

APPLICATION OF OPEN PROPORTIONAL SYSTEM IN POST AMENDMENT LEGISLATIVE ELECTIONS BASIC LAW OF THE REPUBLIC OF INDONESIA YEAR 1945

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APPLICATION OF OPEN PROPORTIONAL SYSTEM IN POST AMENDMENT LEGISLATIVE ELECTIONS BASIC LAW OF THE REPUBLIC OF INDONESIA YEAR 1945

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This study aims to examine how the concept of the application of the Open Proportional System in the Legislative Elections After the Amendment to the 1945 Constitution of the Republic of Indonesia is applied. This study uses a normative juridical method based on primary and secondary legal materials. The form of the results of this research is descriptive analysis, where the results of the research provide an objective description of the concept of the application of the Open Proportional System in the Legislative Elections After the Amendment to the 1945 Constitution of the Republic of Indonesia. The approaches in this study are: statute approach, and conceptual approach. In tracing legal materials, the author uses the Research library, and uses qualitative analysis. The results show that the application of the open proportional system in the legislative elections after the amendment to the 1945 Constitution of the Republic of Indonesia varies, the 2004 election with a limited open proportional system using a BPP value of 100%, the 2009 and 2014 elections applying a pure open proportional system using the hare quota method and the 2019 election applying the system pure open proportional with sound conversion method using sainte lague system. The open proportional system is also able to present a variety of electoral winning

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INTRODUCTION

Indonesia is a State that has embraced the understanding of people's sovereignty (democratic) as stated in the body of the Constitution of the Republic of Indonesia of 1945 in Article 1 paragraph (2) which reads "kedaulatan berada di tangan rakyat dan dilaksanakan menurut Undang-Undang Dasar" (Ridwan, 2011). Power comes from the people, by the people and for the people. Even power is held together with the people. The form of the capture of people's sovereignty with the holding of elections. Since the third amendment of the 1945 Constitution, elections in Indonesia are no longer limited to electing members of the House of Representatives and the Regional People's Representative Council only, but also to elect members of the Regional Representative Council, the President and Vice President. Holding elections is an element that must exist in a democratic government. Elections in democracies can be seen as the beginning of the democratic paradigm. In addition to the elements of elections, in a democracy there must also be an element of accountability for power. If elections can be viewed as the beginning of the democratic paradigm then the accountability of power should be viewed as the end of the democratic paradigm. The implementation of elections is inseparable from the system applied like two sides of a currency that cannot be separated from each other. The general election applied in Indonesia has a different system before the amendment of the Basic Law of 1945 the electoral system applied is a closed proportional system while after the amendment of the Basic Law of 1945 the electoral system applied is an open proportional system (Putra, 2018). In political science, especially on ownership, it is mentioned that the rationale for the emergence of a proportional system is to reduce the gap between the party's vote nationally and the acquisition of seats in parliament (Jurdi, 2018). In other words, the political party's vote share is in line with the acquisition of its seats.

Hope that an open proportional system can accommodate the diversity of Indonesian people from Sabang to Merauke (Zuhro, 2019). However, the phenomenon of an open proportional system that was imposed from the general election in 2004 until the 2019 election still has many shortcomings. Among other things, an open proportional system nourishes Indonesian corruption, weakening the identity of political parties or party identities (Muhtadi, 2019). In addition, another phenomenon in this general election is that elected candidates for elected representatives are dismissed by political parties on the grounds that they violate the party's code of conduct (Farida, 2013). The existence of a change of side by a political party can damage the sovereignty of the people embraced by Indonesia which has been outlined in the Constitution of the Republic of Indonesia in 1945 (Karianga & SH, 2015).

RESEARCH METHOD

This study uses a normative juridical research method, namely using written legal norms as the basis for research (Budianto, 2020). The approaches in this research are: statute approach, and conceptual approach. The research is directed at studying positive law. The nature of this research is descriptive, that is,

the author intends to describe systematically, conceptually and actually.

The object of this research is the Open Proportional System in the Legislative Election Post Amendment to the 1945 Constitution of the Republic of Indonesia. The data collected in this study are in the form of primary and secondary data consisting of:

- a. Primary legal materials are the main data in this research, namely the 1945 Constitution of the Republic of Indonesia, Law Number 12 of 2003 concerning General Elections, Law Number 10 of 2008 concerning General Elections for Members of the House of Representatives, Regional Representative Council, and the Regional People's Representative Council, Law Number 8 of 2012 General Election of Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council, Law Number 7 of 2017 concerning General Elections, Law No. 15 of 2019 concerning Amendments Law Number 12 of 2011 concerning the Establishment of Legislation, Constitutional Court Decision Number 22-24/PUU-VI/2008 concerning Judicial Review of Law Number 10 of 2008 concerning General Elections for Members of the House of Representatives, Regional Representative Council, and Regional People's Representative Council, and Constitutional Court Decision Number 14/PUU-XI/2013 Review of Law Number 42 Year 2008 concerning General Election of President and Vice President;
- b. Secondary legal materials are materials obtained from textbooks, scientific journals, papers in scientific forums, and the opinions of legal experts.
- c. Tertiary legal materials are materials that provide instructions and explanations of primary legal materials and tertiary legal materials in the form of dictionaries and encyclopedias.

Data analysis was carried out qualitatively, after the authors obtained data in the form of primary data consisting of primary, secondary and tertiary legal materials. Then the authors process the data with in-depth analyzes, then presented in detail with clear sentences and easy to understand.

Drawing conclusions used in this study is a research conducted inductively where conclusions start from things that are specific to things that are general.

RESULT AND DISCUSSION

A. Application of the Open Proportional System in the Legislative General Election after the Amendment to the 1945 Constitution of the Republic of Indonesia

In simple terms, the general election system means an instrument for translating the vote gains in the general election into the seats won by political parties or candidates. The basic variables that are often used include the electoral formula, ballot structure, and district magnitude (Kacung, 2012).

The general election system in Indonesia has changed, from a closed list proportional system to an open list system. The closed proportional general election system is the determination of the elected legislative candidates not based on the votes they get but based on the votes acquired by political parties. Even

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though voters²³ directly cast their votes for one of the candidates, the vote remains the vote of a political party. The votes of political parties that have reached the

seat threshold will be given to candidates based on serial numbers (Rahman, 2017). An open proportional representation system that provides space for voters to participate in the process of determining the order of party candidates to be elected. The open list system is the opposite of the close list system which only allows active party members, party officials, or consultants to determine the order of candidates and voters do not have the opportunity to participate in determining candidate positions. In addition, the open list system provides sufficient space for voters to directly elect legislative candidates rather than political parties. The choice given by the voter is called the preference choice.

In 2003, Indonesia changed its electoral system from a closed candidate list proportional representation system in a wide electoral area to a proportional representation system with an open list of candidates in small electoral districts, to strengthen the relationship between voters and their elected members of parliament, while maintaining the nature of the electoral process, the consensus of the Indonesian government system. This change is not completely open but tends to be a semi-open list proportional system. This is because the determination of who will represent the party in obtaining seats in parliament is not based on the majority of votes but is still based on serial numbers. Electoral system reform places the burden of information responsibility on the LPP, and requires the EMB to implement new methods for delimiting electoral area⁴⁵, voting, and counting votes. Then the elections held in 2004 had the election of a new legislative body which was the Regional Representatives Council.

The presence of the Regional Representative Council in the legislature has brought about a general election system that varies between the district general election system and the open proportional electoral system (André & Depauw, 2013). The participants of the Regional Representatives Council are individuals because each province or electoral district has 4 seats and the votes of the losing contestants cannot be transferred or transferred (non-transferable votes) so the system used here can be called the District¹⁶ system with many representatives (block vote). . For the election of members of the People's Representative Council and Regional People's⁴⁷ representative Council, a proportional system is used with the Open List Stelsel (Article 6 paragraph (1) of Law Number 12 of 2003), thus providing an opportunity for voters to be able to directly cast their votes for the candidate to be elected. In this case, the voter casts his vote to the party, the candidate at the top has a great chance of being elected because the vote given to the party belongs to the candidate at the top.

The 2004 general election resulted in a good representative function. The representative function is ideal if the ratio of the percentage of votes to seats in the same or close to the same so that the deviation of the proportionality and the proportionality index are equal or close to one. From the results of the general election calculation, it is known that the proportionality deviation is 2.4% and the proportionality index is 0.7%. However, this representation does not show fairness where the principle of one person one vote one value is not achieved. And also the integrity function is not very good. Integrity function is measured by mechanical effects and psychological effects. The mechanical effect is calculated

based on the effective number of political parties participating in the election and the effective number of parties in parliament. While the psychological effect is seen from the non-representation index (the number of voters who are not registered and do not use their right to vote) and the party resilience index (the average age of the party) (Joko Prihatmoko, 2008). In this election, the majority of seats were led by the Golkar party with 128 seats. Political parties can participate in elections Next, if you get a minimum of 3% of the total seats in the DPR, two newcomer parties in the 2004 election were able to get seats, namely the 22-seat Democratic Party and 45-seat Prosperous Justice Party.

The 2009 general election finally used an open-list proportional system. The proportional open list means that voters can choose not only the party they like but also the legislative candidates from that party (Harun Husein, 2014). The legislative candidate who gets the most votes is determined to be the elected legislative candidate, regardless of the serial number. The open proportional system implemented in this general election is a form of political judicialization at the Constitutional Court through Decision 22-24/PUU-VI/2008. This decision of the Constitutional Court has also served to reduce the determination of political parties in determining the elected candidates. The reduced determination of parties in determining the elected candidates as well as shifting the general election system from a limited open proportional system to a purely open proportional system (Fahmi, 2011).

This general election was participated by 44 political parties and a total of 550 seats were contested. The threshold of 2.5% of parties participating in the election that automatically won tickets for election participants because they passed the seat threshold in the 2004 general election for these parties was: the Golkar Party, the Democratic Party, the Indonesian Democratic Party of Struggle (PDIP), the United Development Party (PPP), the National Mandate Party (PAN), the National Awakening Party (PKB) and the Prosperous Justice Party (PKS). This 2.5% threshold can be met by various things and the political parties that benefit in this case are the Gerindra party and the Hanura party which are new participants in the election. These two parties not only passed the 2.5% threshold but also won seats in the House of Representatives. So that it becomes a new party it can be considered as a contestant in the general election. The results of this general election put the Democratic party as the winner of the legislative election.

The general election in 2014 used an open list proportional election system, but it showed widespread violations of money politics. Violation of money politics is one of the phenomena resulting from the application of an open proportional system. The open proportional system provides space for candidates to compete openly with other candidates, both internally by political parties and between political parties to obtain voters' votes. The impact is the high number of money politics violations in society. This is a setback to democracy. As for the 2014 general election, 259 cases were consisting of 104 cases of giving cash, 128 cases of giving goods, and 27 cases of providing services (Syahrul Mustofa, 2013). This general election was participated by 46 political parties and a total of 560 seats were contested. Of the 46 political parties, only 10 passed the 3.5% threshold and the Nasdem party was the only new party that was able to redeem

the 3.5% threshold. The results of the legislative elections were won by the Indonesian Democratic Party of Struggle (PDIP) with 109 seats.

In the 2019 election, which elects the President and Vice President simultaneously by choosing members of the parliamentary party, this is Indonesia's first national simultaneous general election. The definition of the simultaneous general election is the merging of executive and legislative elections in one stage of implementation, especially the voting stage. The goal is not only budget efficiency, but also to create a concurrent government or avoid a divided government in the form of a majority seat in parliament that is not owned by the party or coalition that carries it (Wulandari & Perludem, 2017). The general election system used is an open proportional system based on the majority of votes. However, before establishing the system, there was a debate in the discussion. This is because there are three options related to the proportional general election system, namely: first, the general election to elect members of the People's Representative Council, Provincial Regional People's Representative Council, and Regency/Municipal Regional People's Representative Council are carried out with an open proportional system proposed by the Gerindra Party, The National Awakening Party (PKB), the Democratic Party, the United Development Party (PPP), the National Mandate Party (PAN), the Prosperous Justice Party (PKS), the Nasdem Party, and the Hanura Party. Second, the general election to elect members of the People's Representative Council, Provincial Regional People's Representative Council, and Regency/Municipal Regional People's Representative Council shall be held with a closed proportional system proposed by the Indonesian Democratic Party of Struggle (PDIP) and the Golkar Party. Third, the general election to elect members of the People's Representative Council, Provincial Regional People's Representative Council, and Regency/Municipal Regional People's Representative Council shall be conducted with a limited open proportional system proposed by the government (Lili Romli, 2019). The 2019 general election was attended by 46 political parties and 575 seats were contested with a threshold of 4%. As many as 27 political parties registered as participants in the legislative elections, only 9 political parties got seats. The 2019 legislative election was again won by the Indonesian Democratic Party of Struggle (PDIP).

The author considers that the implementation of an open proportional system after the amendment to the 1945 Constitution shows variations in the winners of the general election, namely the 2004 winner of the Golkar party, 2009 winner of the Democratic party, 2014 winner of the Indonesian Democratic Party of Struggle (PDIP) and 2019 winner of the Indonesian Democratic Party of Struggle (PDIP). as well as providing opportunities for new parties to participate in the election contestation, this can be seen in 2004 the presence of the Democratic party, and PKS, 2009 the Gerindra and Hanura parties and 2014 the Nasdem party.

Then which of the general elections in 2004-2019 with an open proportional system is the most ideal? According to the author, among the 2004-2019 general election systems above, it cannot be said that there is the most ideal one because it still has shortcomings that must be corrected. For example, in the 2004 general

election, the general election system was not able to accommodate the people's votes because if the voters did not vote for the pictures of the political parties, the votes were considered invalid. The determination of the winner of the general election is not based on the majority of votes but must meet the vote acquisition of 100% or more from the BPP so that this system is more accurately called a limited open proportional. In 2009 2014 and 2019 general elections, the elected candidates are determined based on the majority of votes or known as a pure open proportional system, but the political costs in this election are very high. In addition, a significant difference between the 2004-2014 general election and the 2019 general election is the use of different vote counting methods. The 2004-2014 general election used the hare quota vote calculation method while the method used in the 2019 general election was the sainte lague method. Where the hare quota vote calculation method provides an opportunity for small, medium-sized parties to get seats through the remaining votes, while the sainte lague vote calculation method is more proportional so that it benefits all parties and the potential for conflict is low. To find the ideal open proportional system there must be improvements or solutions to the weaknesses of this system. The most crucial weakness of the open proportional system is the practice of money politics.

Talking about money politics in election contestations is like reading a legendary fairy tale but it is difficult to find the fictional side of the story. The romance of money politics amid the legislative elections is starting to feel like we political elites have failed to convince the public about the vision, mission, and program as well as the party's ideology correctly, resulting in people's apathy towards the legislative candidates being promoted. This attitude then encourages legislative candidates to use the ultimate move to win back the hearts of their voters, namely money politics.

The most crucial problems in the general election include the weakening of party identity and the violation of money politics to gain votes. Of course, this problem must be resolved so that general election are held following the principles of direct, general, free, secret, honest, and fair. The author offers a solution so that money politics does not run rampant, namely as follows: First, money politics is no longer an open secret and has even become entrenched in every election, thus it is necessary to raise awareness of the candidates who participate in elections not to use this method considering that money politics makes boarding houses. politics becomes expensive which will have an impact in the future, namely corruption; Second, the public as voters must be smart in voting so that the candidate chosen is the right person to channel their aspirations; Third, the role of election supervisors is very decisive and strict sanctions must be enforced.

Regarding the open proportional election system, it is still worth maintaining as the joint secretariat revealed several reasons why the open proportional system is maintained in elections in Indonesia (Romli, 2019), namely:

1. Improving the relationship between legislative candidates and voters. In an open proportional system, voters can directly vote for legislative candidates under the wishes of the voters. In an open list system, voters can directly

determine legislative candidates according to their wishes without being determined by political parties. This means that the relationship between legislative candidates and voters will be closer;

2. The process of recruiting legislative candidates in internal political parties is still closed, if the electoral system used is a closed proportional system, then there is no room for voters to select directly legislative candidates by the wishes of the voters, while with an open proportional system the voters can decide on the oligarchy of the party;
3. For female legislative candidates, the open proportional system provides lessons on how to compete in general elections, if the general election system is changed, then what these women have learned so far will be in vain;
4. The open proportional electoral system can increase the number of women in parliament. Moreover, this system has encouraged women to engage in practical politics in the field through various election-winning activities.
5. Completion of the open proportional electoral system is carried out with two aspects: system and management. In the general election system: first, it needs to be reduced to 3-6 seats so that candidates and voters can more easily recognize each other and take responsibility for each other; second, the variables of the nomination method are emphasized, voters only choose candidates because choosing a candidate means choosing a political party because the candidate is proposed by a political party. The ease of voting with this mechanism will make voters and candidates focus on the campaign.
6. Meanwhile, in the management aspect, improvements were made, especially in campaign methods. Here the law requires strong interaction between voters and candidates so that they not only know each other but are also mutually accountable, namely during the general election and after the general election.

In line with the Joint Secretariat, the author considers that the open proportional system is still worth maintaining considering that Indonesia is a multicultural country where each region has its diversity and characteristics so that with this general election system the people can choose the representatives they want. However, it is undeniable that the current open proportional system still needs to make various improvements in the future, according to the author, the things that need to be improved are as follows:

- a) In Law Number 7 of 2017 concerning General Elections Article 21 paragraph (2) it reads "The DCS Draft as referred to in paragraph (1) contains the image and a serial number of the Political Party as well as the serial number, name and recent photograph of the candidate and compiled based on the form: a. DCS model for DPR members". The application of an open proportional system should no longer be used for candidate serial numbers because this will affect voter opinion. The replacement of the serial number system in the list of candidates can be replaced by using alphabetical order or by drawing lots.
- b) It is necessary to improve the legislative nomination system in Law Number 7 of 2017 concerning General Elections as Article 240 paragraph (1) letter n states that candidates for DPR members "become members of the Election Contesting Political Parties". This provision does not state at least how long the prospective candidate has been a member of a political party. This can

- c) result in political parties in recruiting not seeing the political abilities and experience of the candidates who register but looking at the existence of candidates in increasing party electability. Every candidate who will participate in the legislative election contestation must be a member of a political party for at least 3 years. A democratic recruitment pattern must start from within the party, to produce credible and qualified legislative members.
- d) In Law Number 7 of 2017 concerning general elections Article 426 paragraph (1) it is regulated that the replacement of elected candidates for members of DPR, DPD, Provincial DPRD, and Regency/Municipal DPRD is carried out if the elected candidate in question: a. die; b. resign; c. no longer meets the requirements as members of DPR, DPD, Provincial DPRD, or Regency/Municipal DPRD; d. Doing money politics or falsifying documents is proven based on a court decision that has permanent legal force. However, there are no further provisions regarding the dismissal of elected candidates by political parties and sanctions for political parties that replace elected candidates outside the above provisions. It should be regulated in the Election Law so that political parties do not arbitrarily replace elected candidates as was the case with Ervin Luthfi who was replaced with Mulan Jameela. This is done to maintain the purity of the people's voice and the consistency of the legislative election system that adheres to an open proportional system.
- e) Law Number 7 of 2017 concerning General Elections is regulated in Article 523 (1) which reads "every election campaign implementer, participant, and/or team who intentionally promises or gives money or other materials in return for election campaign participants either directly or indirectly as referred to in Article 280 paragraph (1) letter j may be sentenced to a maximum imprisonment of 2 (two) years and a maximum fine of Rp. 24,000,000.00 (twenty-four million rupiahs)", in addition to sanctions in the article, it is also necessary to add disqualification sanctions against candidates who are proven to have committed money politics through Enclit court decisions.

B. Formulation of the General Election Concept with an Ideal Open Proportional System to Realize the Diversity of Voters' Vote

General elections with an open proportional system have been held from 2004 until the 2019 general election. Seeing the implementation of general elections with an open system from general elections to general elections is still very feasible to be carried out in the upcoming general election with some improvements and refinements. The existence of general elections can be a sign of guarantees for achieving national goals and objectives. When those who are in the institutions of organizing general elections carry out their duties, authorities, and obligations according to the General Election Law, they are realizing the guarantee of achieving national goals and objectives. This is the ethical basis according to the law, namely desiderata concerning the general election as a whole, especially about the institutional administration of elections.

As stated in the election law, the national ideals and goals are contained in

the preamble and implemented in the body of the 1945 Constitution of the Republic of Indonesia, namely Article 1 paragraph (2) of the 1945 Constitution places the people as the owner of the highest power in state administration. . General elections are used to give mandates to state administrators as the executor of state power regardless of how the system is applied in general elections (Prasetyo & Marlina, 2019). As Rousseau said, it is the exercise of popular sovereignty through the will of the law (volunte general). For the people's representatives to truly act on behalf of the people, the people's representatives must be determined by the people themselves, namely through a mechanism called a general election which is the political implementation of the will of all the people (volunteer de tous) . .

In that way, the closeness of the general election to the principle of the realization of popular sovereignty is reflected through those who are elected as people's representatives. General elections are a means of changing the abstract concept of popular sovereignty into concrete things, namely, the people resulting from the general election are those who represent the people and work for and on behalf of the people. Therefore, general elections are a way to produce leaders that involve as many people as possible, as well as a gate of change to lead the people to produce leaders who can formulate the right policies, to improve the fate of the people together. In the end, the general election is a means of peaceful leadership change, which should be closely guarded by the active involvement of the community in all stages of the general election.

However, what will happen if the people who have elected their representatives are not able to realize what the people want because the representatives elected by the people before being appointed are replaced by political parties who are the carriers. This case occurred in the 2019 general election. The following details of cases of elected legislative candidates failing to be inaugurated totaling 6 legislative candidates from the Indonesian Democratic Party of Struggle and Gerindra Party can be seen in the table below:

Table 1 Elected Legislative Candidates with Most Votes and Failed to Be Inducted as People's Representatives from the 2019 Legislative Election Results

Politics Partai	Most Vote Winning Number		Replaced by Number One with Most Votes	
	3	Erwin Luthfi		
Gerindra	4	Fahrul Rozi	5	Mulan Jameela
Gerindra	1	Sigitlbngroho Sarasprono	2	Sugiono
Gerindra	1	Moh. Nizar Zohro	2	R. Imron Amin
Gerindra	1	Yusid Toyib	2	Katherine A Oe
Gerindra	1	Steven Abraham	2	Yan Permenas M
	1	G Micheal Jen0		
PDI-P	2	Alexius Akim	7	Maria Lestari

Source: Compiled by Nur Hidayat Sardini in 2020

The dismissal of elected legislative candidates by political parties is the result of the indecisiveness of Law Number 7 of 2017 concerning General

Elections regulating the conditions for the elected legislative candidates to be replaced by other legislative candidates. As in Article 426 of Law Number 7 of 2017 concerning General Elections, five things allow an elected legislative candidate to be replaced by another candidate. First, if the legislative candidate dies. Second, if the elected legislative candidate resigns. Third, if the legislative candidate does not meet the requirements to become a member of the People's Representative Council, Regional Representative Council, Provincial People's Representative Council, Regency/City Regional People's Representative Council. Fourth, if the legislative candidate is proven to have committed a criminal act in the form of money politics or document falsification. Fifth, if the legislative candidate is proven to have violated the campaign ban. The five things set out above are still general, while the dismissal of elected legislative candidates who have not been inaugurated by political parties is special.

Nur Hidayat Sardini, a lecturer at the Faculty of Social Sciences at Diponegoro University, as well as the deputy chairman of the General Elections Supervisory Agency, said that the causes, in this case, were first, there was favoritism in the party's legislature so that the party wanted to promote its favorite legislative candidate by overriding the candidate. Other legislatures elected by the people; second, being dismissed through the party court unilaterally, there are no procedures in this dismissal process; third, the General Elections Commission as the administrative organizing body follows up on the party's instructions to dismiss the elected legislative candidates without any clarification between the two parties, both the parties and the elected legislative brokers; fourth, the role of the General Elections Supervisory Body does not exist at all even though this is a stage of the general election that is included in the realm of the General Elections Supervisory Body overseeing the implementation of all stages of the election process.

The impacts arising from this case are: First, it can damage the building of the general election system because in the general election system that we adhere to it is very clearly regulated in the law that the determination of legislators is based on the majority of votes so that there is no right for anyone to change what has been done included in the law. Second, the people's sovereignty is injured, the role of the general election system is expected to convert the people's votes into state administrator seats following what the people want when voting at the Polling Station but must be inversely proportional to the results of the conversion of the General Election Commission's products following the wishes of political parties; Third, destroying the purpose of the general election from a humanitarian aspect as stated by Jimly Asshiddiqie to implement the principle of citizens' human rights, namely the right to be elected, this case will create demotivation so that people no longer have the motivation to become good politicians in the right way, as well as destroying our tradition of partying which prioritizes the human aspect.

The solution so that the dismissal of elected candidates do not happen again needs to be emphasized in the general election law that the General Election Commission has the duty and authority, the rights and obligations to make the

election system's vote acquisition, if a problem is encountered, it needs clarification. The General Elections Supervisory Body must be involved as part of the dispute process and the General Elections Commission can ask legislative candidates to file a dispute process employing mediation or justification. To realize the concept of general elections with an ideal open proportional system to realize voter vote sovereignty so that the case of the elected legislative candidate being dismissed by the party does not happen again in the future, in this case, the Government in the sense of the House of Representatives and the President revised Law Number 7 of 2017 concerning Elections, especially in article 426, by adding editorial requirements for political parties can replace the elected legislative candidates with other candidates.

This is done to guard the voice of the people who have made their choice through the general election mechanism and can realize justice for the elected legislative candidates to maintain their positions that have been chosen by the people so that political parties do not arbitrarily take away the political rights of the elected legislative candidates with the argument of internal party problems. Thus, the existence of an open proportional general election system adopted by Indonesia is maintained in implementing people's sovereignty so that the pillars of democracy "free and fair elections" proposed by Dahl are realized.

In addition, the author also considers that there needs to be a change in the authority of political parties. Considering that political parties have enormous power, namely recalling their members who are representatives of the people as regulated in Law Number 2 of 2011 concerning political parties article 16 paragraph 1 letter D which reads "Members of a political party are dismissed from their membership of a political party if they violate the Articles of Association and Bylaws" and Paragraph (3) in the same article reads "If the dismissed member of the Political Party is a member of the people's representative institution, the dismissal from membership of the Political Party is followed by dismissal from membership in the people's representative institution following the laws and regulations". This recall mechanism must be improved so that the votes of the people entrusted to their representatives are not eroded by group interests and the intervention of political party elites. The solution that can be done is by granting the right of recall by the constituent or constituent recall so that the people as the constituent who has given the mandate can control the performance of their representatives and can replace them if they are deemed no longer able to represent the aspirations of their constituents.

CONCLUSION

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Based on the discussion, it can be concluded that the Implementation of 30 the Open Proportional System in the Legislative Election Post Amendment to the 1945 Constitution of the Republic of Indonesia is as follows:

a. 2004 election

The implementation of the Open Proportional System in the 2004 election was not fully implemented because it still required a 100% BPP to determine the value of a seat for the determination of the elected candidate, if no one could meet the 100% BPP value then the seat determination returned to the smallest serial number system, so that some

parties call it a “half-open proportional system”;

b. 2009 election

In the implementation of the 2009 General Election, a candidate was initially declared elected if the votes he received were at least 30% of the BPP. This provision was not implemented in the 2009 General Election because it was previously annulled by the Constitutional Court through Decision Number 22-24/PUU-VI/2008 which was decided on 19 December 2008, because it was declared contrary to the 1945 Constitution or unconstitutional so that the decision had no legal force tie;

c. 2014 election

The 2014 election was held with an Open Proportional System and the winner was determined by a majority vote system without being influenced by the BPP value. In determining the seats for the winning candidate, it is calculated using the Hare Quota system calculation method;

d. 2019 election

The 2019 election is the first simultaneous election in the story of elections in Indonesia by providing 5 choices or 5 boxes at once, namely, the President and vice president, DPD, DPR, Provincial DPRD, and Regency/City DPRD. The basis for holding the 2019 simultaneous elections is the Constitutional Court Decision Number 14/PUU-XI/2013. The 2019 general election changed the mechanism for determining the chosen vote from the hare quota method to a pure sainte league.

Whereas the ideal concept of an Open Proportional Election with an Open Proportional System in the context of realizing voter vote sovereignty is carried out with a pure Open Proportional System and in order to maintain voter sovereignty, the recall system by political parties against elected candidates is carried out strictly and openly and supervised by election organizers (KPU and Bawaslu).

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