

## Reconstructing the Legal Framework of AI Use in Indonesia's 2024 Presidential Campaign: A Progressive and Responsive Law Perspective

Izzuma Tasya<sup>1</sup>, Riana Susmayanti<sup>1</sup>, Dhia Al-Uyun<sup>1</sup>

Faculty of Law, Brawijaya University, Malang, Indonesia.

tasyaizzuma23@gmail.com, riana.susma@ub.ac.id, diah.al@ub.ac.id

### ABSTRACT

The rise of Artificial Intelligence (AI) in Indonesia's 2024 presidential campaign reveals a significant legal gap in Law No. 7 of 2017 on Elections. Using a normative juridical approach, this study examines the 1945 Constitution, Election Law, and Constitutional Court Decision No. 166/PUU-XXI/2023. Findings show that while the Court prohibits "excessive" AI manipulation under the notion of *citra diri* (self-image), no binding technical rules exist to govern its use. The study employs the theories of Radbruch's Legal Purpose, Satjipto Rahardjo's Progressive Law, and Nonet–Selznick's Responsive Law to analyse justice, certainty, and social benefit in regulating AI campaigns. It concludes that AI-driven campaigning through avatars, deepfakes, and microtargeting poses constitutional risks unless addressed by adaptive, participatory, and justice-oriented regulation. Thus, responsive and progressive legal reform is crucial to preserving electoral integrity and democratic legitimacy in the digital era.

### Keywords:

Artificial Intelligence;  
Election Law;  
Progressive Law;  
Responsive Law;  
Constitutional Rights

### INTRODUCTION

The rapid integration of Artificial Intelligence (AI) into political communication has transformed electoral campaigns worldwide, including Indonesia's 2024 presidential election. AI-driven tools such as chatbots, synthetic avatars, and *deepfake* videos have introduced new modes of political persuasion, blurring the line between innovation and manipulation (Törnberg, 2023). In Indonesia, the use of an AI-generated video resembling former President Soeharto, along with the creation of digital avatars for the Prabowo–Gibran campaign, demonstrated how technology can influence voter engagement and candidate image-building. However, these developments also raise serious questions about the ethical and legal boundaries of AI utilization in political contexts, where electoral integrity and public trust are at stake.

Despite the transformative potential of AI, Indonesia's existing legal framework remains ill-equipped to address its implications in the electoral process. The 2017 Election Law (Law No. 7/2017) prohibits manipulation of a candidate's "image" (*citra diri*) but does not explicitly anticipate AI-generated content. The Constitutional Court, through Decision No. 166/PUU-XXI/2023, acknowledged the potential danger of "excessive" AI use in political campaigns, interpreting it as a violation of democratic fairness. However, this decision only provides a normative interpretation rather than a concrete regulatory mechanism for electoral authorities such as the General Election Commission (KPU) and the Election Supervisory Agency (Bawaslu). This gap demonstrates a broader *regulatory lag*—the inability of legal norms to keep pace with rapidly advancing technology (Brownsword & Goodwin, 2012).

Previous studies on digital campaigning in Indonesia have mainly examined issues of misinformation and cyber-ethics (Nugroho & Setiawan, 2022; Wahyuni, 2023), but few have directly analysed the intersection of AI technology and electoral law. Existing scholarship has yet to propose a coherent legal framework for regulating AI within the context of constitutional democracy and electoral justice. This research

thus fills a significant theoretical and normative void by offering a legal reconstruction based on *progressive* and *responsive* law theories, aiming to ensure that innovation does not undermine fundamental democratic principles.

This study employs a normative juridical approach to analyse the Constitutional Court's ratio decidendi in Decision No. 166/PUU-XXI/2023 and its implications for electoral governance. The analysis is framed through three theoretical lenses: Gustav Radbruch's *Theory of the Purpose of Law* (balancing justice, certainty, and utility), Satjipto Rahardjo's *Progressive Law Theory* (law in the service of humanity and social justice), and Nonet & Selznick's *Responsive Law Theory* (law as an instrument of societal responsiveness and moral legitimacy). Through this framework, the study evaluates whether Indonesia's legal and institutional responses to AI in campaigns align with the constitutional principles of *LUBER JURDIL* (direct, general, free, confidential, honest, and fair elections) as guaranteed under Article 22E of the 1945 Constitution.

Ultimately, this paper argues that the rise of AI in political campaigning represents both a challenge and an opportunity for Indonesian electoral law. The absence of specific regulations risks legal uncertainty and potential violations of constitutional rights such as the right to accurate information (Article 28F) and the right to equal political participation (Article 28D paragraph 3). Therefore, this research proposes a legal reformulation that integrates the adaptive vision of *progressive law* and the participatory ethos of *responsive law*, offering concrete normative and technical recommendations for the KPU and Bawaslu. This approach ensures that technological innovation serves democratic integrity rather than undermines it, positioning Indonesia at the forefront of ethical and lawful digital governance in elections.

## METHOD

This study employs a normative juridical (doctrinal) research method that focuses on analysing legal norms, principles, and doctrines relevant to the regulation of AI use in Indonesia's electoral campaigns. The normative juridical approach was chosen because the research examines written legal materials as primary sources of law, particularly in the context of constitutional and electoral regulations. It seeks to understand the existing legal structure's response to technological disruption, especially the rise of AI in political communication and its compatibility with constitutional principles of democratic elections (Radbruch, 2006; Rahardjo, 2009).

To ensure analytical depth, this study integrates several approaches: (1) a statutory approach, focusing on the interpretation of relevant provisions in Law No. 7 of 2017 on General Elections, Law No. 11 of 2008 on Electronic Information and Transactions (and its amendments), and Law No. 27 of 2022 on Personal Data Protection; (2) a case approach, centering on the Constitutional Court Decision No. 166/PUU-XXI/2023, which elaborates the meaning of "citra diri" (self-image) and prohibits the "excessive use" of AI in campaigns; and (3) a conceptual approach, employing legal theories Radbruch's Theory of Legal Values, Satjipto Rahardjo's Progressive Law, and Nonet & Selznick's Responsive Law as analytical lenses to assess the adequacy of current norms and to formulate responsive legal recommendations (Nonet & Selznick, 2011; Radbruch, 2006; Rahardjo, 2009).

The study relies on both primary and secondary legal materials. Primary materials include the 1945 Constitution of the Republic of Indonesia, decisions of the Constitutional Court, and election-related legislation. Secondary materials comprise academic writings, legal commentaries, and journal articles that address the intersection between law, technology, and democracy. Data were analyzed using descriptive-analytical and interpretive-normative techniques, allowing the researcher to describe legal provisions and interpret their normative implications in light of justice, legal certainty, and societal utility. The method aims not only to identify the existing legal gap but also to propose a reformulation of electoral regulations that is adaptive to technological progress and aligned with constitutional mandates.

## RESULTS AND DISCUSSION

### 1. The Legal Gap in Regulating Artificial Intelligence in Electoral Campaigns

Indonesia's legal framework for elections remains largely grounded in traditional campaign mechanisms, leaving a regulatory gap in addressing the complex realities of Artificial Intelligence (AI) use in the 2024 presidential election. Law No. 7 of 2017 on General Elections primarily regulates campaign conduct through conventional norms, such as *citra diri* (self-image) and campaign media, without explicitly mentioning or anticipating the use of AI-generated content. Article 280 paragraph (1) letter (h) of the law, which prohibits campaigns involving “manipulation of self-image,” was designed in a pre-AI context that failed to foresee the emergence of deepfake technology, algorithmic persuasion, or AI-based content generation in political communication (Undang-Undang Nomor 7 Tahun 2017 tentang Pemilu, 2017). Consequently, while this article may be invoked to sanction manipulative digital content, it lacks normative clarity on whether AI-driven representations such as synthetic images, voices, or avatars constitute a violation.

This normative limitation became evident in the Constitutional Court's Decision No. 166/PUU-XXI/2023, which addressed the interpretation of *citra diri* within Article 280. The Court ruled that the use of digital manipulation that is “*berlebihan*” (excessive) violates the integrity of the electoral process (Mahkamah Konstitusi Republik Indonesia, 2023). However, the decision's reasoning stopped short of defining the precise parameters of “excessive” use, leaving considerable ambiguity for electoral regulators such as the General Election Commission (KPU) and the Election Supervisory Body (Bawaslu). This judicial pronouncement thus operates as a normative signal rather than a fully enforceable standard, offering a conceptual foundation for limiting AI use without producing clear operational guidelines. As a result, electoral actors continue to navigate a legal vacuum where the technological sophistication of campaign tools outpaces the specificity of existing electoral law.

From the perspective of constitutional and administrative law, this regulatory gap raises serious concerns for the principles of electoral integrity embedded in Article 22E of the 1945 Constitution, which guarantees elections that are *langsung, umum, bebas, rahasia, jujur, dan adil* (direct, general, free, confidential, honest, and fair). The absence of explicit rules concerning AI use risks eroding the honesty (*kejujuran*) and fairness (*keadilan*) of elections by enabling the spread of misinformation, emotional manipulation, and unequal access to AI-driven campaign tools. Moreover, it challenges citizens' constitutional rights under Article 28F—the right to obtain and convey truthful information—and Article 28D paragraph (3), which ensures equal

*opportunity in political participation* (UUD 1945). Without concrete legal safeguards, AI can distort the democratic marketplace of ideas, threatening both electoral justice and public trust.

Therefore, the absence of detailed norms regulating AI's role in electoral campaigns reflects a broader structural lag in Indonesia's legal development. While the Constitutional Court has provided a foundational judicial interpretation, the gap between its *ratio decidendi* and legislative follow-up underscores the need for regulatory reform that translates general principles into enforceable legal standards. Bridging this gap is essential to uphold the constitutional mandate of fair and honest elections in the digital era.

## **2. The Use of Artificial Intelligence in the 2024 Presidential Campaign: The Case of Prabowo–Gibran**

During Indonesia's 2024 presidential election, the campaign of Prabowo Gibran actively leveraged Artificial Intelligence in multiple modalities to shape the candidate's image and voter outreach. One prominent example is the deployment of an AI-based avatar or caricatured persona of Prabowo, dubbed the "gemoy" (cute) image, which circulated widely on social media platforms as part of image management and branding efforts. The campaign also utilised deepfake technology to generate videos purportedly showing former President Soeharto endorsing the ticket, sparking debate about the legitimacy of AI-generated content in political persuasion. In addition, the campaign team launched *prabowogibran.ai*, an AI-driven digital tool designed to interact with prospective voters online, providing campaign material and messaging. These AI-based initiatives reflect a strategy to capitalize on emotional appeal and algorithmic amplification to gain a competitive advantage.

Public and institutional reaction to these innovations was immediate and critical. Media outlets, civil society groups, and digital rights organizations raised concerns about the potential for misinformation, unconscious manipulation, and an uneven playing field. For instance, news reports noted that the campaign's use of AI-generated materials symbolizing Soeharto stirred public outcry and demands for regulation of AI content in political campaigns. Meanwhile, the Constitutional Court's decision in 166/PUU-XXI/2023 was cited in media coverage as a legal benchmark to judge whether such AI usage is excessive. The KPU and Bawaslu responded relatively cautiously: while acknowledging the emerging AI issue, they largely refrained from issuing robust enforcement or sanctions and instead emphasized the need for legal clarity and guidance in future regulation.

Analyzed through the lens of LUBER JURDIL (direct, general, free, confidential, honest, fair) principles enshrined in Article 22E of the 1945 Constitution, these AI practices by Paslon 02 pose significant normative tensions. The "honest and fair" and "free" elements are especially at risk because the use of synthetic avatars, deepfakes, and AI chat tools may distort the authenticity of political communication, mislead voters, or create asymmetric access to persuasive technologies. Moreover, from a constitutional rights perspective, the AI campaign tactics may encroach on citizens' right to accurate information (Article 28F) and their right to equal participation (Article 28D paragraph 3), by privileging candidates with superior AI resources. When measured against the Constitutional Court's interpretation of "excessive" use under *citra diri*, these practices of Paslon 02 may arguably exceed acceptable bounds,



unless clear operational definitions and thresholds are established to distinguish permissible image enhancement from impermissible manipulation.

### 3. Theoretical Evaluation and Reformulation Recommendation

The regulation of Artificial Intelligence (AI) in Indonesia's electoral campaigns can be critically evaluated through three complementary legal theories: Gustav Radbruch's theory of legal values, Satjipto Rahardjo's progressive law, and Nonet and Selznick's responsive law. Radbruch's theory posits that every legal norm must balance justice, legal certainty, and utility as the three essential elements of law. In the context of AI use in campaigns, the current absence of explicit regulation disrupts this balance: certainty is undermined by the vagueness of existing provisions, justice is compromised when manipulative technologies create electoral inequality, and utility is diminished because AI's potential for public education and engagement remains unregulated. Following Radbruch's reasoning, the ideal legal response must reconcile these three values, providing explicit prohibitions against harmful AI practices while enabling beneficial innovation for democratic participation (Radbruch, 2006).

From the perspective of progressive law, as developed by Satjipto Rahardjo (2009), legal systems must not remain stagnant in the face of social transformation and technological disruption. Law should serve humanity, not itself, meaning that legal frameworks must evolve to protect human dignity and justice in the face of rapid innovation. The phenomenon of AI-driven campaigns ranging from deepfake propaganda to algorithmic targeting demands a progressive legal approach that recognises both risks and opportunities. Under this view, prohibiting all AI use in campaigns would be regressive; instead, regulation should differentiate between manipulative, deceptive uses (which violate honesty and fairness) and educational or participatory applications that promote informed citizenship. Thus, a progressive legal reformulation should enshrine both prohibitive and permissive clauses, striking a balance between ethical boundaries and innovation in democratic engagement.

Meanwhile, the responsive law theory of Philippe Nonet and Philip Selznick (1978) emphasises that law must evolve from a mere instrument of control (*repressive law*) to a participatory framework that integrates social input and public accountability. Applying this to AI regulation, Indonesia's electoral lawmaking should not follow a purely top-down model; instead, it must involve consultations with civil society, digital rights experts, election observers, and academia. Responsive law calls for flexibility, adaptability, and participation in the legislative process, principles that are essential in governing rapidly changing technologies. Accordingly, formulating detailed technical regulations through the General Election Commission (KPU) and the Election Supervisory Body (Bawaslu) can embody responsiveness by creating inclusive, adaptive, and transparent rule-making mechanisms.

Based on the synthesis of these three theoretical lenses, the recommended reformulation should operationalise both prohibitive and facilitative norms. First, explicit provisions should prohibit the use of AI-generated content that manipulates, deceives, or creates deepfake representations of candidates or public figures. Second, the use of AI should be permitted for educational or informational purposes, provided it includes clear disclosure of AI involvement and verification mechanisms. Finally, KPU and Bawaslu should develop technical regulations (PKPU and Perbawaslu) establishing guidelines for content labelling, data protection, and administrative sanctions. This tripartite approach—rooted in progressive and responsive

jurisprudence—ensures that Indonesia's electoral law upholds the constitutional principles of *kejujuran* (honesty) and *keadilan* (fairness) under Article 22E of the 1945 Constitution, while safeguarding citizens' rights to accurate information and equal participation under Articles 28F and 28D paragraph (3). The integration of these values will strengthen both legal certainty and democratic integrity in Indonesia's digital elections.

## CONCLUSION

The study reveals that Indonesia's current legal framework remains inadequate to address the challenges posed by the use of Artificial Intelligence (AI) in electoral campaigns. Law No. 7 of 2017 on General Elections, together with the Information and Electronic Transactions Law (ITE Law) and the Personal Data Protection Law (PDP Law), does not explicitly regulate AI-generated content in political communication. This regulatory gap undermines the principles of legal certainty and electoral integrity enshrined in Articles 28D and 22E of the 1945 Constitution. The Constitutional Court's Decision No. 166/PUU-XXI/2023, while offering interpretive guidance by prohibiting "excessive" manipulation of *citra diri* (self-image), has yet to produce a binding and technical standard capable of guiding the General Election Commission (KPU) and the Election Supervisory Body (Bawaslu) in implementation.

The findings further demonstrate that AI-driven campaign strategies—such as digital avatars, deepfake videos, and microtargeting—used by the Prabowo–Gibran campaign in the 2024 presidential election have blurred the boundaries between legitimate innovation and manipulative persuasion. These practices risk violating the principles of *kejujuran* (honesty) and *keadilan* (fairness) under the *LUBER JURDIL* doctrine, and they threaten constitutional rights to truthful information and equal political participation. While AI offers potential for civic education and engagement, its unregulated use endangers public trust in democratic processes and the fairness of electoral competition.

Drawing on Radbruch's theory of legal values, Satjipto Rahardjo's progressive law, and Nonet and Selznick's responsive law, this paper argues for the reformulation of AI regulation through a dual approach: progressive in ensuring substantive justice and public welfare, and responsive in embracing public participation and technological evolution. The proposed reforms include explicit prohibitions against manipulative AI content, the establishment of disclosure and verification requirements for AI-generated materials, and the development of detailed technical regulations through PKPU and Perbawaslu. Such reformulation will strengthen Indonesia's commitment to constitutional democracy by ensuring that electoral law remains just, adaptive, and aligned with the realities of digital transformation.

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