

Measuring the Reinstatement of the Closed Proportional System in Indonesia

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Abstract

Ahead of the 2024 General Election, tinkering in the selection of the electoral system in Indonesia has emerged again. At least this debate always occurs at every event leading up to the democratic party. The electoral system is a way to implement and provide the widest possible freedom to every citizen to exercise their right to vote to elect the people's representatives they want. Since the first elections were held in 1955, researchers have seen that the proportional electoral system is the most suitable system to be implemented in Indonesia, regardless of the debate about open or closed proportional electoral system models. This article will examine a choice of open or closed proportional electoral systems used in Indonesia in the upcoming 2024 elections. Using a normative legal study approach, this article also presents a comparison of the advantages and disadvantages of open or closed list proportional systems.

Abstrak

Menjelang perhelatan Pemilu 2024 ini, otak-atik dalam pemilihan sistem pemilu di Indonesia kembali mencuat. Perdebatan tersebut setidaknya selalu terjadi dalam setiap perhelatan menjelang pesta demokrasi tersebut. Sistem pemilu adalah sebuah cara untuk menerapkan dan memberi kebebasan seluas-luasnya kepada setiap warga negara untuk menggunakan hak pilihnya memilih wakil rakyat yang dikehendaki. Sejak pemilu pertama kali dilaksanakan pada tahun 1955 lalu, peneliti melihat jika sistem pemilu proporsional adalah sistem yang paling cocok untuk diterapkan di Indonesia, terlepas dari perdebatan model sistem pemilu proporsional terbuka atau tertutup. Tulisan ini akan mengkaji sebuah pilihan sistem pemilu proporsional terbuka atau tertutup yang digunakan di Indonesia pada Pemilu 2024 mendatang. Dengan pendekatan kajian hukum normatif, tulisan ini juga menyuguhkan perbandingan kelebihan dan kekurangan sistem proporsional daftar terbuka atau tertutup.

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1. INTRODUCTION

Indonesia is an independent country which immediately has sovereignty in the hands of the people, while sovereignty in the hands of the people can be interpreted as the highest power in the hands of the people. One of the implementations of popular sovereignty is holding general elections (Pemilu). The provisions regarding this election are contained directly in the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) Article 22E paragraph (1) to paragraph (6). The article reads: (1) General elections are held directly, publicly, freely, secretly, honestly and fairly once every five years, (2) General elections are held to elect members of the People's Representative Council, Regional Representative Council, President and Deputy President, and the Regional People's Representative Council, (3) Participants in general elections to elect members of the People's Representative Council and Regional People's Representative Council are political parties, (4) Participants in general elections to elect the Regional Representative Council are individuals, (5) General elections are held by a national, permanent and independent general election commission, (6) Further provisions regarding general elections are regulated by law, while the latest regulations in general elections are regulated in Law Number 7 of 2017 concerning General Elections.

In This general election must be carried out in a democratic manner. The meaning of the word democracy, comes from the words demos which means people, and cratein which means government, so democracy is government by the people where the highest power is in the hands

of the people and is exercised directly or indirectly on the basis of a representative system. (Azed, 2000). Since 1945, Indonesia has held several elections to elect its representatives to parliament (legislative elections) with varying variants and systems. One important aspect in holding elections is of course the electoral system used. So far, there are at least two types of proportional electoral systems that have been implemented in Indonesia. Among them are the 1955 elections, the New Order elections, and (AR, 2010) 1999 election, Indonesia used a closed list proportional election system (close list representation); Meanwhile, after the amendments to the 1945 Constitution and reform, Indonesia used an open list proportional electoral system (open list representation), to be precise in the 2004, 2009, 2014 and 2019 legislative elections. (Supriyanto, 2020)

Ahead of the general election in 2024, the Indonesian MPR Study Body together with the Indonesian KPU are currently discussing the reintroduction of a closed proportional system in Indonesia. The standing position of the MPR RI study body in proposing the reintroduction of the closed proportional system is because Indonesia is currently moving towards an individualistic liberal democratic system, where the open proportional system which has been adopted in 4 elections is believed to be the cause of high political costs in Indonesia because of vote buying.

"With this, there will be no more fighting between candidates, those who are now managing the party are extraordinary, making extraordinary sacrifices and then at the time of nomination they lose to new people who bring money because the envelopes are thicker, this is not fair," said the Chairman of the Indonesian MPR Study Body, Djarot Syaiful Hidayat (CNN, 2022)

Although it does not have to be forced into the 2024 elections, what is certain is that the Indonesian MPR Review Body sees the need to improve the general election system in Indonesia. Burhanuddin Muhtadi in his dissertation also explained that winning margins or the difference in victory is one of the problems in open proportionality and results in the effect of buying and selling votes. Open proportionality in Indonesia results in competition for legislative candidates within political parties and the winning rate is very slim. This is where a political dilemma occurs which ultimately results in the legislative candidate practicing money politics or buying and selling votes (Muhtadi, 2018). However, an open proportional system can also have an impact on increasing voter participation in general elections.

In open proportional system, the people are fully sovereign. However, the reality of the condition of underprivileged people is that they tend to choose candidates as representatives who own capital and have money by ignoring matters of political fadsun, morality, let alone capacity. As a result, the open proportional system actually produces representatives of the people who are still learning, have not been tested and some are not even the best party cadres so that representatives are elected who fail to guard the gates (gate keepers) with morals and responsibility. (Budiono, 2017)

This open proportional system makes people's representatives closer to their constituents, so that accountability in carrying out functions towards the people becomes more real. However, this system also has advantages and disadvantages. The advantage of the open list proportional system is that it makes people more selective in choosing their candidates and selects legislative candidates rationally (Pratiwi, 2018) Meanwhile, the weakness of the open list proportional system is that the majority of votes gives legislative candidates the potential to use their wealth to take financial approaches to gain votes and support from the public. If viewed from the perspective of justice, representation with the most votes is very fair, but with the most votes there can also be behavior of legislative candidates who rely on capital to influence the masses. Thus, supporters emerge who are easily mobilized in the interests of legislative candidates. A financial approach can give rise to unhealthy constituent (voter) behavior in society.

The use of a proportional electoral system seems to be a given (regardless of open or closed model), because it is in accordance with the diverse character of Indonesian society, both politically, socio-culturally and economically. As a multi-ethnic, multi-religious and multi-ideological nation, a proportional electoral system is best suited to accommodate these differences. So that in the end, Indonesia does not need to be trapped and suffer bloody conflicts

like what happened in several African and Asian countries just because they chose the wrong electoral system that was right and suitable for their country. History has also shown that proposals to use a majoritarian electoral system or a plurality/majority electoral system have always failed to be implemented in Indonesia. Not because the plurality/majority electoral system is not good, however, the election system must be returned to the conditions and circumstances of each country.

International Institute for Democracy and Electoral Assistance (International IDEA) provides criteria or guidelines for a country in selecting or determining the design of an electoral system. There are at least 10 criteria that must be considered, including (1) providing representation, (2) making general elections accessible and meaningful, (3) providing incentives for conciliation, (4) facilitating stable and efficient government, (5) the government can be held accountable (accountability), (6) individual representatives can also be held accountable, (7) encourage political parties, (8) promote opposition and legislative oversight, (9) make the general election process sustainable, and (10) consider international standards (International IDEA, 2016)

The criteria stated above sometimes conflict with each other or even cancel each other out. However, when each country wants to design an electoral system, it must still pay attention to the context of its own country in order to obtain the best results according to the conditions of each country. So, it is important and interesting for us to discuss and study how to design an electoral system that is in accordance with the characteristics and characteristics of the Indonesian nation and state, especially the use of a proportional system that is deemed appropriate to be implemented in Indonesia. Therefore, this article is entitled "Measuring the Reinstatement of the Closed Proportional System in Indonesia".

2. RESEARCH METHODS

To answer the problem formulation presented above, the author uses normative legal research methods. The approaches used in this research are the statutory approach, the case approach and the conceptual approach. (Marzuki, 2013) This research will describe and provide analysis regarding the General Election system in Indonesia and especially the proportional system in every general election process.

3. RESEARCH RESULTS AND DISCUSSION

A. General Election in Indonesia

General elections are a process of selecting people to occupy positions/positions in government or a political party contest to gain public trust, where each political party has the aim of obtaining seats in parliament for legislative and executive member candidates, namely the president and deputy. Elections are a means of popular sovereignty to elect members of the People's Representative Council, Regional Representative Council, Provincial Regional People's Representative Council, Regency/City Regional People's Representative Council as well as the president and their deputies. General elections are usually associated with the function of implementing popular sovereignty. Sovereignty according to Article 1 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia is in the hands of the people and is implemented according to the 1945 Constitution. Exercising sovereignty for the people is by determining or participating in determining certain state policies which can be carried out at any time according to regulations. Every country in all parts of the world has a political system, including Indonesia itself. The political system for every country is the "life" in the body, where if there is no life, the political system cannot live. With the presence of "life" in the political system, it can bring about a healthy country, namely prosperity and prosperity.

According to Joseph Schumpeter, general elections are a form of democracy, a modern conception that places the holding of free and periodic general elections as the main criterion for a political system so that it can be called a democracy. (Schumpeter., 1947) General elections are an arena for the legitimate struggle for power in democracy, because through

general elections the people gain complete sovereignty because every people has the same rights as one another, namely to vote and to be elected. Basically, general elections are divided into three objectives, namely (Surbakti, 2010)

- a. As a mechanism for selecting government leaders and alternative public policies. In a democratic system, people's representatives have full sovereignty, but its implementation is carried out by their representatives through the Representative Body or Parliament.
- b. Elections are a mechanism for transferring conflict of interest from society to people's representative bodies through elected representatives or parties that win seats so that integration or unity of society remains guaranteed.
- c. General elections are a means of mobilizing, moving or gathering people's support for the political process.

General elections according to Law Number 7 of 2017 have five objectives, namely: (Republic of Indonesia, 2017)(i) Strengthening a democratic constitutional system; (ii) Realizing elections that are fair and have integrity; (iii) Ensure consistency of election system arrangements; (iv) Provide legal certainty and prevent duplication in election arrangements; and (v) Realizing effective and efficient elections. Meanwhile, CST. Kansil and Christine ST Kansil divided 3 functions of general elections in the democratic tools used, namely (Kansil, 2000)to (i) Maintain and develop the foundations of democracy in Indonesia; (ii) Achieving a just and prosperous society based on Pancasila (justice for all Indonesian people); (iii) Guaranteeing the success of the struggle for the new order, namely the upholding of Pancasila and the maintenance of the 1945 Constitution.

B. Election system General in Indonesia

Indonesia is a rule of law country that upholds democracy for every citizen. During Indonesia's independence, it was recorded that twelve general elections were held, namely from 1955 and the most recent, namely in 2019. During Indonesia's independence, various systems have been implemented in this country, both closed list proportional systems, districts and open list proportional systems, as is currently being implemented in the general election system in Indonesia. The proportional system (multi member constituency) is a balanced electoral system, in which each electoral district elects several representatives.(Budiarjo, 2008)In this system, the percentage of seats in the House of Representatives is distributed to each political party, according to the presentation of the number of votes obtained. The proportional system is divided into two main methods, namely:(Ibrahim, 1988)

- a. *Single Transferable Vote*(Hare System)

The hare system is an electoral system that requires voters to choose the first, second and so on choices from the area concerned. This system allows all candidates to be elected, because in this system there is a division of votes if there are remaining votes for political party candidates who have met the specified number of votes. This system is characterized by several characteristics: First, it uses multi-vote districts.(Prihatmoko, 2003)Second, voters rank candidates preferentially.(Ultimate, 2009)Third, candidates whose votes exceed the quota limit are declared as elected representatives. Fourth, if anyone exceeds the quota, the candidate with the fewest preferences is eliminated.

- b. *Proportional List of Representatives*(Register System)

The list system is an election model in which voters are asked to choose a list of candidates containing as many names as possible of the people's representatives who will be elected in the general election. This system has several characteristics, namely: First, each electoral district has multiple representatives. Second, each party presents a list of candidates with a larger number than the number of seats allocated to one electoral district. Third, voters choose one candidate. Fourth, parties gain seats in proportion to the votes obtained. Fifth, candidates who can represent are those who successfully exceed the vote threshold. This list system can be differentiated into several variants based on the selection of candidates selected to fill the seats won by political parties. These variants consist of:

- 1) Closed List

In this closed list, seats won by political parties are filled by candidates determined by the party and there is a serial number system for each political party.

2) Open List

In an open list, voters can choose political parties and candidates from legislative candidates to fill the seats won by the party participating in the election, and there is no longer a serial number system because in this system the majority of votes from voters are used, and if the candidate gets the most votes then he is the one who elected as leader of a particular region.

3) Free Registration

In a free list, each party determines its list of candidates, the party and the list of candidates are separate on the ballot paper.

Until now, Indonesia has never stopped looking for an electoral system that is truly suitable and used throughout the holding of general elections. However, what is certain is that from the past until now, Indonesia has always implemented a proportional model which has developed from year to year in holding twelve elections, starting from 1955 until the 2019 elections. The development of the proportional system in legislative elections in Indonesia is as follows:

In 1955 elections were held twice; elect members of the DPR in September and elect members of the Constituent Assembly in December using a proportional model, because at that time only a proportional system was known in Indonesia. The election resulted in 27 parties and one individual, the most prominent parties being Masyumi, PNI, NU and PKI. (Budiarjo, 2008) In 1966 and 1967 the district system began to be discussed. At that time, it was felt that the district system could reduce the number of parties naturally. However, this result was rejected when in 1967 the DPR discussed a bill related to it. So the 1971 election still used a proportional system with level II/Regency guaranteed to get one seat in the DPR. Second, of the 460 DPR members, 100 are appointed; 75 from ABRI and 25 from non-ABRI who were appointed from group and regional delegations. In 1971, 10 political parties participated in the elections. (Budiarjo, 2008) In the 1977 election, only three parties participated in the election, namely Golkar, PPP and PDIP. After the reforms rolled out, there were slight differences in the composition of the parliament and the election model. The DPD is elected using the district model, while the DPR and DPRD still use an open list proportional system. In the 2004 elections, there was a district element in the proportional model, namely that the votes obtained by a party in a electoral district that were not sufficient for one voter divisor number (BPP) could not be added to the party's acquisition in another electoral district. (Budiarjo, 2008)

Entering the 1999 elections, Indonesia used a closed proportional system, in 2004 it used a semi-open proportional system. It is called semi-open because the determination of who will represent the party in obtaining seats in parliament is not based on the majority of votes obtained but remains based on serial numbers. (Budiono, 2017, p. 41) In 2009, it became an open proportional list after the Constitutional Court granted a judicial review which regulates the determination of legislative candidates based on serial numbers if they do not meet the 30% provisions of the BPP. In 2009, candidates were selected according to the majority of votes so that the proportional open list was actually implemented. The open list proportional system can also be said to be a semi-district system, because this system combines the characteristics or, more precisely, the advantages of the district and proportional systems, while minimizing the shortcomings of both. (AR, 2010)

In the implementation of the 2009 elections, it was not much different from the 2004 elections, namely that it still used a proportional system with an open list and determining the elected candidates by majority vote. The difference between the 2004 and 2009 elections was the implementation of a parliamentary threshold of 2.5 percent. The 2014 elections were held in almost the same format as the 2009 elections, namely using an open list proportional system with a majority vote. However, the 2014 election saw the parliamentary threshold increased

to 3.5%. The 2014 election system prioritizes openness, namely that the public can choose for themselves the legislative candidates (candidates) they support. The law used for the 2014 elections was Law Number 8 of 2012 concerning General Elections of Members of the People's Representative Council, Regional Representative Council and Regional People's Representative Council.

This system makes people's representatives closer to their constituents, so that accountability in carrying out functions towards the people becomes more real. Until now, in the 2019 General Election, Indonesia is still using a balanced representation system or a proportional representation list system with an open mechanism or what is generally known as an open proportional system and uses a parliamentary threshold of 4% in accordance with the mandate of the latest Election Law, Law Number 7 of 2017 concerning General Elections.

However, the open proportional system currently used is also not free from its advantages and disadvantages. Therefore, ahead of the simultaneous elections in 2024, there will be no debate about whether or not to use an open proportional system again. At least, here are a number of advantages and disadvantages of using an open proportional system that the author tries to summarize:

Table 1: Advantages and Disadvantages of Open Proportional Systems

Open Proportional System	
Excess	Lack
Can create a fairly good space for participation(Asshiddiqie, 2006)	The rise of money politics during general election campaigns is due to the large number of legislative candidates participating in the election, so they compete with each other to gain votes in various ways.(Muhtadi, Money Politics and the New Normal in the Post-New Order Election, 2019)
Able to encourage political parties to be more transparent in proposing legislative candidates, because so far there are still many parties that select their candidates behind closed doors.	The opportunity to create legislative members who are illiterate and lack knowledge is greater.
New political parties/small political parties also have more advantages in participating in elections.	It is more difficult for small parties to gain a majority of votes in representative institutions(Budiarjo, 2008)

Normatively, the implementation of an open list proportional electoral system is intended to produce people's representatives who are accountable and trustworthy towards those they represent or the people (constituents), because they are elected directly by their constituents. However, in reality, the implementation of an open list proportional election system actually gives rise to an election system that is centered on candidate candidates, where what occurs is not competition between political parties, but rather competition between candidates from the same party in the same electoral district (intra-party competition). Because competition is very tight, there is uncertainty about the prospects of being selected. The more uncertain you are about being elected, the greater the tendency to commit corruption (obtaining money from the state illegally) to carry out campaigns by any means, including 'buying' voters' votes.(Surbakti, Who is the Election System for, 2017)

Ultimately, in order to be able to elect representatives to run the government, a mechanism is needed that guarantees the aspirations of the people without exception. The

mechanism mandated by the 1945 Constitution to guarantee this is general elections. Since the general election was held, Indonesia has continued to use a proportional system, as an electoral system that is in accordance with the diverse character of Indonesian society, both politically, socio-culturally and economically. As a multi-ethnic, multi-religious and multi-ideological nation, a proportional electoral system is best suited to accommodate these differences. So that in the end, Indonesia does not need to be trapped and suffer from bloody conflict within the circulation of its leaders.

4. CONCLUSION

The implementation of popular sovereignty in Indonesia as mandated by the 1945 Constitution is carried out by institutions formed and filled by representatives of the people or at the choice of the people's representatives. In other words, popular sovereignty in Indonesia is exercised by people who truly include the role of the people in filling their positions. This is in accordance with the doctrine of the people, by the people, and for the people as echoed by the pioneers of popular sovereignty.

Because in the implementation of government the people are represented by State institutions as stated in the 1945 Constitution, it is clear that indirect democracy is the model applied by the Indonesian people. Ultimately, in order to be able to elect representatives to run the government, a mechanism is needed that guarantees the aspirations of the people without exception. The mechanism mandated by the 1945 Constitution to guarantee this is general elections.

Since the general election was held, Indonesia has continued to use a proportional system, as an electoral system that is in accordance with the diverse character of Indonesian society, both politically, socio-culturally and economically. As a multi-ethnic, multi-religious and multi-ideological nation, a proportional electoral system is best suited to accommodate these differences. So that in the end, Indonesia does not need to be trapped and suffer from bloody conflict in the circulation of its leadership.

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