

Controversy over the Plan for Implementing a Closed Proportional System in the 2024 General Election for the People's Representative Council

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Abstract

Indonesia as a constitutional state has carried out general elections several times in an effort to safeguard people's sovereignty and state democracy. Every citizen has the right to be elected and elect qualified representatives of the people in accordance with statutory provisions. One of the most important aspects in holding general elections is the system used. There are various types of general election systems that have been implemented in Indonesia, one of which is a proportional system which is divided into 2 (two) types, namely an open proportional system and a closed proportional system. Of course, these two systems raise debate in people's lives, there are pros and cons. The development of a proportional system and legislative general elections, especially in the election of members of the People's Legislative Assembly in Indonesia, can be the key answer to choosing this system in general elections in Indonesia. Until finally, this phenomenon made the researchers want to examine the closed proportional system which is said to replace the open proportional system that was implemented in the previous year's General Election. This study uses the research method used in the form of normative research with the approach used is a conceptual approach (conceptual approach) and statutory approach (statute approach) which aims to review the feasibility of the two systems by looking at the advantages and disadvantages.

Keywords: General Election (Election), Proportional System, People's Representative Council (DPR).



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INTRODUCTION

Indonesia itself has declared itself as a constitutional state as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. In order to maintain the public's view of a state government system that is wise and capable of being a representation in voicing people's rights and concerns, of course a form of government that is just, clean, and democratic is needed to achieve national objectives in accordance with the 1945 Constitution of the Republic of Indonesia. One of the steps that can be taken is to elect leaders, both executive and legislative, through general elections as an instrument for maintaining people's sovereignty for continues to grow as a symbol of the development of democracy after the reform of the Indonesian state. Based on Article 1 of Law Number 7 of 2017 concerning General Elections, it states that "General elections are a means of people's sovereignty to elect members of the People's Representative Council, members of the Regional Representatives Council, President and Vice President, and to elect members of the Regional People's Representative Council, who carried out directly, publicly, freely, confidentially, honestly and fairly in the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia."

Elections are a means of experiencing democracy, it can be said that there is no democracy without general elections. Even so, General Elections are not a goal, but only as a means to elect

members of parliament and executive leaders in the central and regional regions. Therefore, the condition of freedom of democracy becomes uncontrollable, which tends to go wild, which makes the holding of General Elections quite worrying. As a result, people's rights are actually injured as set forth in Article 43 paragraph (1) of Law Number 39 of 1999 concerning Human Rights, in the words of the article it is concluded that the community as citizens has the right to be elected and vote in general elections based on equality. rights through voting in accordance with the policies presented in the statutory provisions.

The implementation of trias politica as a political concept adopted by Indonesia in separating its powers into 3 (three), namely the executive, legislative and judiciary is an important milestone for the state in running the government. However, the desire for power for legislators in power actually encourages dirty politics behind the scenes. One of the legislative power institutions is the People's Representative Council, where their existence is in the hands of the people, because the power they have comes from the people's trust in the People's Representative Council so that they can voice the people's voice which is their concern as people's representatives, even though the reality is inversely proportional. Looking at the Indonesian situation with a fairly high complexity in the political life of society, then we need a general election system that can give birth to the nation's successors in fighting for the integrity of the nation.

Indonesia has held General Elections for the People's Representative Council 12 (twelve) times from 1955 until the last was held in 2019. In its development, the General Election system for the People's Representative Council in Indonesia uses a proportional system as one of the systems that allows one electoral district to elect several representatives. Furthermore, the proportional system is divided into open and closed proportional models. An open proportional system is a system in which voters are given the authority to determine their choice. The winner is based on the use of quotas that have been regulated in accordance with applicable laws. Meanwhile, the closed proportional system is a system in which the parties participating in the General Election show the list of candidates proposed and voters simply choose the party the party's seat allocation is based on the existing serial list.

It should be noted that in Indonesia the 1977 to 1999 general election used a closed proportional system, the 2004 general election used a semi-open proportional system, and the 2009 to 2019 general election used an open proportional system. In the 2009 General Election, it was hoped that an open proportional system would be a fair system, so that the elected Legislative Candidates would be more representative and have much stronger legitimacy because they would indeed receive the most popular support. However, after the implementation of this system from 2009 to 2019, it is not free from various problems and criticisms such as campaign costs that have become expensive, political polarization, the integrity of candidates and voters is at stake with the rise of money politics, identity politics, and the costs incurred by the state are quite large. . The result of this open proportional system encourages the possibility that only candidates who have large capital can be competitive and even if they are not Party Cadres who are close to their party as long as they have capital they can fight in the General Elections.

Currently, the application of an open proportional system is being tested again at the Constitutional Court (judicial review) because several parties want the Legislative General Election system to be replaced with a closed proportional system. However, this has caused controversy because the closed proportional system is considered to be a system that describes the decline of democracy because this system is a relic of the New Order when the Constitutional Court approves a judicial review of replacing the 2024 general election system. Therefore, based on the background of the problems above, then researchers are trying to

analyze the mechanism of a closed proportional system that will replace an open proportional system if the judicial review of changes to the 2024 General Election system is approved by the Constitutional Court, and will also discuss the significant advantages and disadvantages of each system.

Problem Formulation: Given the background that has been stated previously, a search appears that the authors want to know more about "The Controversy on the Plan for Implementing a Closed Proportional System in the 2024 General Election of the People's Representative Council". The problem formulation itself is a reference in journal writing so that the results are in line with expectations, namely the subject matter being discussed. Therefore, the following is the formulation of the problem to be discussed: What is the implementation period for the General Election of the Indonesian People's Representative Council using a closed proportional system as well as an open proportional system? What is the feasibility of the planned implementation of a closed proportional system in the General Election of the People's Representative Council which will be held in 2024?

RESEARCH METHODS

In conducting a research the authors refer to the research method. It aims to make research more focused and planned. In studying the "Controversy about the Plan for Implementing a Closed Proportional System in the 2024 General Election of the People's Representative Council" which is supposed to be in accordance with Indonesian positive law, the research method used is in the form of normative research with the approach used is a conceptual approach and a statutory approach. (state approach). This research uses secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials, by collecting library research data which is processed into conceptual perceptions.

RESEARCH RESULTS AND DISCUSSION

Implementation of Closed Proportional System and Open Proportional System in the History of the General Election of the House of Representatives in Indonesia

Since the initiation of reform until now, the reform agenda which has not yet been fully implemented is the establishment of people's representatives to voice the people's voice and democratic government. Indeed, in fact, Indonesia has held General Elections since 1955 and ran until the last was held in 2019. The existence of the People's Legislative Assembly as a political institution is inseparable from the interference of the people, because the power and existence of the People's Legislative Assembly are given by the true people. turn this relationship into a political relationship. However, if we look at the performance of the House of Representatives in 2014-2019 it can be said to be poor, this is supported by quantitative and qualitative indicators showing this. In the 2014-2017 period, the number of laws produced was only 19 of the more than 140 priority laws targeted in the National Legislation Program (Prolegnas), when compared to the previous period which was still better by producing 104 of 352 laws targeted laws, not to mention the case that ensnared the chairman himself, Setya Novanto who was suspected of mega-corruption with Electronic Identity Cards at that time.

As a result, public trust in their representatives has decreased significantly year on year, this is evident in the April 2023 survey of political indicators on public trust in institutions which placed the DPR in the second lowest position with a score of 4.7% very trust and 58, 7% quite trust. The emergence of public anxiety that the system adopted by Indonesia as a means of holding General Elections is considered problematic and needs to be corrected is one of the problems that Indonesia must face today. Before that, it should be noted that there are historical

details of the General Elections for the Indonesian People's Legislative Assembly which have undergone several changes to the electoral system, namely as follows:

1. The 1955 General Election was carried out using a proportional system and was held 2 times, namely in electing members of the People's Representative Council and members of the Constituent Assembly, the number of seats up for grabs was 260 seats;
2. The 1971 General Election, carried out with a binding list system of balanced representation system which was held using Law Number 15 of 1969 as the basis for the mechanism, this election consumed all seats in each electoral district;
3. The 1977-1997 general elections were carried out using a closed proportional system. The number of participants in the general election for this period tended to decrease because it was only attended by 2 political parties and 1 group, which issued the Karya Group (Golkar) as the winner in a row since 1971;
4. The 1999 General Election was held in a closed proportional system at the time's public pressure to carry out reforms and replace members of parliament related to the New Order, even though the next general election should have been scheduled for 2002. The number of participants in this general election reached 48 political parties contesting 462 seats;
5. The 2004 General Election, carried out using a semi-open proportional system and said to be the most complicated election in the history of democracy because it was held simultaneously with the election of the president and vice president as well as the confusion among the Indonesian people who had to choose the people's representatives in the People's Representative Council, Regional Representative Council, and Regional People's Legislative Council in fighting for a total of 678 seats;
6. The 2009 General Election was carried out using an open proportional system whose calculations were based on electoral districts and carried out for the first time by determining the elected candidate based on the most votes, not based on serial number (voters chose candidates for members of the People's Representative Council, not political parties), seats up for grabs totaled 692 seats;
7. The 2014 General Election was carried out using an open proportional system and the Constitutional Court set a threshold of 3.5% for members of political parties who became the People's Legislative Assembly in obtaining at least 1 seat in each electoral district, the total seats contested were the same as in the 2014 General Election previously ie 692 seats; And
8. The 2019 General Election was carried out using an open proportional system and the Constitutional Court set a new threshold of 4% for members of political parties that become the People's Representative Council in obtaining at least 1 seat in each electoral district, the total seats contested reached 712 seats.

From the experience of organizing the General Election, it can be concluded that several things are of course related to the results of the General Election which are always a public concern, namely the not optimal work of the General Election Commission which is responsible for organizing General Elections, this is based on the many criticisms that lead to inaccuracies and slowness of the institution. In addition, the supervisory function carried out by the General Election Supervisor has not been maximized, because ideally the Supervisor does not only supervise, record, resolve and report the dispute to the competent authority in the event of a violation, but the Supervisor should improve the quality of the General Election which is based on elections that are direct, public, free, confidential, honest and fair. Supposedly, the performance of the General Election Supervisor is strictly optimized and given greater authority such as making decisions that have executorial value. In addition, the stages of general election supervision should also be monitored carefully by the general election supervisor to

prevent negligence or inaccuracy of supervision in 1 (one) stage which affects the supervision of the next stage.

Therefore, general elections as a means of realizing people's sovereignty in Indonesian government must be in accordance with the national ideals and demands presented in Pancasila and the 1945 Constitution of the Republic of Indonesia. quality in order to better guarantee the degree of competition that is participatory, healthy, has a clear accountability mechanism, and has a higher degree of representation. This is because the purpose of general elections is to elect representatives of the people and representatives of the regions to participate in creating a government that is strong, democratic and based on the support of the people. Therefore, it is necessary to change or improve the General Election system from year to year to suit the political dynamics in society. Bearing in mind that Indonesia itself has experienced political struggles in choosing the General Election system that is adopted, this struggle is between 2 (two) systems that are well known to the world, namely the proportional system and the district system. The two systems have been the subject of debate between the government and society until today's modern era because they have their own advantages and disadvantages for the state and society.

Until finally it left criticism for the general election process that had been running for decades before in Indonesia, namely people's sovereignty which was still not respected. Gustav Radbruch, a German legal expert, once said that "*Volksherrschaft bedeutet Partienherrschaft. Wer sich gegen das Bestehen von Parteien wendet, wendet sich gegen die Demokratie*" which means the power of the people means the power of the party, who opposes the existence of the party, means against democracy. This statement can conclude that it is true that sovereignty is in the hands of the voting people, but that sovereignty only lasts during General Elections, which means only every 5 (five) years. After that, the sovereignty and power is held by the political party that won the General Election.

Feasibility of the Closed Proportional System Implementation Plan in the 2024 General Election

Indonesia will hold General Elections for the People's Representative Council in 2024 with a total of 732 seats up for grabs. Of course this attracts the attention of all groups coupled with the presence of the millennial generation who participate in supervising the General Election. Judging from its history, it can be seen that Indonesia has several times changed its system of implementing the General Election for the People's Representative Council which aims to develop people's representatives to voice the people's voice and democratic government. The general elections for the DPR in 1997-1999 were implemented using a closed proportional system. Then, the last time it was carried out in 2019 was replaced by using an open proportional system and it is planned that in 2024 it will be carried out with an open proportional system.

However, in February 2022, the Indonesian Democratic Party of Struggle (PDIP) became the first party to propose that the 2024 General Election of the People's Representative Council use a closed proportional system. This was done because PDIP considered that the open proportional system or voting for candidates for the legislature (Caleg) which is usually used requires quite a large amount of money. As well as stating that an open system will only elect candidates with less quality and are usually elected based on nepotism or popularity. In fact, being a representative of the people requires responsibility and other important values needed by a leader.

This raises the issue of plans to implement a closed proportional system in the 2024 General Election of the People's Legislative Assembly and the issue is getting bigger due to a

judicial review suit to the Constitutional Court (MK) filed by PDIP-National Democratic (NasDem) cadres regarding Law Number 7 2017 concerning General Elections related to an open proportional system. However, this was rejected by 8 (eight) factions of political parties in the People's Representative Council. They consider that an open proportional system can bring people's choices closer because it provides an opportunity for the people to choose consciously, confidently and clearly for whom they vote. In addition, they also consider that political parties will hold full authority over people's representatives if they use a closed proportional system. So, they think that this Closed Proportional General Election system can cause a decline in democracy in Indonesia.

Until now, based on case tracking presented on the website of the Constitutional Court from 2017-2023, there have been 98 requests for material review of Law Number 7 of 2017 concerning General Elections, one of which is an application with case number 114/PUU-XX/2022. In the petition, stated the arguments and reasons for the applicant submitting a judicial review of several articles that occur in the law, one of which is Article 168 paragraph (2) which states that general elections are held to elect members of the People's Representative Council, Provincial People's Representative Council and People's Representative Council. Regency/Municipal areas are implemented using an open proportional system. In this application, the applicant as a voter feels that his constitutional rights have been violated or have the potential to be violated because he does not have the authority and control over the candidate he chooses, this is like making a replacement for the chosen candidate if he is unable to do the job as a member of the People's Legislative Assembly and instead abuses it. Reasons like these are felt the same as other applicants who filed a judicial review as a step to change the general election system in Indonesia, people who are against the open proportional system can only rely on the Constitutional Court as a means of realizing their disquiet about a state law.

The focus of the electoral review in this discussion is the proportional system. The reason is because this is where the crucial point of every legislative General Election event. There are two proportional systems, namely closed proportional systems and open proportional systems. Closed proportional system is an electoral system that allows voters to only choose political parties. This means that the seats won by political parties will later be filled by candidates determined by the party. In the closed proportional system model, the determination of the elected candidate is determined based on the serial number, while the serial number is determined by the political party. If a party gets two seats, then the elected candidate is the candidate with serial numbers 1 (one) and 2 (two). In contrast, an open proportional system is an electoral system that allows voters to choose one of the names of the candidates. In the open proportional model, the elected candidate is determined based on the most votes, that is, the candidate most voted for by voters. Closed and open proportional systems certainly have the following advantages and disadvantages:

Table 1. Advantages and Disadvantages of Closed-Open Proportional Systems

Closed Proportional System	
Excess	Lack
Suppress money politics and political corruption	Indebted political education
Easily assess the performance of political parties	Rely on oligarchy and nepotism
Political parties as a power of ideas	Candidates are less aspirational
Strengthen the responsibility of political parties	There is no closeness between the candidate and the voters
Open Proportional System	
Excess	Lack
Strengthen the representative system of the House of Representatives	Political contestation became liberal and wild

Remove nepotism	High political costs and systematic collusive corruption
Strong legitimacy	There is no standard qualification for candidacy
Strong legitimacy impacts candidates closer to voters	Mini political party ideas and resulted in depolarization

Sumber: Kherid, 2021

Looking at the advantages and disadvantages of closed and open proportional systems, in our view objectively, closed or open proportional systems cannot be said to be ideal for several reasons, namely:

1. In open proportionality, there are many candidates who practice money politics by distributing money to the public secretly. However, a closed system cannot guarantee that the practice of money politics will be prevented. Candidates can still practice the practice within their party to garner internal support.
2. With closed proportions, parties can provide their best candidates according to the development and progress needed by the people. However, there could be other goals of the party for their own interests.
3. With open proportionality, anyone with a big name and popularity without having the appropriate background can easily be elected to a seat in parliament. However, with an open proportional system, the people can know clearly who the candidates are running for themselves so that the people can judge for themselves whether the candidate deserves to be elected or not.

CONCLUSION

The 2024 General Election for the People's Representative Council will be held soon. There is a plan to change the General Election system, which in the previous period was carried out with an open proportional system, to switch to a closed proportional system, causing controversy between the National factions and the people themselves. This is due to fears of fraud within the party itself as well as fraud on the part of the organizers and a lack of trust from the public due to information regarding the closed proportional system which is still common in the ears of the public at this time so that it is feared that the aspirations of the people cannot be channeled optimally. However, of course, general elections with a closed proportional system also have several advantages that are not owned by an open proportional system.

Therefore, the government and organizers should be able to work together to provide clearer explanations to several parties, especially the public. This is to give a sense of confidence that the 2024 General Election for the People's Legislative Assembly will be carried out honestly and reliably. In addition, the organizers and the Election Supervisory Board of the Republic of Indonesia (Bawaslu RI) should be able to provide a solution to this controversy, such as by providing counseling or education to the public regarding open proportional systems and closed proportional systems, considering other forms of systems as alternatives. , tighten regulations and sanctions, and provide measures to prevent deficiencies in the General Election system that will be used in 2024. Because, General Elections are an important component for the election of leaders who build the progress of the Indonesian State and as a forum for receiving people's votes.

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