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Analysis of Open and Closed Proportional Systems in the 2024 Legislative Elections

Analisis Sistem Proporsional Terbuka dan Tertutup Dalam Pemilihan Umum Legislatif Tahun 2024

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INFORMASI ARTIKEL

ABSTRAK

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Abstract

General elections are important in the effort to maintain the sovereignty of the people and the democracy of the Indonesian state. A good election must pay attention to the system and the consequences of the system used. Indonesia is one of the countries that implements an electoral system with a proportional system. The proportional system used by Indonesia since 1955 has two forms, namely a closed proportional system and an open proportional system. Currently, Indonesia uses an open proportional system after previously using a closed proportional system in 1998. However, in 2019 the open proportional system caused losses for Indonesia, ranging from money politics, a large budget issued by the government, to the loss of life of 527 election organizers. This phenomenon has prompted researchers to examine a closed proportional system as a solution for the 2024 election using normative research with a conceptual approach so that researchers have the notion that a closed proportional system by tightening internal party system rules in recruiting people's representatives can be the answer to the weaknesses of an open operational system.

Abstrak

Pemilihan umum adalah hal penting dalam upaya menjaga kedaulatan rakyat dan demokrasi negara Indonesia. Pemilu yang baik harus memperhatikan sistem dan konsekuensi dari sistem yang digunakan. Indonesia merupakan salah satu negara yang menerapkan sistem pemilu dengan sistem proporsional. Sistem proporsional yang digunakan Indonesia sejak tahun 1955 memiliki dua bentuk, yakni sistem proporsional tertutup dan sistem proporsional terbuka. Saat ini Indonesia menggunakan sistem proporsional terbuka setelah sebelumnya menggunakan sistem proporsional tertutup pada tahun 1998. Namun tahun 2019 sistem proporsional terbuka menyebabkan kerugian bagi Indonesia, mulai dari money politic, anggaran yang besar dikeluarkan pemerintah, hingga hilangnya nyawa 527 orang penyelenggara pemilu. Fenomena ini yang membuat peneliti untuk mengkaji sistem proporsional tertutup bisa menjadi solusi pada pemilu di 2024 menggunakan jenis penelitian normatif dengan pendekatan

konseptual hingga peneliti memiliki anggapan bahwa sistem proporsional tertutup dengan memperketat aturan sistem internal partai dalam rekrutmen wakil rakyat dapat menjadi jawaban atas kelemahan sistem operasional terbuka.

1. Introduction

Elections are a means of practicing democracy. It can be said that there is no democracy, without elections. However, elections are not the goal. It is only a means to elect members of parliament and executive leaders at the central and regional levels. Our goals as a nation and as a state are, among others, to promote general welfare and educate the nation's life as stated in the preamble of the 1945 Constitution.

Indonesia is a country whose society is very diverse/heterogeneous with a fairly dense population living with various backgrounds. In order to keep this stable within the Unitary State of the Republic of Indonesia, a government that is wise and able to represent a heterogeneous society, both geographically and ideologically, is needed. One way to get leaders in government, both the executive and legislative branches who can represent the people of Indonesia, requires general elections. Apart from electing a representative government, elections are also an instrument for maintaining people's sovereignty as a form of developing and healthy democracy after the reform of the Indonesian state. According to Syamsudin Haris, elections are a form of political education for the people, which are direct, open, mass, which are expected to educate political understanding and increase public awareness about democracy.¹

Each general election in Indonesia is always haunted by acts of money politics by certain elements in order to get votes from the public. Of course this is a serious problem considering the impact of money politics if left unchecked will affect the democratic system as the basis of the state in the process of fulfilling public office in a legal way, starting with the impact that causes people to become accustomed to the practice of buying votes to corruption under the pretext of to return campaign costs in the implementation process.

Amendments to the 1945 Constitution became an integral part of the Reformation. For supporters of change, what the MPR did during the 1999-2002 period was a big leap. Reform went on the right track because it still maintained Pancasila as the basis of the state.² Juridically, the Indonesian state has held 4 post-reform elections, which indicates that regulations have definitely changed, compared to the New Order era. Elections are inseparable from the applicable laws. The 2009 election refers to 4 laws relating to the administration of elections. Meanwhile, the last election that was held was the 2014 election. The election referred to 4 laws relating to the administration of elections.

¹ Muhammad Ibrahim Rantau, "Penguatan Sistem Presidensial Di Indonesia: Analisis Terhadap Undang Undang No 7 Tahun 2017 Tentang Pemilihan Umum," *Jurnal Penelitian Dan Karya Ilmiah* 19, no. 2 (2019): 181–93, <https://doi.org/10.33592/pelita.vol19.iss2.120>.

² Udiyo Basuki, "Quo Vadis UUD 1945: Refleksi 65 Tahun Indonesia Berkonstitusi", dalam *Jurnal Supremasi Hukum*, Vol.1 No.1, Juni 2012, hlm. 18.

According to Andrew Reynolds, the general election system (election) is important because the electoral system is a means of the people. The electoral system is the method by which the votes obtained in elections are translated into seats won in parliament by parties and candidates. Another important function of the electoral system is to act as a conduit through which all citizens can hold elected representatives to account. Electoral systems also help set the boundaries of acceptable political discourse by providing encouragement to party leaders.³

Indonesia is a democratic country that chooses an electoral system through a proportional system. Proportional system (balanced representation), namely an electoral system that pays attention to the balance of the population and the number of seats in the electoral area. The basis of this system's thinking is the presence of awareness to translate the distribution of votes for each party according to the proportion of seats in the legislature. In this system, the term district magnitude is known. By using this system, the largest allocation in filling legislative institutions is concentrated in areas with high population numbers. So that political parties that win elections in a region will be directly proportional to the party's vote acquisition.⁴

In its development, Indonesia with a proportional system has used open proportional and closed proportional models since the first general election in 1955 until the implementation of the 2019 general election. The open proportional system has also been tested at the Constitutional Court because it is considered to have various weaknesses, but that does not mean also with a closed proportional system has no weak points. Therefore, based on the problems above, the author is interested in studying the open and closed proportional electoral system in welcoming the upcoming 2024 elections.

2. Method

The type of research used in this paper uses normative legal research methods, namely: studying law which is conceptualized as a norm or rule that applies in society, and becomes a reference for everyone's behavior. Normative legal research or literature includes research on legal principles, legal systematics, level of synchronization, comparative law and legal history.⁵

In this research, data collection techniques were used through library research. It is known that normative legal research is limited to the use of document studies or library materials only, namely on secondary legal data. The data collection was carried out by studying data on matters in the form of notes, transcripts, newspapers and views that are relevant to the subject matter and general reference sources (literature books) as well as special references (documents) which are directly adapted to the problem discussed.

³ Andrew Reynolds, "Merancang Sistem Pemilihan Umum", dalam Ikrar Nusa Bhakti dan Riza Sihbudi (ed.), *Menjauhi Demokrasi Kaum Penjahat: Belajar dari Kekeliruan Negara-Negara Lain*, Jakarta: Mizan, 2001, hlm. 102.

⁴ Mega Putri Rahayu, Lita Tyesta, and Ratna Herawati, "Sistem Proporsional Dalam Pemilihan Umum Legislatif Di Indonesia," *Diponegoro Law Journal* 6, no. 2 (2017): 1–11, <https://ejournal3.undip.ac.id/index.php/dlr/article/view/17295>.

⁵ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif; Suatu Tinjauan Singkat*, (Jakarta : RajaGrafindo Persada, 2009), hlm. 14.

After the data and legal materials have been collected, data processing is carried out, namely processing the data in such a way that the data is arranged in a coherent and systematic manner into classes of symptoms that are the same or considered to be the same, making it easier for researchers to carry out analysis. Such data processing is known as classification. The data analysis technique used is descriptive analysis method. In this descriptive analysis, the researcher provides an overview or explanation of the subjects and objects of the research as per the results of the research they have obtained. In normative legal research, processing and legal materials take the form of activities to systematize written legal data and materials by selecting secondary data followed by qualifications and compiling the research data in a systematic and logical manner.

3. Result and Discussion

1. General Election System

The general election system (election) has been widely disclosed by political experts regarding its meaning and definition, but in general it is divided into two systems, namely the district system and the proportional system. So far, elections in Indonesia have used a proportional system with an open list system. The implications of this electoral system are indeed higher in accommodating all political forces in Indonesia, but the negative impact is the less stable position of the legislature because there are too many political parties, making it difficult to find policy solutions quickly, and what is even more sad is the occurrence of "reward politics". against all political forces in the DPR.

There are several key variables of the electoral system, namely: (1) the election formula used, namely whether a plurality/majority, proportional, mixed or other system is used, (2) what mathematical formula is used to calculate seat allocation, (3) the structure voting i.e. whether the voter chooses a candidate or a party and whether the voter makes a single choice or expresses a set of preferences, and (4) the size of the constituency i.e. how many representatives in the legislature are elected in that area.⁶

Electoral systems in the world, broadly speaking, can be grouped into three types, namely majority or plurality (district) electoral systems, semi-proportional electoral systems, and proportional representation systems. The majority system consists of three models, namely (1) the first past the post system, namely the candidate who gets the most votes will get a seat (2) the run-off system, which is a two-round election system where if in the first round no candidate wins obtain a majority vote, a second choice is held to determine the ultimate winner of the strongest candidates, (3) a block vote system, namely an election system that has many representatives and gives flexibility to voters to cast more than one vote according to the number of candidates or seats available.

Second, the semi-proportional system is also divided into two models, namely (1) a parallel system, namely a combination of a proportional system

⁶ Andrew Reynolds, et al, *Desain Sistem Pemilu: Buku Panduan Baru International IDEA*, Jakarta; Perludem, 2016, hlm. 5-6.

and a plurality-majority system that is run in parallel, and (2) a single non-transferable vote system, namely a combination of the first past the post system. with multi-member districts in which voters cast only one vote.

Third, the proportional system is divided into three models, namely: (1) a list system, in which each party makes and shows their list of candidates to voters where parties will then receive seats based on the number of votes obtained; (2) a mixed member proportional system, where some seats are selected using the majority-plurality method, while the rest use a list system, and (3) a single transferable vote system, which uses a preferential system and is used in districts with many members.⁷

General elections have been going on since 1955 in Indonesia using a proportional system. A proportional election system is an election system in which the available seats in parliament are distributed among the political parties participating in the election in accordance with the balance of the votes they obtain in the election in question. Basically, both open and closed proportional system models have been applied in the election system in Indonesia. Where a closed proportional system was used for the 1999 and 2004 elections, while an open proportional system was used for the 2009, 2014 and 2019 elections.⁸

2. History of the general election system in Indonesia

In a pluralistic Indonesia with high complexity in the political life of society, of course elections held by the organizing committee are not easy. In its development, elections in Indonesia have two systems. First, a closed proportional system) with the mechanism of election by the people only for parties. The way this system works is that voters cast their vote only by punching in the party's picture, the party's vote for the first opportunity will be given to the candidate with the top serial number. Second, an open proportional system with the way this system works, voters directly elect their legislative representatives. Indonesian elections have been held 12 times, namely the first election was held in 1955, after which it was held successively in 1971, 1977, 1982, 1987, 1992, 1997. After the end of the era of President Soeharto, elections were held again in 1999, 2004, 2009, 2014 and finally in 2019. From 1971 to 1999 the electoral system used a closed proportional system. The electoral system then underwent a slight change after the reform, namely in 2004 with a semi-open proportional system. The new open proportional system was actually implemented in the 2009 election, starting with the decision of the Constitutional Court Number: 22-24/PUU-VI/2008.

In the 1955 election and the New Order elections, in the 1999 election which was the first election in the reform era, the electoral system used was a closed list proportional election system, which in the General Explanation of Law no. 3 of 1999, proportionally based on the list system.

⁷ Lili Romli, Perdebatan Sistem Pemilihan Umum Legislatif Pada Pemilu Serentak 2019, *Jurnal Kajian*, Vol.23 No.4 Desember 2018 hlm.239

⁸ Mohammad Badrul, Program Studi, and Sistem Informasi, "Prediksi Hasil Pemilu Legislatif Dengan Menggunakan Algoritma K-Nearest Neighbor," *Jurnal Pilar Nusa Mandiri* 11, no. 2 (2015): 152-60.

The implementation of the system is contained in Article 68 of Law Number 3 of 1999.

After 2004, the open proportional system was the antithesis of the previously used closed proportional system. An important factor in the use of an open proportional system is to limit the control of political party elites in determining the structural circulation of the legislature. The open proportional system also aims to achieve people's sovereignty, in which candidates for legislative members can have direct contact with the people, and the people can choose which figures they hope to represent them in parliament. In contrast to the open proportional system, where people can only see the party's picture on the ballot without knowing who the party will choose to represent them based on the serial number determined by the party's internal.⁹

The hope of the open list proportional system is that voters no longer choose the cat in the sack, because voters know their identity as well as their track record, so that when they are elected later, between voters and elected representatives an accountable political relationship is established. However, with an open proportional system based on candidates, there is competition between candidates within one party, candidate competition between parties, and candidate competition between constituencies in winning limited parliamentary seats which allows for money politics efforts from each candidate to win over the people's hoops. . The weakness of the open proportional election system also makes the party's control weak over candidates and hampers the party's ideological cadre.¹⁰

In the 2014 elections based on Law no. 8 of 2012, the electoral system remains an open list proportional system. In Article 5 of Law no. 8 of 2012 states that elections to elect members of the DPR, Provincial DPRD and Regency/Municipal DPRD are carried out using an open proportional system. To determine the elected candidate refers to the decision of the Constitutional Court. Article 215 Law no. 8 of 2012 states, Candidates for election to members of the DPR, Provincial DPRD and Regency/Municipal DPRD are determined based on the candidate who gets the most votes.

In the 2019 election which is based on Law no. 7 of 2017, the election system used is an open proportional system based on the most votes. However, before establishing the system, there was a debate in the discussion. This is because there are three options related to the proportional election system, namely: first, elections to elect members of the DPR, Provincial DPRD and Regency/Municipal DPRD are carried out using an open proportional system proposed by the Gerindra Party, PKB, PD, PPP, PAN, PKS , Nasdem, and Hanura. Second, elections to elect members of the DPR, Provincial DPRD and Regency/Municipal DPRD are carried out using a closed proportional system proposed by PDIP and the

⁹ Diah Ayu Pratiwi, "Sistem Pemilu Proporsional Daftar Terbuka Di Indonesia: Melahirkan Korupsi Politik?," *Jurnal Trias Politika* 2, no. 1 (2018): 13, <https://doi.org/10.33373/jtp.v2i1.1235>

¹⁰ Putu Eva Ditayani Antari, "Interpretasi Demokrasi Dalam Sistem Mekanis Terbuka Pemilihan Umum Di Indonesia," *Jurnal Panorama Hukum* 3, no. 1 (2018): 87–104, <https://doi.org/10.21067/jph.v3i1.2359>

Golkar Party. Third, elections to elect members of the DPR, Provincial DPRD and Regency/Municipal DPRD are carried out using a limited open proportional system submitted by the Government.

In 2019 an open proportional system was implemented simultaneously with the presidential and vice-presidential elections, where an electoral system regulated in the law certainly has implications that will have consequences for the technical implementation of each stage of the election in terms of administrative requirements, procedures, time, executive staff, facilities, budget and other institutional support.¹¹ The consequences of the 2019 election which we have passed and which we will apply again in 2024 must pay attention to legal instruments including one of which is contained in Article 21 of the Universal Declaration of Human Rights, that the main substance in the contents of the declaration states that respect for the right to life is the supreme human right that every human being has since he was born, so that, in drafting election regulatory instruments, legislators and technical regulations must incorporate the spirit of upholding human rights. holistically. The General Election Commission (KPU), which was mandated by the 1945 Constitution as the election organizer, not only has the main obligation to protect people's voting rights, but also has the responsibility to protect the right to life of all administrators under it, up to KPPS officers and TPS security personnel. though. The 2019 election itself has a big tragedy regarding the right to life. Nearly 527 people died due to fatigue in carrying out their duties as organizers with working hours of around 16-24 hours. In addition, the budget used for elections with an open proportional system is quite a lot, around Rp. 722,912,000,000.¹²

Elections will be held again in 2024, but are still waiting for legal certainty from the decision of the Constitutional Court regarding which proportional system will be used. UU no. 7 of 2017 concerning Elections Article 168 is currently being tested in the Constitutional Court, because it is considered contrary to the 1945 Constitution which states that election participants are political parties which means that the constitutional order for closed proportionality must become an election system in 2024. Researchers have perceptions to prevent tragedies in 2019, the government must reconsider reviewing the two systems, namely the open proportional system and the closed proportional system.¹³

3. Open and Closed Proportional System in the 2024 Legislative Election

¹¹ Sarfan Tabo, "Analisis Proses Pemutahiran Daftar Pemilih Dalam Daftar Pemilih Tetap (DPT) Pada Pemilu Tahun 2019 Di Kabupaten Gorontalo," *Http://Journal.Ildikti9.Id/Sosiosains* 2 (2022): 139–52, <http://journal.ildikti9.id/sosiosains/article/view/632/462>.

¹² Mokhammad Samsul Arif, "Reformulation of Electoral Balloting for Post-Concurrent Elections 2019: An Evaluation Study of Proportional Representatif System (Open List)," *Jurnal Wacana Politik* 4, no. 2 (2019): 157–71, <http://jurnal.unpad.ac.id/wacanapolitik/article/view/25269>

¹³ Muhammad Muhammad, "Evaluasi Undang-Undang Pemilu," *Jurnal Arajang* 3, no. 1 (2020): 60–72, <https://doi.org/10.31605/arajang.v3i1.586>.

In holding elections there are principles that must be carried out properly, namely the principles of direct, public, free, confidential, honest and fair. The author thinks that the five principles have the same position in producing officials with high integrity, but in this case the author focuses more on the implementation of the principles of honesty and fairness. This is because it is well known that in the several elections that have been held since they were first held (in 1955) until now, the highest number of election violations is related to money politics. Thus a way is needed to deal with these violations of money politics, so that the officials produced are officials produced by elections that are clean and have integrity and fulfill the five principles of the general election. This is necessary because if the right way (honest and fair) is not found, injustice will occur. Candidates participating in elections can use high financial power to defeat candidates who are not/weak in financial terms.

The practice of money politics basically has nothing directly to do with the existence of law number 7 of 2017 which has been explained in article 168 paragraph (2) which reads "elections to elect members of the DPR, Provincial DPRD and Regency/City DPRD are held with a proportional system open". On the other hand, money politics is carried out by the logic and psychology of a pragmatic society, especially members who do not have qualified qualifications, instead they follow unhealthy political conditions. An open proportional system is in fact an obstacle for individual political parties. Due to the high number of votes cast by the public for legislative candidates will be higher than the votes cast by the political parties themselves. Things like this can lead to a lack of the role of parties in elections where parties are merely political vehicles for legislative candidates. In law, in particular the science of legislation, there is a principle that is commonly applied in all parts of the world, including in Indonesia, this principle is called legal fiction (*presumptio iures de iure*/everyone is considered to know the law that is in force and binds himself).

In an open proportional system, the high political costs required to run for legislative candidates in elections also have an impact on the increasing cases of corruption that occur in Indonesia. After being able to obtain a position in the people's representative institution, there will be an intention to use his power to collect as much coffers of money as possible. This power was eventually used as an additional business which resulted in a decline in the quality and authority of the people's representative institutions. Members of the legislature no longer act as representatives of the people, but only represent the interests of groups, factions, and even their own personal interests.

However, if you look at the open proportional election system, it provides more equal opportunities to all citizens who take part in the process of nominating themselves as candidates in the upcoming 2024 simultaneous elections, because the open system better describes and represents the will of the people's heart, a large number of votes, which the people choose based on their heart. conscience. An open proportional system basically does

not overstep the authority of the party and can still produce quality members of the legislature. The key is to carry out open recruitment to screen the best party cadres, so that only qualified candidates for legislative members are offered to voters.

On the other hand, an open proportional election system will allow more sons of the nation to register and be proposed as candidates, thereby encouraging a higher level of voter turnout. With an open proportional election system, the candidate member who gets the most votes and meets the voter divisor number (BPP) requirements will automatically become a member of the DPR, regardless of serial number. If the system is closed, the number one candidate for becoming a member of the DPR will be prioritized, even though it may not necessarily get the highest number of votes.

An open proportional electoral system guarantees the fulfillment of citizens' democratic rights, especially in the midst of a democratic climate and an increasingly open society as it is today. The determination of citizens' political choices has been based on considerations that are more logical and open, compared to primordial or other considerations.

The closed proportional system has a different election ballot model (only contains pictures of political parties) and will have an impact on the counting and recapitulation process at TPS which will no longer take up to 16-24 hours, but 5 to 7.5 hours is sufficient assuming the counting process is and the recapitulation of each ballot entity takes 1 to 1.5 hours. If so, the counting and recapitulation activities can end at a maximum of 21.00.

The use of the budget in a closed proportional election system can be said to be quite smaller compared to an open proportional election system, this can be seen from the ballot papers. In 2019, for the election of members of the DPR and DPRD, the ballots used a portrait or vertical design with a size of 51 cm × 82 cm. This size is almost equal to one and a half times the size of a newspaper page. As for the Presidential Election ballots, the size is 22 cm × 31 cm or slightly larger than A4 paper size with a landscape or horizontal design. The super-large size of the ballot paper cannot be separated from the large number of parties participating in the 2019 Election, the paper size has the potential to become even larger if in the 2024 Election there will be more than 16 political parties participating in the contest. If the election system, which originally used an open list, is changed to a closed list, namely by only selecting pictures of political parties, assuming there are 16 political parties participating in the election, then the paper size for the DPR, Provincial and Regency/City DPRD elections can be reduced to around 60%. As an illustration, if the number of voters in the DPT is around 190 million, then the total number of ballots printed is 970 billion sheets including reserves. Meanwhile, the budget used to produce ballots for the 2019 election amounted to more than IDR 603.34 billion. By changing the size of the Pileg ballot paper to more or less the size of the presidential election ballot paper, the cost of procuring the entire simultaneous election ballot paper can be saved by 38%. The closed list proportional system contributes

to the efficiency of procurement of ballots with a (saving) difference of Rp. 407,222,250,000,-.¹⁴

With the high political costs that must be incurred by parties and candidates, as well as the state budget issued for elections using an open proportional system, the opportunity for a new election system in 2024 may exist, namely closed proportional which offers cheap political costs, minimizes money political, and internal parties whose envoys are ideological.

Even though a closed proportional system can be a solution to the current conditions of Indonesian politics and democracy for elections, oligarchs can play through this system, and parties will dominate more and people's sovereignty can be threatened. Even though it has weaknesses, there are still efforts that the government can make and these efforts can be maximized in improving a closed proportional system, namely a closed proportional system that can be accompanied by primary elections or internal party conventions to screen credible candidates while reducing oligarchy and bribery at the elite level.

4. Conclusion

The upcoming general elections in Indonesia in 2024 must be held based on the results of a thorough evaluation of the elections in the past several periods. Starting from constitutional orders, democracy, fraud, political costs, election budgets and human rights. With the open proportional system that exists now, it is feared that it will only make democracy and people's sovereignty as well as the people's political intelligence will worsen. The open proportion must be corrected, including one of them considering the discussion of a closed system by the authorities by also considering the good and bad of these two electoral systems.

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