

# **The Urgency of Implementing an Appropriate Legislative Election System in Democracy Development in Indonesia**

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## **Abstract**

The Urgency of Implementing the Legislative General Election System Open and closed proportional election systems (elections) are two legislative election systems that differ in the way votes are counted and the allocation of seats in parliament. The two systems shocked the public because of plans to re-implement a closed proportional election system, which was marked by a lawsuit for judicial review of the Election Law to the Constitutional Court (MK) with case number 114/PUU-XX/2022. In this research, a normative research method was used with a comparative approach to the two systems based on several criteria, including effectiveness in representing various political interests, political stability, and people's participation in politics. The purpose of this study is to identify and examine the proper application of the legislative election system in the development of democracy in Indonesia. The results of this study indicate that an open proportional electoral system in the election of candidates for legislative members tends to be more appropriate in the development of democracy in Indonesia and is more effective in representing diverse political interests and strengthening political parties as political institutions. With this system, the development of democracy in Indonesia will be even better with well-run elections that uphold people's sovereignty.

**Keywords:** Candidates, Democracy, Political Parties, Open Proportional Election System, Closed Proportional Election System Right tives in the Development of Democracy in Indonesia.



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## **INTRODUCTION**

General elections (Pemilu) in Indonesia are an important matter that all Indonesian citizens look forward to every five years. Elections are an opportunity for the Indonesian people to cast their votes and participate in maintaining a democratic country. The election is expected to bring positive change and better progress for Indonesia. Successful elections also show success in the Indonesian democratic system. The Indonesian constitution confirms that elections are a form of popular sovereignty. Ali Moertopo argues that elections are a facility that can be used by the people to implement their sovereignty and are a democratic institution. He stated that in theory, elections are considered as the most important initial step in the process of democratic life of a country, therefore elections become a driving force in the mechanism of a democratic political system (Handoyo: 2009).

Based on Article 1 number 1 of Law Number 7 of 2017 concerning General Elections (Election Law), elections are a means of popular sovereignty to elect members of the People's Representative Council, members of the Regional Representative Council, President and Vice President, and to elect members of the Regional People's Representative Council, which is 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 aim to screen candidates for representatives of the people or state leaders who have the capacity and ability adequate to represent the interests of the people (Cholisin, et al: 2007). Elections have several functions, including as a means to provide political legitimacy, represent political interests, carry out the rotation mechanism of the ruling elite, and as a tool to increase political awareness among the people (Rahardjo: 2009).

From 1955 to 2019, Indonesia has held elections twelve times, namely 1955, 1971, 1977, 1982, 1987, 1992, 1997, 1999, 2004, 2009 and 2014, and 2019 (Subiyanto: 2020). During the twelve elections, Indonesia has implemented various electoral systems. The electoral system is the way chosen to arrange a series of electoral processes so that the people can choose the people's representatives. A good electoral system can ensure fair political representation for various groups in society and various political parties. During the 1955 to 2004 election period, a closed proportional system was implemented. Meanwhile, an open proportional election system was used in the 2009 to 2019 election period (Aryo: 2023).

The open proportional system that has been implemented in legislative elections is actually in accordance with Article 168 paragraph (2) of the Election Law that "Elections to elect members of the DPR, Provincial DPRD and Regency/Municipal DPRD are carried out with an open proportional system." and is also in accordance with the Decision of the Constitutional Court (MK) Number 22-24/PUU-VI/2008 which was read out on December 23 2008. But ahead of the 2024 election, precisely where the presidential and legislative elections have been ratified by the DPR in a Hearing Meeting in the Commission II of the DPR, Monday 24 January 2022 fell simultaneously on 14 February 2024, problems arose regarding plans to implement a closed proportional system in the 2024 legislative elections, which was marked by a judicial review lawsuit against the Election Law to the MK. The lawsuit was registered with the Constitutional Court under case number 114/PUU-XX/2022.

Several parties filed lawsuits during the stages of updating voter data and compiling voter lists carried out by the General Elections Commission (KPU). This lawsuit is based on the belief that the articles in the Election Law regarding an open proportional system contradict the 1945 Constitution and harm the rights of these parties. According to them, the system of determining elected candidates based on the majority of votes regulated in these articles, causes elections to be very expensive and creates complex problems. In addition, this system also raises the issue of unhealthy competition between legislative candidates (candidates) in elections, because it encourages some candidates to commit fraud, including giving money to the election organizing committee. If the Constitutional Court cancels the open proportional system and re-applies the closed proportional system, it is seen that it can reduce the practice of money politics and make elections cleaner, honest and fair. Dr. Oce Madril, a legal expert from the Center for Law and Governance Studies (Pushan) stated that in an open proportional system, candidates tend to be oriented towards getting as many votes as possible so that they engage in various intrigues, including money politics.

However, several parties oppose the use of a closed proportional system in the 2024 General Election. Eight parties in the DPR RI consider that changing the electoral system to a closed proportional system in the 2024 Election is unacceptable and can harm democracy. They hoped that the Constitutional Court would remain consistent with the Constitutional Court Decision Number 22-24/PUU-IV/2008 dated 23 December 2008. Dave Laksono, General Chairperson of the Central Collective Unitary Collective Organization for Mutual Cooperation (Kosgoro) 1957 also refused because an open proportional system is the people's right to determine who counts as their representative. If these changes occur, it is considered a setback of democracy which has an impact on the deprivation of people's rights.

The debate regarding the implementation of the electoral system, both a closed proportional system and an open proportional system in the 2024 legislative elections, is quite important, because these two systems can affect political representation in parliament. Both have their own advantages and disadvantages which must be explained further. From the explanation of this background, problems arise as to whether the application of the legislative election system is appropriate in the development of democracy in Indonesia.

Therefore, the author is interested in analyzing and studying more deeply about this problem to represent the aspirations of the people in the development of democracy in Indonesia and decided to withdraw the title "Urgency of Implementing the Right Legislative Election System in the Development of Democracy in Indonesia". The purpose of this research is to find out and examine the proper implementation of the legislative election system in the development of democracy in Indonesia and is expected to provide answers to problems related to the implementation of the 2024 legislative election system as well as to evaluate and develop more effective policies related to the implementation of the right legislative election system in democracy development in Indonesia.

## **RESEARCH METHODS**

The research method is a series of scientific steps that must meet scientific characteristics, namely rational, systematic, and empirical, so that the research results obtained are considered valid and can be used as quality data. This research belongs to the normative research method which identifies legal problems, analyzes them, and provides solutions to these problems. The approach method used is the statute approach, namely by examining all regulations and the consistency of the suitability of the contents of the law related to the electoral system, especially legislative elections. In addition, a comparative (comparative) approach was also applied by comparing the applicable laws, comparing closed proportional electoral systems with open proportional electoral systems. The data used in this study is secondary data, namely data that is already available and can be used easily by the author. Secondary data includes primary legal materials in the form of the 1945 Constitution (1945 Constitution), the Election Law, and the Constitutional Court (MK) Decision Number 22-24/PUU-VI/2008. After that there are secondary legal materials in the form of books, journals, other official publications and also the internet related to closed and open proportional electoral systems, as well as tertiary legal materials in the form of legal dictionaries and language dictionaries as a complement to research. The data collection technique in this study was a literature study, which involved a review of books, literature, records relevant to open and closed proportional electoral systems. The author also uses critical analysis methods in the form of understanding regulations or events that occur by providing specific opinions in solving the problems under study.

## **RESEARCH RESULTS AND DISCUSSION**

### **Application of the Right Legislative Election System in the Development of Democracy in Indonesia**

The electoral system is the way chosen to arrange a series of electoral processes so that the people can choose the people's representatives. A good electoral system can ensure fair political representation for various groups in society and various political parties. The proportional system is used in legislative elections in Indonesia as one of the electoral systems. A proportional system or balanced representation (proportional representation system/multi-member representation) is an electoral system in which seats in the legislature are distributed proportionally according to the percentage of votes received by each political party. In this system, the number of seats each party gets in parliament is determined by the number of votes it gets in the administrative unit. In other words, the ratio of votes won between political parties is the same as the ratio of seats won in parliament. In this system, few votes are wasted due to the high level of proportionality of votes in obtaining seats.

Currently, the proportional electoral system is becoming a hot topic of discussion among the Indonesian people as well as among officials and political parties. This happened after it

was announced that simultaneous elections would be held on 14 February 2024. Issues arose regarding plans to implement a proportional system in the 2024 legislative elections, namely whether to apply an open or closed proportional election system. This issue is also accompanied by a judicial review lawsuit against the Election Law to the Constitutional Court with case number 114/PUU-XX/2022. Issues related to the implementation of the electoral system, both a closed proportional system and an open proportional system in the 2024 legislative election, are quite important, because these two systems can affect political representation in parliament. Both have their own advantages and disadvantages.

An open proportional electoral system is a system that allows voters to elect not only political parties, but also candidates directly. Voters have the freedom to choose the candidate they want without being forced by political parties. Information on the logo of the political party along with the name of the cadre of the political party candidate is included in the ballot. In this system, legislative seats are distributed proportionally based on the number of votes received by each candidate or representative. In other words, this system can be referred to as a "voting system for legislative candidates". The open proportional system has several advantages. First, it can form an effective and representative participation space because each vote has the same value that must be counted and no votes are lost because the number of party seats in parliament matches the number of votes obtained in elections. Second, able to encourage political parties to be more open and honest in nominating candidates because most political parties still have the characteristics of being elitist and not transparent. Third, guarantee that the people are the determining factor in a decision about which candidates will sit in government seats. Finally, it is advantageous for small political parties to participate in the general election process. In addition to the advantages, of course, the open proportional system also has disadvantages, including:

1. The large number of legislative candidates participating led to an increase in the practice of money politics. Candidates compete with each other to win popular support in various ways, including using money as a tool to win votes.
2. With the people's voice which becomes full power (no longer a political party), candidates can come from various backgrounds, not only from superior cadres chosen by political parties. As a result, lack of integrity and adequate knowledge of leadership.
3. Increasing the possibility of unhealthy competition between candidates for legislative members. This competition can occur both between candidates from the same party or different parties.
4. When candidates who lack knowledge are elected, they are often unable to carry out their leadership duties effectively.
5. Small parties find it difficult to obtain a majority of votes in representative institutions in this system.

Switch to a closed proportional electoral system. Closed proportional electoral system is a system in which political parties determine their list of candidates and determine the order of these candidates. This system takes serial numbers into account, where the smaller the serial number, the greater the chance to occupy a seat in the government. In this system, voters cannot vote for a particular candidate, but can only vote for political parties. The ballots only include the logo of the political party without detailing the names of the candidates. Seats in parliament are distributed according to the percentage of votes obtained by each political party. In other words, a closed proportional system can be referred to as a "party symbol punching system". As with the open proportional system, this system also has advantages and disadvantages. The advantage is that it starts with cheaper election costs, so



that money politics can be minimized. Then the people choose political parties, and it is the political parties that choose the appropriate cadres to become members of the legislature, based on the integrity and capacity that these candidates have. Then other advantages can ensure party sovereignty without sacrificing people's representation. Even though there are several advantages, many parties do not agree with the implementation of a closed proportional system in the upcoming 2024 legislative elections because it creates many weaknesses, namely:

1. Lack of fair representation of the people. Political parties have full control in determining who will become candidates. This can result in a lack of fair representation of the people because political parties can choose candidates who only strengthen the party's interests, not the public interest as a whole.
2. Lack of accountability. With candidates who are not directly elected by the people but are elected by political parties, this can result in a lack of accountability because candidates are considered to be more loyal to political parties than to the people.
3. People's freedom of expression is limited.
4. Lack of transparency. The process of selecting candidates and the criteria for political parties in selecting candidates are often not transparent, so that the public cannot see clearly how the process is carried out.
5. Can allow for nepotism within political parties, where candidates who have a relationship with the party structure can be prioritized to get a certain serial number.
6. Furthering the relationship between voters and their representatives in parliament because people do not know the people who are elected so that from the start it can reduce greater public participation.

Based on the description of the advantages and disadvantages of both open and closed proportional election systems, both are equally good, but an open proportional election system is the one that is more appropriate to apply in the upcoming 2024 legislative elections. Elections do not only concern the interests of political parties but are also part of efforts to strengthen democracy in Indonesia. An open proportional electoral system provides an opportunity for the people to determine their representatives, so that sovereignty is in the hands of the people, not just political parties. In this way, the candidates will be closer to the people who vote, and there will be a balance between party rights and people's rights, because parties only propose names of candidates and the people have the freedom to choose the candidate they think represents them.

The lawsuit against the open proportional system (Article 168 paragraph (2) of the Election Law) in the 2024 election at the Constitutional Court shows several parties who want to restore the closed proportional election system. However, returning the system is considered incompatible with the current development of Indonesian society. If the electoral system returns to being closed proportional, this will contradict the Constitutional Court Decision Number 22-24/PUU-VI/2008 which was read out on 23 December 2008. The decision states that the electoral system is closed proportional in Article 214 letters a, b, c, d, and e in Law Number 10 of 2008 contradicts Article 1 paragraph (2), Article 27 paragraph (1), Article 28D paragraph (1) and paragraph (3), and Article 28E paragraph (3) of the 1945 Constitution. This system has the potential to endanger Indonesian democracy because it can produce authoritarian political parties. If the Constitutional Court decides to revoke the open proportional electoral system and replace it with a closed system, then the 2024 elections will become a political or social movement that demands fundamental changes in the socio-political, economic or cultural order that deviates from actions that are considered the norm

in a society. These changes are considered as a setback to democracy which results in the deprivation of people's rights.

Although many parties have expressed their preference for a particular proportional electoral system in the 2024 legislative elections, the final decision remains with the legislature. The Coordinating Minister for Political, Legal and Security Affairs Mahfud MD stressed that the Constitutional Court did not have the authority to regulate the electoral system regarding the application for judicial review of the Election Law. The MK's task is only to annul or rectify the law. Therefore, the matter of an open or closed proportional system is a matter for the legislature and not for the Constitutional Court. Currently, we are still waiting for a decision from the judicial review of the Election Law regarding the ongoing open proportional system. The choice of an electoral system must be carefully considered according to its purpose and context.

## **CONCLUSION**

According to the results of this study, it can be concluded that the proper application of the legislative election system in the development of democracy in Indonesia in the upcoming 2024 election is an open proportional election system. This is because this system puts forward the principle of the interests of the Indonesian people, truly upholds the sovereignty of the Indonesian people. This system provides freedom for the Indonesian people to choose candidates in accordance with the mandate of the law which determines the implementation of elections according to the principles of elections, namely direct, public, free, confidential, honest and fair. It is suggested that the system for selecting and forming legislative candidates must be robust and in accordance with existing legal regulations in order to avoid instant selection based solely on popularity. It is also necessary to coordinate all parties concerned with elections so that the implementation of elections with this system is truly in accordance with the interests of the Indonesian people and the applicable laws and regulations. not just the interests of political parties.

But again the decision to choose the right electoral system in the 2024 simultaneous elections must be carefully considered depending on the context, purpose and impact of the election. Although many parties have expressed their preference for a particular proportional electoral system in the 2024 legislative elections, the final decision remains with the legislature, not the Constitutional Court. The Constitutional Court only cancels or rectifies the law.

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