism that enables state officials; especially a person holding political position and political party to perform their duties or activities independently and without illegal manipulation or mastermind of any person or group of persons (The Secretariat of The House of Representatives 2019). Furthermore, the Constitution stipulated the requirements for electing the Leader of the Opposition; however, no article in the Constitution clearly states the autonomy of the Opposition Party.

3.3. Organic Act re: the Election Commission 2017

When analyzing the capacity of the Election Management Body – the Election Commission, it is apparent that it, as an independent constitutional organ, has a duty independent of other governmental organizations or branches. With that said, the budget and income of the Election Commission can be considered as having many sources, and in the case that the election expenditure exceeds the budget allocated to the Office, the state shall support the expenditure until it is sufficient for the operations of the Commission; therefore, the capacity of the Commission, according to the law, is not limited.

3.4. The Organic Act re: the Election of Members of the House of Representatives

As mentioned in 2.4., the Organic Act re: the Election of Members of the House of Representatives is a law that states the rules of hosting and conducting an election. With that said, the first law announced regarding the election after the 2017 Constitution was enacted was the Organic Act re: the Election of Members of the House of Representatives 2018, which states that a voter registry shall be set up in every election district once an election date is announced.

Since the 2017 Constitution amended the election rules, therefore, the Organic Act re: the Election of Members of the House of Representatives 2023 was created as an updated election rule from the previous Organic Act. The amendments to the new Organic Act are as follows, represented by underlined sentences, which were added to the new Organic Act, and strikethrough sentences, which were discarded in the new Organic Act):

Article 73 No Candidate or person shall carry out any act to induce a Person with the Right to Vote to cast their vote for themselves, another Candidate, or for the party-list of any political party, or to abstain from casting the vote for any Candidate or for the party-list of any political party, or to

encourage the act of casting the vote for none of the Candidates for a member of the House of Representatives, by way of the following:

- (1) Procuring, giving, offering to give, promising to give, or preparing to give property or any other benefit which can be calculated into monetary value to any person;
- (2) Giving, offering to give, or promising to give money, property, or any other benefit, whether directly or indirectly, to a community, association, foundation, temple, educational institution, support center, or any other institution;
- (3) Conducting a campaign by organizing performances or entertainment events;
- (4) Giving a treat or agreeing to give a party to any person;
- (5) Deceiving, coercing, threatening, or using influence to harass, slandering with a false statement, or enticing a misunderstanding in the popularity of a Candidate or political party

~~Requirements in (3) shall not be used against a candidate who used one's own talent in campaigning for oneself without organizing performances.~~

~~The misconduct in (1) or (2) is considered as an unlawful act under the Anti-Money Laundering Law. The Commission may submit the case further to the Anti-Money Laundering Office.~~

The amendment accounted for party-list candidates and removed the exemption that excludes “one’s own talent” in political campaigning, which is very hard to define. Nonetheless, the unlawful conduct under (1) and (2) will not be sent to the Anti-Money Laundering Office. Other than this specific Article, both Organic Act re: the Election of Members of the House of Representatives 2018 and 2023 did not mention the Anti-Money Laundering Office elsewhere; therefore, it can be assumed that the penalty for conducting such an unlawful act will only be in accordance and limited to the penalties stipulated in this Organic Act.

3.5. Election Commission Regulation re: Election of the members of the House of Representatives 2023

The voter registry has been set out in the Election Commission Regulation re: Election of the members of the House of Representatives 2023, in which the law not only stipulates what shall be conducted but also includes a template attached to the regulation. In accordance with the Organic Act re: the Election of Members of the House of Representatives 2018, it lays the foundation for how to host an election.

3.6. Organic Act re: Political Parties

The Organic Act re: Political Parties shall be taken into consideration when analyzing the elements of party ban and barriers to party formation in electoral accountability. In such aspect, there are two evident problems as follows:

First, there are hard-to-fulfill requirements for party formation. The 1997 Constitution required only 15 members for party formation; however, in the 2007 and 2017 Constitutions, the number of members increased to 5,000. This requirement not only means there are higher barriers to party formation but also that it is harder for people to enjoy the freedom to form a political party. Second, there is a disproportionality between the action and the law. There are acceptable reasons for banning a party, such as when any party threatens the democratic form of government with the King as head of state; however, it can also be dissolved due to not reaching the minimum number of members and branches - set at 5,000 members

(Jaruthavee 2024). In this author's view, the dissolution of a party based solely on the requirements regarding the number of members is lawful, yet not enough to dissolve a group of people who have expressed their rights and freedom in forming a political party. All groups of people, no matter how big or small the party is, shall be able to express their political views through a political party. Whether such a party will be represented as the government or the opposition is another mechanism of the democratic system that people hoped would reflect the diverse views in society. With that said, disqualifying the party based on such a requirement would mean disregarding certain political groups just because they are "too small."

Nonetheless, it is worth noting that the Constitutional Court also plays a crucial role in the dissolution of a political party according to the law. The analysis of cases that have reached conclusions will be discussed further in the next chapter of this paper.

4. The Law in Practice

4.1. The 2017 Constitution (Transitory Provisions)

As mentioned earlier, the transitory provisions can be a tool for a transition of power, which is apparent in Articles 107, 109, and 269 (mentioned earlier in the table) regarding the Senate. The Senate, appointed by the National Council for Peace and Order, shall remain in power during the initial period (Legal Department 2020). Nonetheless, the term of the Senate is five years; therefore, the Senate remains in power until the 2023 election and affects two parts:

First is the election of the head of the executive branch – the prime minister. According to Article 79 of the 2017 Constitution, the National Assembly shall elect the prime minister of Thailand. The National Assembly has 750 members: 500 representatives (elected by the 2023 election) and 250 senators. The prime minister candidate who gains the majority, which is 376 votes, will become the prime minister. The Senate, although not elected by the people, can thus sway the result of the prime minister's election in their votes.

The results show that the party that received the most votes was the Move Forward Party. Thus, the prime minister candidates that have the most potential to be the prime minister are Pita Limjaroenrat from the Move Forward Party and Srettha Thavisin from the Pheu Thai Party. During the campaign period, Pheu Thai sided with the Move Forward Party, appearing to have "democratic values"; however, after being elected, the party decided to form a new government with other conservative parties, such as United Thai Nation, with Prayut Chan-o-cha as the party leader, and Palang Pracharath, with Prawit Wongsuwon (both were heavily involved in the National Council of Peace and Order) (Montesano 2023; Thai PBS World's Political Desk 2023). By switching their ideology, Pheu Thai now has 314 members of the House of Representatives on their side, while the Move Forward Party has 185 members, coming down to 249 senators and their power to vote for the prime minister of Thailand. The 2023 election resulted in Srettha Thavisin from the Pheu Thai Party becoming the 30th Prime Minister of Thailand with 482 approvals, of which 330 are from representatives and 152 are from senators (*The Standard Team* 2023-08-23).

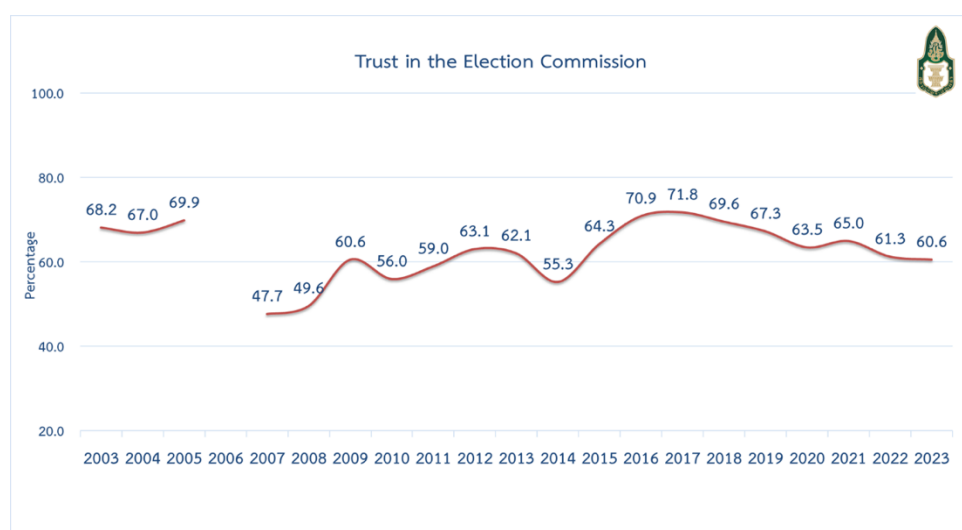
Reuters commented earlier, "The role of the 249-member Senate in deciding a prime minister along with the elected lower house - a system designed by the royalist military after a 2014 coup - is seen as a constitutional safeguard to protect the interests of the generals and the conservative establishment." and the United Front of Thammasat and Demonstration commented on the Senate that they are "toxic to the will of people" (Setboonsarng and Thepumpant 2023).

Table 1. Results of the 2023 Election

Party	Representatives elected from Constituency System	Representatives elected Party-list System	Total
Move Forward Party	112	39	151
Pheu Thai	112	29	141
Bhumjaithai	68	3	71
Palang Pracharat	39	1	40
United Thai Nation	23	13	36
Democrat	22	3	25
Chart Thai Pattana	9	1	10
Prachachart	7	2	9
Thai Sang Thai	5	1	6
Pheu Thai Ruam Palang	2	0	2
Chart Pattana Kla	1	1	2
Thai Liberal	0	1	1
New Party	0	1	1
Thai Counties	0	1	1
Fair Party	0	1	1
New Social Power	0	1	1
Teachers for People	0	1	1

Source: *BBC News Thai* 2023-06-19

Second is the appointment of the Election Commission. According to Article 222 of the 2017 Constitution, the Senate appointed the Election Commission, which could compromise its autonomy. It is important to note that other personnel of the Election Commission go through a similar process as other government agent. The graph below shows that the trust in the Election Commission has decreased:

Figure 1. Trust in the Election Commission

Nonetheless, in the process of voting for a prime minister, the Election Commission has submitted a case to the Constitutional Court, one day before the prime minister election date, regarding Pita Limjaroenrat from Move Forward Party holding shares in a media company, even though the company was inactive for many years. As the investigation was in process, the candidate was unable to conduct any duties as a member of the House of Representatives until the Constitutional Court reached its decision (*Thai PBS* 2023-07-12; Nammuang 2023). On his Facebook page, Pita wrote that (this prosecution) looked like an intentional political prosecution by the Election Commission (*Bangkok Post* 2023-08-15). After being suspended from his duty on the day he was supposed to bid for the prime minister position, on January 24, 2024, the Constitutional Court finally ruled in favor of Pita Limjaroenrat, the former prime minister candidate, and allowed him to resume his duties as a Representative (*Nikkei Asia* 2024-01-24).

With all said, the Senate is one of the tools embedded in the new constitution with the assistance of the transitory provisions for the new constitution initiator, the NCPO, to remain in power. This mechanism has affected the voting of the head of state of Thailand and the appointment of the Election Management Body. In addition to the Senate and the Election Commission, the National Reform Council and Constitution Drafting Committee were also selected by the National Council of Peace and Order, the National Reform Council, and the Senate (Pongsudhirak 2014).

4.2. The 2017 Constitution

The 2017 Constitution is undeniably the foundation of the laws and regulations of Thailand; thus, the Constitution has laid ground rules for the election as well. As such, the 2017 Constitution, in practice, shall be analyzed in three parts: the general aspects of the election, the independent organs, and the political parties. First, the general aspects of the 2023 Election regarding percent suffrage: 52.2 million people were eligible to vote, and 4,012,803 were first-time voters (*The Standard Team* 2023-02-24).

Table 2. Votes Categorized by Generation

Generation	Number of eligible voters
Before Baby Boomers	2,956,182
Baby Boomers	9,326,314
Generation X	20,882,235
Generation Y	17,983,355
Generation Z	10,931,722

Source: *Thai PBS* 2023-05-11

It has been revealed that 39,293,867 voters out of 52.2 million voters, or 75.22 percent of all eligible voters, exercised their rights. This election is considered the most participated of all the past seven elections the Election Commission of Thailand has hosted (*TODAY* 2023-05-15).

Earlier, 4.1. explained the method of electing the head of state. Regarding the schedule of the election, an election shall be scheduled every four years; however, the dissolution of the 2019 parliament by Prayuth Chan-ocha triggered a mechanism that 1) shifted the time frame of the election date, 2) allowed members of the parliament to switch parties easier because the required membership time had shortened, and 3) changed the time limit for utilizing campaign funds; payments made before the first day of the dissolution

of parliament will not need to be reported to the Election Commission. It has been speculated that such dissolution, three days before the expiration of the parliament's term, is done in favor of certain politicians and political parties for them to prepare themselves better for the 2023 Election (iLaw 2023).

Second, although the Election Commission of Thailand is an independent constitutional organ, the Senate selects the commissioners. Seven commissioners responsible for the 2023 election were by a Selection Committee, approved by the National Legislative Assembly and appointed by the King upon the Senate's advice (iLaw 2018).

Since the term of the commissioners is seven years, the 2023 election was hosted by the same set of commissioners selected by the Selection Committee and approved by the National Legislative Assembly appointed by the National Council of Peace and Order (*Thairath Plus* 2023-03-24). It is worth noting that after launching overseas voter registration, six commissioners left Thailand on the same day and returned for the Election Commission's meeting only 19 days before the election date (The Nation 2023).

Third, regarding political parties in Thailand, the 2017 Constitution allows groups of people who share the same political values to form parties despite the burden on party leaders and barriers to party formation, as mentioned earlier in 3.6, many still managed to form parties and participate in the election. The 2023 election, for instance, was a competition participated by sixty political parties (Mishra, Rahman and Rosales 2023). There were also various political ideologies in the latest election (Kongkirati 2023). As for the autonomy of the opposition parties, the 2017 Constitution did not clearly state the autonomy the opposition parties hold; however, as Move Forward Party won most seats in the 2023 election despite not yet being part of the government parties, the party, therefore, tried to negotiate for the post of House Speaker instead. Both the Move Forward Party and Pheu Thai Party agreed that Wan Muhamad Noor Matha, a veteran leader of the Prachachat Party, would be the House Speaker, and both parties would each have one deputy speaker instead (*The Associated Press* 2023-07-04). It is worth mentioning that Wan Muhamad Noor Matha first entered the political scene in 1979 and led a highly popular Muslim political group in the deep south of Thailand. Formerly a member of the Pheu Thai Party, he later joined the Thai Rak Thai party and was appointed Deputy Party Leader of the party. He was stripped of his political rights for five years from a party dissolution case in 2006, and after he gained his rights back, he (re)joined the Pheu Thai Party (*TODAY* 2023-07-04).

4.3. Organic Act re: the Election Commission 2017

The Organic Act re: Election Commission 2017 has stipulated the budget of the Election Commission. In this author's view, because the budget is crucial in determining whether any institution has the capacity to carry out its duty, we will examine the budget of the Election Commission for the 2023 fiscal year. The examination is divided into two parts: the total annual budget and the budget specifically for hosting the 2023 Election.

Table 3. Annual Budget of the Election Commission of Thailand for the 2023 Fiscal Year

Items	Details	Amount (THB)
Government Personnel		2,220,206,700
Basic Work	- Management Costs	935,777,620
	- Investments (e.g. buildings and durable goods)	
Strategic Work	- Host elections and provide digital services	156,380,700
	- Support political participation	
	- Education regarding citizenship and the Democratic form of Government with the King as Head of State	
Total Annual Budget		3,312,365,020

Source: Election Commission of Thailand 2022

The total budget specifically for hosting the 2023 Election is THB 5,945,161,000 (equivalent to USD 175 million). THB 5,104,546,750 are costs that will be used by the Election Commission, and THB 840,614,250 are costs that will be used by other relevant institution(s) (Rocket Media Lab 2023). The budget approved by the Cabinet is considered the highest budget ever received for hosting an election (*Isra News Agency* 2023-01-25).

4.4. The Organic Act re: the Election of Members of the House of Representatives

Despite reports of vote buying, vote buying in the current election is harder than in previous elections because first-time voters interested in politics or some far suburban may accept the offer but eventually not vote for the briber (*Thairath* 2023-05-13). Other reported problems include calculating non-Thai citizens as citizens, which results in the inaccurate number of citizens in each district, therefore delaying the calculation of representatives for each district; mismatched pictures of the candidates and their parties in the candidate introduction pamphlet; and minimal improvement in the rapid report system centralized at the office of Election Commission (iLaw 2023).

4.5. Election Commission Regulation re: Election of the members of the House of Representatives 2023

As mentioned earlier, the Organic Act re: the Election of Members of the House of Representatives and the relevant regulations have clearly stated the procedures to follow when setting up an election. It has also provided clear examples and formats for every local authority to follow easily. Moreover, an official letter, dated March 24th, 2023, regarding the plan to host the general election and the Election Commission's announcement was distributed to all provincial and Bangkok registrars (Central Registrar Office 2023). Nonetheless, iLaw, a legal rights organization that works on legal aspects of the democratic movement and Constitution in Thailand, reported problems raised by the public regarding the Election Commission hosting the general election. With that said, issues relating to the voting registry include the online early voting registration system failing on the last day of early voting registration and names not known to the house owners appearing on the eligible voters' house registries (iLaw 2023).

4.6. Organic Act re: Political Parties

The Organic Act re: Political Parties stipulates the rules and regulations regarding the establishment and the conduct of political parties; in other words, the barriers to political party establishment and political party bans from misconduct have been discussed in such law. As discussed earlier, there are two visible problems regarding such a law. These two problems share the same core: that the number of members required to establish a party is the same number under which a party could be dissolved.

Table 4. Numbers of Political Parties Established before the 2024 Coup D'état

Year	Established Parties	Banned Parties
1997 Constitution		
1998	14	1
1999	16	4
2000	24	4
2001	4	18
2002	11	19
2003	8	10
2004	12	11
2005	2	10
2006	17	4
2007 Constitution		
2007	33	11
2008	13	3
2009	20	0
2010	16	3
2011	18	0
2012	12	2
2013	27	2
2014	10	2
2015	NCPO	1
2016	NCPO	2
2017 Constitution		
2017	NCPO	1

Source: *Thai Publica* 2018-04-20; *Thai PBS* 2020-01-20

According to the statistics, 34 parties were dissolved because they did not submit a political party's operation and/or spending report; 39 parties were dissolved because they did not reach the minimum number of members and/or branches required by the law; 5 parties were dissolved because they merged with another party; and 8 parties were dissolved because they posed a threat to the democratic form of government with the King as head of state (*Thai PBS* 2020-01-20). The main reasons that political parties were dissolved are reasons that are about technical requirements that the law creates, not ideological requirements, which do not allow parties to go against the democratic system. It is worth noting that Article 11(2) of the European

Convention on Human Rights stipulates ideological requirement, which states that no restriction shall be placed on the exercise of such rights unless prescribed by law, and such dissolution is necessary for a democratic society (Kim 2016). That said, the high technical requirements of the law could be against the freedom of party formation of the people.

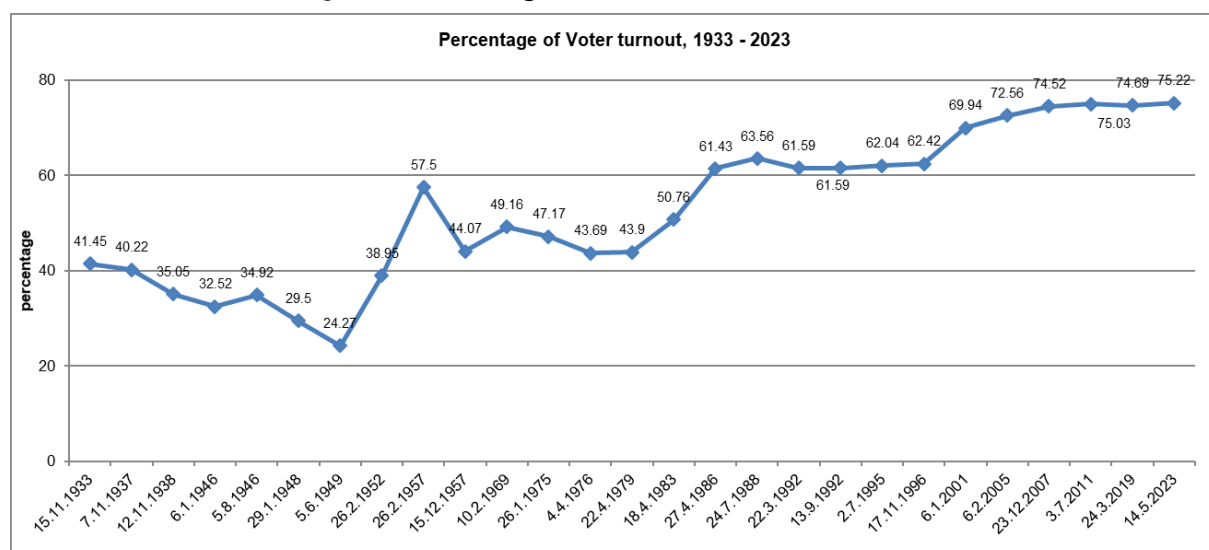
Furthermore, the Constitutional Court can also determine party dissolution. According to Article 204 of the 2017 Constitution, the Constitutional Court judges are selected by a selection committee according to their respective origins (e.g., the Supreme Court's selection committee selects Constitutional Court judges from the Supreme Court); once the selection has been made and candidates have been nominated, the Senate will then approve the list of judges and the President of the Senate shall report to the King for appointment of the judges. Chapters 3.1. and 4.1. of this paper discussed the origins of the current Senate.

5. Conclusion and Suggestions

In conclusion, the law, especially the Constitution, which is the law all laws must obey, has been criticized as undemocratically designed, and it prevents opposition parties (any party other than the pro-military parties) from forming a government despite them winning a majority of the vote (Sombatpoonsiri 2020). Instead of leading Thais to democracy, it enhances the power of the military, bureaucracy, judiciary, and other independent organs while containing the power of elected politicians, major political parties, and parties opposed to the military (Lertchoosakul 2020), as seen in the mechanism embedded in the Constitution as analyzed in earlier sections of this paper. This Constitution has played a big part, or a source, in crippling Thai democracy.

Regardless of the tools installed in the Constitution, the results of the 2023 election have shown that people are politically active more than ever, which can be seen in the graph below:

Figure 2. Percentage of Voter turnout, 1933 – 2023



(Illustrated by Ratchawadee Sangmahamad, 2023)

The result of the election is that the parties opposed to the military government managed to win the majority vote; however, the winning party could not form a government from the 2023 Election; yet, there are good sides to this. The government, not formed by the majority vote, will only fuel people to participate in any way possible to reach their desired outcome. Participation in the new scheme of electing the Senate could be one way to achieve democracy. Furthermore, the next election could be participated by younger generations who strive to see Thailand as a democratic country.

With this Constitution in place, the most viable suggestion is not to amend the Constitution, as the amendment process may take years and several factors could intervene, but to encourage people to participate and exercise their political rights as much as possible; however, some political process, such as citizen initiatives and public hearings, may not be promoted as much as they should. Furthermore, hope should be held high, for it shall ensure that an even larger majority than the 2023 election can form a truly democratic government.

On the other hand, government agencies and organs shall operate and function as the law should, not just as the law says, in order to uphold the rule of law – the main principle of democracy. As mentioned in the beginning, the law alone cannot guarantee a fair and equal society; therefore, amendments to the law alone are not enough, but the law in practice matters. Thus, the organizations possessing the ability to enforce the law shall enforce it lawfully and rightfully.

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