

PROPORTIONAL SYSTEM IN LEGISLATIVE ELECTIONS IN INDONESIA

Ellectrananda Anugerah Ash-shidiqqi¹

¹Universitas Slamet Riyadi Surakarta, Indonesia

Ellectra_aa@yahoo.co.id

ABSTRACT

Elections have been held on a regular basis in Indonesia. The electoral system used is an important aspect of election administration. In Indonesia, various types of electoral systems have been implemented, one of which is the proportional system. In Indonesia, two proportional systems have been implemented: the closed list proportional system and the open list proportional system. Both of these systems have their advantages and disadvantages in society. As a result, it is necessary to understand the development of a proportional system in legislative elections in Indonesia, as well as the advantages and disadvantages of each system, in order to understand the reasons for selecting this system in legislative elections in Indonesia. This study takes a normative juridical approach. It is defined as descriptive research, data collection techniques using a literature review to obtain secondary data, and data analysis techniques using a descriptive analytical approach. According to the findings of this study, the development of the legislative general election system in Indonesia has not seen much change; all of them use proportional representation, but only in the period before The proportional system reform used a closed list proportional system, whereas it used an open list proportional system after the reform. Furthermore, each system has advantages and disadvantages that can be seen in terms of representational proportionality, party systems, representative institutions, and the relationship between elected representatives and voters.

Keywords: Elections, Electoral Systems, Legislative, Proportional System, the Closed list Open List.

1. INTRODUCTION

Indonesia is a sovereign nation where the people hold the highest authority. Sovereignty in the hands of the people is a concept that applies to independent nations. General elections are one of the ways the people's sovereignty is put into practice. Article 22E, paragraphs 1 through 3, of the 1945 Constitution of the Republic of Indonesia regulates provisions relating to elections (6). (1) General elections are held immediately, openly, freely, secretly, honestly, and fairly once every five years. (2) General elections are held to choose the president and vice president, members of the People's Legislative Council, Regional Representatives Council, and the Regional People's Representative Council. (3) Political parties are candidates in the general election to choose members of the People's Representative Council and the Regional People's Representative Council, (4) Individuals are eligible to vote in the general election to choose the Regional Representatives Council. (5) A national, permanent, and impartial electoral commission oversees the holding of general elections. (6) Additional rules relating to general elections must be governed by legislation.

A democratic process must be used to conduct this general election. Demos, which means the people and is carried out directly or by the people, and cratein, which means government, are the roots of the word democracy (Bari Azed, 2000). The fact that general elections are held is a kind of democracy. One of the requirements for a democratic nation is the holding of free elections. Considering Section 1 of Article 1 of Law No. 8 of 2012 Relating to the General Election of Members of the Regional Representative Council, Regional People's Representative Council, General elections are a way for the Unitary State of the Republic of Indonesia to directly, publicly, freely, secretly, honestly, and equitably implement people's sovereignty. They are founded on Pancasila and the Republic of Indonesia's 1945 Constitution. Elections have frequently taken place in Indonesia. The electoral system in use is one of the key factors in the conduct of elections. In Indonesia, a number of election systems have been put into place, including the proportional system. The closed list proportional system and the open list proportional system are the two types of proportional systems that have been used in Indonesia. In society, each of these systems has benefits and drawbacks. Some people support closed proportional systems, while others are opposed to them, and vice versa.

Based on the background information provided above, the following issues will be studied in relation to Indonesia's proportional system for legislative general elections:

1. How is the development of the proportional system in legislative general elections in Indonesia?
2. What are the advantages and disadvantages of the proportional system in legislative general elections in Indonesia?

2. METHOD

This legal research examines legal facts in-depth and uses the results to provide solutions to all open issues. Researchers use the following techniques when conducting legal research to maximize their findings:

The normative juridical technique is the research methodology used. The data used in this study were analyzed using the juridical approach, which makes use of both secondary sources and current literature. The normative juridical method was employed in this study. The juridical approach is a technique for data analysis that makes use of both secondary data from this study and

current literature (Hanitjo Soemitro, 1988). The descriptive technique seeks to give a broad overview of an event that was place and to describe the subject of research based on current facts chronologically and systematically to be related to specific legal principles in solving issues (Soekanto and Mamudji, 2003).

The type of data used in this research is secondary data. Secondary data obtained by literature study which includes:

1. Primary legal material (primary of source)

Primary legal material is legal material consisting of normative legal rules.

2. Secondary legal materials

Secondary legal materials are literature that writes about theories, opinions of experts and matters relating to the subject matter used as a theoretical rationale. (Mahmud, 2005)

3. Tertiary legal material (tertiary of sources)

Tertiary legal materials are materials that provide instructions and explanations of primary and secondary legal materials such as legal dictionaries, encyclopedias and others, in this study especially secondary legal materials.

The method of data analysis utilized is analytical descriptive, which means that after the data is gathered and transformed into information that is simple to grasp, it is then examined in accordance with the applicable laws and regulations before broad conclusions are produced.

3. RESULTS AND DISCUSSION

A. PROPORTIONAL SYSTEM DEVELOPMENT IN LEGISLATIVE ELECTIONS IN INDONESIA.

A proportional system (balanced representation), often called a multi-member representation system or a proportional representation system, allows for many seats to be up for election in a given electoral district. The number of votes each party receives in this administrative unit affects the number of seats in parliament. In other words, the proportion of seats won by political parties in parliament and the proportion of votes they received are equal (Dhurorudin, 1998).

From the elections in 1955 to the ones in 2014, Indonesia has held general elections eleven times. It has been decided which electoral system would be utilized for each general election, and of course it has distinct features. Indonesia utilizes a proportional election system that has evolved through time for every election, particularly parliamentary elections. The creation of a proportional system in Indonesia's general parliamentary elections entails:

1. The 1955 Legislative General Election.

The first election in Indonesia was conducted in 1955. The elections for the DPR were held on September 29, 1955, while the elections for the constituent assembly were held on December 15, 1955. The legal basis for the 1955 election was Law Number 7 of 1953 concerning the election of members of the Constituent Assembly and members of the People's Representative Council. The system used is a proportional system.

2. The 1971 Legislative General Election.

A general election was held in 1971 to choose members of the People's Representative Council. It took place on July 5, 1971. Law Number 15 of 1969 Governing the General Election of Members of the Consultative Body/Representative People's Council served as the legal foundation for the election of 1971. A list system with balanced (proportional) representation was used for the 1971 election. As a result, voters' support for the organizations running for office in the election is balanced with the level of organizational representation in the DPR and DPRD.

3. The 1977 Legislative General Election.

After the third election, which took place in 1977 and took place more than 6 years after the election in 1971, elections were conducted every 5 years thereafter. Since then, elections have been held on a regular basis. The fact that there were just two political parties and one work group running for office was one of the most glaring differences between this election and that held in 1977. The Indonesian Democratic Party (PDI) and the United Development Party (PPP), as well as one Golongan Karya or Golkar, are the two parties. (<http://kpud-balangankab.go.id/pemilu-tahun-1977/>)

The Law Number 4 of 1975 Amendment to Law Number 15 of 1969 Concerning the General Election of Members of the Consultative Body/Representative People's Body served as the legal foundation for the election of 1977. similar to the elections of 1971 in the 1977 election also used a closed list proportional system. This means that the seats won by political parties are filled by candidates based on the list of candidates determined by the party.

4. The 1982 Legislative General Election.

The 1982 election took place on May 4, 1982. The goal was the same as in 1977: to elect members of the People's Representative Council (parliament). The composition, however, is slightly different. A total of 364 members are directly chosen by the public, while the president appoints 96. The 1982 election system was identical to the ones used in 1971 and 1977, namely a balanced (proportional) representation system with a list system. This means that the seats gained by political parties are filled

by candidates chosen from the party's list of candidates. The 1982 elections were governed by General Elections Law Number 2 of 1980.

5. The 1987 Legislative General Election.

The 1987 general elections for the DPR and DPRD were held on April 23, 1987, to elect members of the People's Legislative Council as well as members of the provincial level I Regional People's Legislative Council and the regency/municipal level II Regional People's Representative Council throughout Indonesia for the 1987-1992 period. The 1987 election established a balanced (proportional) representation system with a list system, and the 1992 election continued to utilize the same system.

Law No. 1 of 1980, which amends Law No. 15 of 1969, concerning the general election of members of the Consultative Council/Representative People's Council, as revised by Law Nos. 4 of 1975 and 2 of 1980, serves as the legal foundation for this discussion.

6. The 1992 Legislative General Election.

On June 9, 1992, the general election of 1992 took place. The general election system used in the 1992 election, which used a balanced (proportional) representation system with a list system, remained unchanged from the one used in the previous election. The legal foundation is provided by Law Number 1 of 1985 concerning Amendments to Law Number 15 of 1969 on the General Election of Deliberative Members/Representatives People's as revised by Law Number 4 of 1975 and Law Number 2 of 1980.

7. The 1997 Legislative General Election.

The method of allocating seats had not changed up until the 1997 election; it was still based on the balanced (proportional) representation system with a list system, as it had been in the elections of 1971, 1977, 1982, 1987, and 1992. The General Elections Law No. 5 of 1996 serves as the framework for this argument.

8. The 1999 Legislative General Election.

However, the selection of MPs is based on their performance in the constituency of the relevant province, proportionately. Because voters only mark an image of the party in this manner, party administrators decide the candidate's serial number. Even though they are close to and well-known to the electorate, candidates for legislative members are powerless to act if they are not elected due to the identification of confusing choices.

Article 1 paragraph (3) of Law Number 3 of 1999 respecting General Elections, which stipulates that general elections are conducted using a proportional system based on a list system, served as the legal foundation for the 1999 election. This implies that candidates chosen from the party's list of candidates fill the seats won by political parties (Fahmi, 2012).

9. 2004 Legislative General Election.

There was a lot of heated disagreement about the election legislation prior to the 2004 election, especially when it came to the creation of the electoral system rules that would be employed in that election. After much discussion, Law Number 12 of 2003 governing the General Election of Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council was adopted with a proportional system and an open list of candidates.

Khairul Fahmi (2012), General Elections and Sovereignty of the People (Jakarta: PT Raja Grafindo Persada, 2012), p. 69. 8 Ibid, pp. 171-173. In the 1999 election, the counting system was flexible (the number of seats won by a party was determined and used in the 2004 election's general elections for DPR and DPRD members). (Khairul Fahmi, 2012)

The phrase "elections to elect members of the DPR, Provincial DPRD, and Regency/Municipal DPRD are conducted out utilizing an open list of proportional candidate system" refers to this system in Article 6 paragraph (1). The switch from a closed to an open list proportional system in the 2004 election was a significant move that set the 1999 election apart from that one.

10. 2009 Legislative General Election. (Syamsuddin, 2014)

In the 2009 elections, pandemonium reigned supreme. The inconsistency of different parties, both legislators (DPR and government), political parties, and the KPU as election administrators in the design and implementation of the electoral system was one of the sources of instability and confusion in the 2009 elections. Elections to choose members of the DPR, Provincial DPRD, and Regency/Municipal DPRD must be conducted using an open proportional system, according to Article 5 of Law Number 10 of 2008 concerning General Elections for members of the People's Legislative Council, Regional Representatives Council, and Regional People's Representative Council. Meanwhile, a multi-represented district system is used to conduct elections to choose members of the DPD. But this brings up benefits and drawbacks.

The Election Bill, which the government originally proposed, was designed as an open proportional system, with the elected candidates chosen via a majority vote procedure. The two largest parties in the DPR, PDI Perjuangan and Golongan Karya, specifically opposed the government's plan for an election system. The adoption of a limited open proportional system is

frequently suggested by the two main parties. As is well known, the Law Number 10 of 2008 concerning the General Election of Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council eventually adopted this restricted open proportional system. The political attitude of the two major political parties is, however, generally disapproved of by many sectors of civil society.

Finally, a judicial review lawsuit was submitted to the Constitutional Court. Article 214 of Law Number 10 of 2008 concerning the General Election of Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council was ultimately declared unconstitutional by the Constitutional Court. This provision related to the selection of elected candidates based on a vote acquisition of at least 30% of the BPP value. In the Constitutional Court's Decision Number: 22-24/PUU-VI/2008, page 108. The issue with the Constitutional Court's ruling is that the applicable election law's architecture, which is based on a semi-open proportional system or proportional minimum 30% BPP, is unchanged.

KPU, on the other hand, has engaged in socialization. The government adopted Government Regulation in Lieu of Law (Perpu) Number 1 of 2009 as a result, which permits multiple markings or ticks on ballots.

11. Legislative General Election 2014.

From 1955 until 2009, Indonesian elections for the People's Representative Council (DPR) continued to use a proportional system with a number of changes. A proportional system with a proportional representation (PR) version was also utilized in the 2014 DPR election. This proportional representation scheme employs a variation of the open list.¹¹ In an open list system, voters can select the political parties and candidates they want to occupy the seats won by the competing parties.¹² This is in accordance with Article 5 paragraph (1) of Law Number 8 of 2012 concerning Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council, which reads as follows: "Elections are to elect members of the People's Representative Council, Provincial Regional People's Representative Council, and the Regency/Municipal Regional Representative Council and are implemented with an open proportional system.

B. THE ADVANTAGES AND WEAKNESSES OF THE PROPORTIONAL SYSTEM.

The electoral system is the primary issue with conducting general elections for the legislature. A proportional system is one of the electoral systems used in Indonesia's general legislative elections. The fundamental tenet of this system is that the number of seats a party wins in an electoral district will be inversely correlated with the number of votes it receives during its election. The level of proportionality of votes in obtaining seats shows that in this system not many votes are wasted (Fahmi, 2012). However, this system also has advantages and disadvantages, including:

1. Advantages of the Proportional System.

- a. Based on the level of proportionality of representation, a proportional system is considered representative because the number of party seats in parliament corresponds to the number of people's votes obtained in elections (Fahmi, 2012). The proportional system is also considered fairer, because it provides an opportunity for all groups of people, including minority communities, to present their representatives in parliament (Dhurorudin Mashad, 1998).
- b. The proportional system also has advantages when viewed from the party system. Because using a proportional system makes it easier for minority parties to gain access to representation. Apart from that, when viewed from the perspective of representative institutions, the groups, no matter how small, place their representatives in the people's representative bodies.

2. Disadvantages of the Proportional System.

- a. Viewed from the party system perspective, a proportional system facilitates party fragmentation, does not encourage parties to integrate or work together, and on the contrary tends to exacerbate existing differences. If a conflict arises, party members generally tend to form a new party, considering that there is an opportunity for the new party to gain seats from combining the remaining votes through elections.
- b. The proportional system is flawed from the standpoint of the interaction between voters and elected officials. The proportional system offers the party a very strong position via the list system. This listing system uses a variety of procedures. The most typical strategy is for each party to present a list of candidates to voters. The electorate chooses a party with all of its candidates for the numerous seats up for election by voting for one of the lists. The proportional system's vulnerability is precisely this process. This is so because people who genuinely simply vote for images tend to have less intimate or close relationships with elected officials (those put forth by the party on the list). The people are unsure of who it was.
- c. The proportional system tends to shift the principle of popular sovereignty to party sovereignty.

4. CONCLUSION

From one legislative general election to the next, little has changed in Indonesia's method for holding general elections for the legislature. The first general election was held in 1955 (during the period of the Parliament), and subsequent ones were held in 1971, 1977, 1982, 1987, 1992, and 1997 (under the New Order era), as well as in the general elections of 1999, 2004,

2009, and 2014 (period reform), all rely on a proportional, balanced system of representation. The sole distinction was that whilst an open list proportional system was used after the reformation, a closed list proportional system was utilized prior to it.

General elections using a proportional system have advantages and disadvantages, including:

1. In terms of Representative Proportionality Level.

The proportional system has the advantage of being more representative and there is no gap between the national vote and the acquisition of seats, as well as accommodating the interests of minority groups.

2. In terms of Party System. The advantage of a proportional system is that it gives opportunities for small parties to gain access to representation. Meanwhile, the weakness is encouraging more and more new parties.

3. In terms of Representative Institutions.

The advantage is that small parties can also get seats in representative institutions. Meanwhile, the weakness is that it is difficult to have a majority party, so that it affects the vulnerability of government stability.

4. In terms of the Relationship between Elected Representatives and Voters.

The proportional system has a weakness, namely that the elected representatives are mostly unknown to the electorate.

5. REFERENCES

Literature Books

- [1] Abdul Bari Azed, Electoral Systems, (Depok: Publishing Board of the Faculty of Law, University of Indonesia, 2000).
- [2] Khairul Fahmi, General Elections and People's Sovereignty (Jakarta: PT Raja Grafindo Persada, 2012).
- [3] Mashad, Dhurorudin, Electoral System Reform and the Role of Sospol Abri, (Jakarta: PT Gramedia Widiasarana Indonesia, 1998).
- [4] Peter Mahmud, Legal Research, (Jakarta: Kencana Prenada Media Group, 2005).
- [5] Ronny Hanitjo Soemitro, Methodology of Legal and Jurimetric Research, Third Edition, (Jakarta: Ghalia Indonesia, 1988).
- [6] Soerjono Soekanto and Sri Mamudji, Normative Legal Research (A Brief Overview), (Jakarta: Rajawali Press, 2003).
- [7] Sodikin, Op.cit., page 101. Sodikin, Election Law: Elections as State Administration Practices (Bekasi: Gramata Publishing, 2014).
- [8] Syamsuddin, Parties, Elections, and Parliament in the Reform Era, (Jakarta: Yayasan Pustaka Torch Indonesia, 2014).

Legislation

- [9] The 1945 Constitution of the Republic of Indonesia Law Number 7 of 1953 concerning the General Election of Constituent Members and Members House of Representatives
- [10] Law Number 15 of 1969 concerning General Elections for Members of the Consultative Council/Representatives of the People
- [11] Law Number 2 of 1980 concerning General Elections
- [12] Law Number 5 of 1996 concerning General Elections
- [13] Law Number 3 of 1999 concerning General Elections
- [14] Law Number 12 of 2003 concerning the General Election of Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council
- [15] Law Number 10 of 2008 concerning the General Election of Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council
- [16] Law Number 8 of 2012 concerning the General Election of Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council

Journal

- [17] Journal of Political Research: The 2009 Election Chaos, Volume 6, Number 1, 2009, page 11.

Website

- [18] <http://kpud/balangankab.go.id/pemilu-tahun-1977/>, accessed on February 02, 2017 at 01.05 pm.
- [19] <http://kpud/balangankab.go.id/pemilu-year-1977/>, on February 2, 2017 at 13.05.