

Legal Regulations For the General Election System in Indonesia From the 1955 Election to the Concurrent Election the 2019

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LEGAL REGULATIONS FOR THE GENERAL ELECTION SYSTEM IN INDONESIA FROM THE 1955 ELECTION TO THE CONCURRENT ELECTION OF 2019

Mahesa Rannie¹

Abstract: *Indonesia has held general elections many times from 1955 to 2019. The arrangement of the electoral system in Indonesia always changes from time to time in each election administration. In the process of changing the laws and the regulations for every election, there has always been legal political dynamics. After the 2014 elections, there have been changes regarding the conduct of elections in Indonesia. The Constitutional Court (MK) granted the petition for a judicial review of Law Number 42 of 2008 concerning the Election of President and Vice President in 2014, so that the implementation of elections in Indonesia entered a new phase in 2019 and beyond. In 2019, for the first time Indonesia held simultaneous elections. The methodology used in this study is normative. The approaches used in this study are the historical approach, the statute approach, the legal analysis approach, and the conceptual approach. Legal arrangements regarding the conduct of elections always change, starting from the highest level of legislative regulations to the lowest (from the laws to the General Election Commission regulations, presidential decrees, ministerial regulations, or other regulations). The changes in the regulations regarding the implementation of elections in Indonesia have been present since the time of the 1955 elections until the 2019 elections. Since the implementation of the 1955 elections, Indonesia has always practiced a proportional electoral system, the electoral system that is considered suitable to be applied in Indonesia. This proportional electoral system is practiced with various modifications (both the open proportional electoral system and the closed proportional system). There are even district elements in the proportional electoral system in Indonesia. The practice of the electoral system to be used in the elections in Indonesia is almost always subject to debate, both among constitutional law intellectuals and politics.*

Keywords: *legal regulations, general election system, Indonesia*

The Introduction

General elections as a manifestation of the implementation of democracy is a common practice in a country that adheres to democracy. Elections are held to find representatives who will act as people's representatives if elected later. In addition, the implementation of elections is intended to find legitimate leaders that gain legitimacy from the people. In the implementation of elections, of course, people's participation is needed, because the people are sovereign (people's sovereignty) in a democratic country and have the right to participate in determining who will be the leaders who will later determine public policy (Azed, Abdul Bari and Makmur Amir, 2013, p. 15).

The electoral system means an instrument for translating the votes acquired in the elections into seats won by political parties or candidates for

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people's representatives (Agus Riwanto, 2016, p. 1). In general, there are four electoral systems, namely the plurality/majority systems, and the proportional representation system, mixed systems, and other systems. The objective of election implementation can be realized by the application of the electoral system in a democratic country, including Indonesia.

According to Aurel Croissant there are three objectives of the election, namely: 1) political representation, which means that groups in society can be represented in a representative institution or parliament in terms of geographical, functional, and descriptive aspects; 2) political integration, which means that political stability can occur due to an understanding between political parties and the community towards political parties, so that political conflicts can be reduced effectively and efficiently in representative institutions; 3) assisting the formation of an effective, efficient and stable government, namely that there is the guarantee of government stability and the government's ability to run the government (Agus Riwanto, p. 1-2).

Indonesia has held elections many times since 1955 until the last election was held in 2019. During that time, Indonesia has implemented a different electoral system in each election. The arrangement of the electoral system in Indonesia always changes from time to time in each election administration. In the process of making changes to regulations, every election always has political and legal dynamics, namely the political, economic, social, and cultural background of the birth of a law product on elections (Agus Riwanto, p. 1).

The implementation of elections in Indonesia is a manifestation of the exercise of people's sovereignty as mandated by the three basic laws during the implementation of elections in Indonesia from the 1955 election until the time before the 2019 election, namely the Provisional Basic Law of 1950 (*UUDS* 1950), The 1945 Constitution of the Republic of Indonesia (*UUD* 1945) before the amendment, and the 1945 Constitution after the amendment. Article 1 paragraph 2 of the 1950 *UUDS* states that "Sovereignty is in the hands of the people and is exercised by the Government together with the House of Representatives". Article 1 paragraph 2 of the original 1945 Constitution states that "Sovereignty is in the hands of the people, and is carried out entirely by the People's Consultative Assembly". Article 1 paragraph 2 of the amended *UUD* 1945 states that "Sovereignty rests in the hands of the people and is exercised according to the Constitution".

The election held in 1955 was the first election held since Indonesia's independence. Actually the government at that time wanted to hold election in January 1946 in accordance with the mandate stated in the Decree of the Vice President Number X of 1946, however the desire to hold these elections could only be implemented in 1955. Decree of the Vice President Number X, the contents, in addition to the recommendation to establish political parties in Indonesia, the edict also states that elections will be held to elect members of the DPR and Constituent Assembly..

The 1955 election was held with the intention to elect members of the DPR and members of the Constituent Assembly. These members of the Constituent Assembly were tasked with formulating a new constitution to replace the 1950 Constitution. This first election was held in two stages of elections, namely 29 September 1955 to elect DPR members and 15 December

1955 to elect members of the Constituent Assembly. However, unfortunately after the 1955 elections, Indonesia held no more elections for more than fifteen years. Elections in Indonesia were only held again during the new order government under the leadership of President Soeharto in 1971. Then in 1977 election during the new order era was held again. After that, election was held every five years during the new order government (1982, 1987, 1992, and 1997).

The collapse of the new order government which had been in power in Indonesia for more than thirty years brought changes in the political structure and state administration in Indonesia. During the reign of President B.J. Habibie, election was held again in Indonesia, namely in 1999. The election carried out on the demands of 1998 reform is considered to be the most direct, general, free, secret, honest and fair election in Indonesia after the election of 1955. Since this election in 1999 the general election in Indonesia is held regularly again every five years.

The periodic implementation of elections is important due to several reasons, including: 1) people's opinions or aspirations regarding various aspects of common life in society are dynamic and develop from time to time; 2) in addition to the opinions or aspirations of the people which may change from time to time, the conditions of common living in society can also change, either because of the dynamics of the international world or because of domestic factors or human internal and external factors; 3) changes in people's aspirations and opinions may also occur due to the increase in the number of population and adult people, especially new voters in elections; 4) elections need to be held regularly and periodically to ensure a change of state leadership, both in the executive and legislative branches of power (Jimly Asshiddiqie, 2010, p. 415)

After the 1999 elections, there were elections again in 2004 and 2009, as well as elections in 2014 in Indonesia. Until now, since Indonesia's independence, elections have been held eleven times. The common characteristic in the implementation of these elections is that the participants in the general election were multiparty political parties in Indonesia. Except during the implementation of elections during the new order era, the elections in Indonesia were always followed by many political parties, which numbered dozens of political parties.

During the implementation of these elections, Indonesia has repeatedly changed the rules regarding elections, depending on the situation and conditions, likewise with the electoral system used. The plurality or majority electoral system which is often referred to as the proportional electoral system is an electoral system that has been used by Indonesia since the implementation of the 1955 election, however, the proportional electoral system does not always have the same characteristics in each election implementation. Even at the time of the election in 1999, many suggested that the electoral system in Indonesia should change to a proportional representation system or better known as the district election system. Political science expert Miriam Budiardjo has even suggested that Indonesia should not rush into implementing a district electoral system. According to Miriam Budiardjo, it is best not to rush into experimenting with extreme changes because it is feared that it could have a counterproductive impact on

the democratization process in Indonesia that is currently under construction (Miria Budiardjo, 2008, p. xxv).

After the 2014 elections, there have been changes regarding the conduct of elections in Indonesia. The Constitutional Court (MK) granted a petition for judicial review of Law Number 42 of 2008 concerning the Election of President and Vice President in 2014, so the implementation of elections in Indonesia entered a new phase in 2019 and beyond. In 2019, for the first time Indonesia held elections simultaneously. The reasons for the Constitutional Court to decide that the election be held simultaneously in 2019 and not in 2014 were: 1) The Constitutional Court considered the stages of holding the 2014 election was then running and was approaching the time of its implementation. In addition to statutory regulations, election procedures and technical preparations had also been implemented; 2) if the simultaneous election was implemented in 2014, according to the Constitutional Court, it would result in the then ongoing election stages of 2014 being disrupted or obstructed due to losing its legal basis. This could cause the implementation of elections in 2014 to experience chaos and lead to legal uncertainty which was not desired because it is contrary to the 1945 Constitution; 3) in addition, the Constitutional Court also considered the remaining time period was not possible or sufficient to form good and comprehensive laws and regulations if the simultaneous elections were held in 2014. Based on the description in the aforementioned background, the researcher formulated the following problems: 1) what legal rules were used during the implementation of elections in Indonesia from the 1955 elections until the 2019 simultaneous elections?; 2) what has the electoral system been implemented in Indonesia according to the electoral law since the 1955 election until the 2019 simultaneous elections?. (*This Is the Reason Why the Constitutional Court Decides That the Election of 2019 be Conducted Concurrently*. <http://nasional.kompas.com/read/2014/01/23/Ini.Alasan.MK.Pututus.Pemilu.Serentak.2019>. accessed on 28 September 2020).

Research Methods

The methodology used in this study is normative, that is, by collecting data through searching library materials in the form of various literatures and laws and regulations related to this study problem. The approaches used in this study are the historical approach, the statute approach, the legal analysis approach, and the conceptual approach.

Discussion and Results

The aspiration to carry out a general election in Indonesia had actually existed since three months after Soekarno and Hatta proclaimed Indonesia's independence on August 17, 1945. The government at that time had wanted an election to be held in early 1946. This was stated in the Declaration of Vice President Number X dated November 3, 1945. This declaration contained about the implementation of elections to be held in January 1946 to elect members of the DPR and MPR (History of the Institution Organizing General Election). (<http://www.kpu.go.id>. accessed on 21 September 2020). However, this aspiration could not be realized. There were several factors from within and outside the country that prevented the implementation of the elections in 1946, namely: 1) domestic factors: the

government's unpreparedness to hold a general election, either because of the unavailability of statutory instruments to regulate the implementation of an election, or due to the low stability of state security, plus the government's attitude at that time that was reluctant to carry out a regular and competitive circulation of power. 2) the invasion of foreign powers which required Indonesia to be involved in the war (History of the Institution Organizing General Election). (<http://www.kpu.go.id>. accessed on 21 September 2020).

The general election could be held during the Boerhanoedin Harahap Cabinet (August 12, 1955 - March 24, 1956). The first Indonesian election which was held on the 29th of September 1955 was attended by 43.1 million voters spread across 15 electoral districts (Topo Santoso, *et al*, 2006, p. 33). For the election of DPR members there were around 100 election participants, both from political parties, community organizations and individuals competing for 257 seats in the DPR, whereas for the election for members of the Constituent Assembly which was held on December 15, 1955, there were 82 election participants who competed for 514 of the 520 seats of the Constituent Assembly available.

1 Legal Regulations for Election Implementation in Indonesia

The General Election of 1955

The legal rules for the administration of election in 1955 had been **1**rafted since the Wilopo Cabinet. The Wilopo Cabinet succeeded in passing **Law Number 7 of 1953 concerning the Election of Constituent Members and Members of the DPR**. The 1955 election that was held was under the constitutional legal regime of Article 1 paragraph 1, Article 35, Articles 56-60, Articles 134-135 of the 1950 Provisional Constitution (*UUDS 1950*) which was later derived into Law No. 7 of 1953 concerning General Elections (A. Mukthie Fadjar, 2013, p.3).

However, the Wilopo Cabinet failed to form the Indonesian Election Committee (IEC), only in early November 1953 Ali Sastroamidjojo's Cabinet I succeeded in forming a IEC whose members consisted of nine people from political parties (Topo Santoso, *et al*, 2006, p. 33). The 1955 election was often referred to as the most honest and the fairest election throughout the history of the Republic of Indonesia.

The General Election of 1971

The second election held in Indonesia was the 1971 election. The election was held on July 3, 1977. This second election was held during the New Order government under President Soeharto. The legal basis for organizing the 1971 election was Law Number 15 of 1969 concerning Elections and Law Number 16 of 1971 concerning the Composition and Position of the MPR, DPR and DPRD.

The General Election of 1977

The next election during the new order government was held in 1977, to be precise on May 2, 1977. The legal basis for organizing the 1971 election was MPRS Decree No. XLII / MPRS / 1968 which was an amendment of the MPRS Decree No. IX / MPRS / 1966, Law Number 15 of 1969 concerning

Elections, and Law Number 16 of 1971 concerning the Composition and Position of the MPR, DPR and DPRD. (www.kpu.go.id. accessed on 18 October 2020)

The General Election of 1982

The next election during the new order government was held on April 2, 1982. The legal basis for organizing the 1982 election was MPR Decree No. VIII / MPR / 1973, Law Number 2 of 1980 concerning Elections, and Law Number 3 of 1980 concerning the Composition and Position of the MPR, DPR and DPRD. (www.kpu.go.id. accessed on 18 October 2020)

The General Election of 1987

The next election during the new order government was held on April 27, 1987. The legal basis for organizing the 1987 election was as follows: 1) MPR Decree No. II / MPR / 1983 concerning GBHN; 2) MPR Decree No. III / MPR / 1983 concerning General Elections; 3) Law No. 1 of 1980 concerning amendments to Law no. 15 of 1969 concerning the election for the members of the Deliberative Council / People's Representative Council; 3) Law No. 4 of 1975 concerning amendments to Law no. 15 of 1969 concerning the election for BPR members; 4) Law No. 2 of 1980 concerning the election for BPR members as amended by Law No. 4 of 1975; 5) Government Regulation no. 41 of 1980 as a substitute for Government Regulation no. 1 of 1976 concerning the Implementation of the General Election; 6) Law No. 1 of 1985 concerning General Elections; and Presidential Decree No. 70 in 1985. (www.kpu.go.id. accessed on 18 October 2020).

The General Election of 1992

The next election during the new order government was held in 1992, to be precise on June 9, 1992. The legal basis for organizing the 1992 election was MPR Decree No. III / MPR / 1988, Law No. 1 of 1985 on Elections, and Government Regulation No. 37 of 1990.

The General Election of 1997

The next general election during the new order government was held in 1997, to be precise on May 29, 1997. The 1997 election was the last election held during the New Order government. The legal basis for organizing the 1997 election was MPR Decree No. III / MPR / 1988, Law No. 1 of 1985 on Elections, and Government Regulation No. 37 of 1995.

The General Election of 1999

The termination of the new order government under President Soeharto in 1998, brought major changes to the political structure and state administration of Indonesia. President Soeharto stepped down from his position as the President of the Republic of Indonesia on May 21, 1998. President Soeharto's resignation was preceded by a monetary and financial crisis that hit Indonesia in the middle of July-August 1998. This crisis continued in 1998. Massive student demonstrations in 1998 at the MPR / DPR building which started with the deaths of four Trisakti University students in Jakarta during a demonstration on May 12, 1998, coupled with the pressure from activists and intellectuals at the time, and the climax was

when the then Chairman of the DPR / MPR, Harmoko announced a request that President Soeharto stepped down from his post, "like it or not" made President Soeharto hand over the position of President to his deputy BJ Habibie who was later appointed by the Chief Justice of the Supreme Court as the third President of the Republic of Indonesia. The government led by President B.J. Habibie was a transitional government before the 1999 elections. The 1999 elections were held on June 7, 1999. The legal basis for organizing the 1999 elections was based on : 1) MPR Decree No. XIV / MPR / 1998 concerning Amendments and Supplement to the Decree of the MPR RI Number III / MPR / 1998 concerning General Elections; 2) Law No. 2 of 1999 concerning Political Parties; 3) Law No. 3 of 1999 concerning General Elections; 4) Law No. 4 of 1999 concerning the Composition and Position of the MPR, DPR and DPRD; 5) Government Regulation No. 5/1999 concerning Civil Servants Becoming Members of Political Parties; 6) Government Regulation No. 12/1999 concerning Amendments to Government Regulation No. 5/1999 concerning Civil Servants Who Become Members of Political Parties; 7) Government Regulation Number 33 of 1999 concerning Implementation of Law Number 3 of 1999 concerning General Elections; 8) Apart from the aforementioned regulations, there are other implementing regulations which are also the legal basis for the administration of the 1999 elections, namely a Presidential Decree, sixty eight Decrees of the General Election Commission, and fifteen General Election Commission Regulations. (www.kpu.go.id, accessed on October 20, 2020).

The General Election of 2004

The second post new order election was held in three stages, namely: 1) legislative election to elect members of the DPR, DPD and DPRD which was held on April 5, 2004; 2) the first round of presidential election held on July 5, 2004; 3) The second round of presidential election held on September 20, 2004.

The legal basis for organizing the 2004 elections was as follows: 1) Law No. 12 of 2003 concerning the Election for Members of the DPR, DPD and DPRD; 2) Law No. 22 of 2003 concerning the Composition and Position of the MPR, DPR, DPD and DPRD; 3) Law No. 23 of 2003 concerning the Presidential and Vice-Presidential Election.

The General Election of 2009

The next election held in Indonesia five years after the 2004 election was the election held on April 9, 2009. The legal basis for organizing the 2009 election was as follows: 1) Law No. 10 of 2008 concerning the Election for Members of the DPR, DPD and DPRD; 2) The implementation of the 2009 election was carried out in two stages, namely: the first stage was carried out for the legislative election on April 9, 2009, the second stage was carried out for the Presidential / Vice Presidential election on June 8, 2009.

The General Election of 2014

Five years later, another election was held in Indonesia, namely the 2014 election. The 2014 election was carried out in two stages, namely: the first stage was the national and the regional legislative election that was held on April 9, 2014, the second stage was the Presidential / Vice Presidential

election held on July 9, 2014. The legal basis for organizing the 2014 election was as follows: 1) Law No. 42 of 2008 concerning the Presidential and Vice-Presidential Election; 2) Law No. 27 of 2009 concerning the Composition and Position of the MPR, DPR, DPD and DPRD; 3) Law No. 2 of 2011 concerning Political Parties; 4) Law No. 15 of 2011 concerning Election (State Gazette of the Republic of Indonesia of 2011 No. 101, Supplement to the State Gazette of the Republic of Indonesia No. 5246); 5) Law No. 8 of 2012 concerning the Election of Members of the DPR, DPD and DPRD (State Gazette of the Republic of Indonesia of 2012 No. 117, Supplement to the State Gazette of the Republic of Indonesia No. 5316). (www.kpu.go.id. accessed on October 19, 2020).

The General Election of 2019

In accordance with the decision of the Constitutional Court, the general elections for legislative members and the election for President/Vice President in 2019 would be held simultaneously. The utilization of the mechanism for selecting the executive leadership and members of the legislature simultaneously reaped many benefits that could strengthen the government system. Some of the benefits of simultaneous elections include: 1) the government system is strengthened through "political separation" (decoupled) between executive and legislative functions, which are supposed to balance each other. The officials in these two branches of power are formed separately at the same time, so that there is no conflict of interest or potential for hostage-taking that fosters transactional politics; 2) one of the weaknesses of this "decoupling" system is the potential for symptoms of "divided government" or "spilt-government" as a result of the head of government not controlling the support of a majority in parliament. However, this must be accepted as a fact which of course must be balanced with the application of the principle of non-mutability between parliament and the government; 3) the "impeachment" system can only be applied with strict requirements, namely the existence of a criminal act, not a political reason; 4) to maintain the climate and dynamics of the "public policy debate" in parliament. It must be possible for members of political parties to disagree with their parties in fighting for the interests of the people, and the "party recall" policy must be abolished and replaced with a "constituent recall" policy (Jimly Asshiddiqie, 2015, p. 153-154).

In this way, the decision to implement the electoral system simultaneously starting from 2019 could be used as a momentum to strengthen the government system. This should be the main agenda after the formation of the government as a result of the 2014 election, so that the period 2014 to 2019 could be properly utilized for the consolidation of a more productive and efficient democracy and strengthening the Indonesian presidential government system.

The legal basis for holding the 2019 Concurrent Elections was Law Number 7 of 2017 concerning the Implementation of the Election. This law was passed by the President on August 15, 2017 and promulgated on August 16, 2017 through State Gazette Number 182, Supplement to the State Gazette Number 6109. This law consists of 573 articles, explanations and four attachments (Jimly Asshiddiqie, 2015, p. 154).

Election System Implemented in Indonesia

The electoral system is a form of dependence, interaction and relationship among all parts or components involved in the electoral process. In the electoral process, there are elements that are indispensable, including: 1) the object of election, namely citizens who elect their leaders; 2) the party system or support pattern that mediates between voters and elites or public officials; 3) an electoral system that translates votes into seats in a parliament or a government (Labolo, Muhadam and Teguh Ilham, 2015, p. 57).

According to Donald L. Horowitz, a good voting system must pay attention to the following applied aspects : seat-to-vote ratio, accountability to constituents (voters), enabling the government to survive, producing majority holders, making coalitions between ethnic and inter-religious groups, minorities can sit in public office (Labolo, Muhadam and Teguh Ilham, 2015, p. 58).

From the point of view of the people's interests, whether the people have the right to determine the choice of who will be the candidate for the people's representatives in the election and at the same time have the right to nominate themselves as people's representatives, the electoral system is divided into two types, namely : (Jimly Asshiddqie, 2015, p. 422)

Mechanical Election System

The mechanical electoral system reflects a mechanical view that sees the people as individuals who are part of a mass group. This mechanical view is adopted by various ideological schools, including liberalism, socialism, and communism.

Organic Election System

The organic electoral system places the people as a group of individuals who live together in various groups of society (community). Usually the electoral system used is a mechanical electoral system. This system is usually implemented in two ways, namely: (Jimly Asshiddqie, 2015, p. 422-423)

District Election System

This district electoral system is called a single member constituency, and some use the term single member district for this system. This electoral system is often referred to as the single member constituencies system or the winner's take-all system. It is called that because according to this system, the territory of the country is divided into several constituencies or districts and each electoral district has the right to place its representative in a representative institution based on the majority of votes or the winner in a district or region. The district electoral system has variations, among others: 1) *first past the post*, namely a system that uses a *single member district* and election centered on candidates, the winner is the candidate who gets the most votes; 2) *the two round system*, namely a system that uses the *second round as a basis* for determining the winner of the election. This is done to produce winners who get a majority vote; 3) *the alternative vote*, basically the same as *the first past the post*, but the difference is that in *the alternative vote*, the voters are given the authority to determine their

preference by determining the ranking of the existing candidates; 4) *block vote*, namely voters have the freedom to choose candidates listed in the candidate list regardless of the political party affiliation of the existing candidates (Encik Muhammad Fauzan, 2017, p. 166).

Proportional Election System

Proportional electoral system is often referred to as balanced representation systems. According to this electoral system, the number of seats in the people's representative institutions is distributed to political parties that are participating in the election based on the results of the votes obtained by these political parties during the election. In other words, the proportional electoral system regulates the proportion between the number of votes obtained by a political party which is then converted into seats obtained by the political party (Encik Muhammad Fauzan, 2017, p. 166). In the implementation of elections in Indonesia, the term Voters Dividing Number (*BPP*) is known because of the balance between the number of voters' votes and the seats available in the representative institutions. The *BPP* is a reflection of the number of votes which limits the number of seats in an electoral district.

The proportional electoral system is further divided into two methods, namely:

- a. Proportional electoral system with a closed list system. According to this electoral system, the chair of political party is very dominant in determining the list of candidates for members of the people's representative institutions based on the serial number, and this serial number will determine who the people's representatives will sit in the people's representative institutions.
- b. Proportional electoral system with an open list system. According to the proportional electoral system with an open list system, voters are required to vote for their deputy candidates who will become people's representatives in a representative institution. To determine the electoral system to be adopted in a country, including Indonesia, must first calculate which electoral system can fulfill political objectives and be in accordance with the country's social, political, geographic and historical circumstances. Throughout the history of the establishment of the Republic of Indonesia, elections have been held more than ten times. During the ten elections, the electoral system practiced in Indonesia has never changed, namely a proportional electoral system with all its variations. The electoral system regulation is contained in every legislation concerning elections.

The General Election of 1955

The electoral system practiced in the 1955 elections was a proportional electoral system (multimember constituency) combined with a lists system (A. Mukthi Fajar, 2013, p. 3). The number of DPR members in the 1955 election was determined based on the balance of the population. One member of the DPR would represent 300,000 residents.

The list system used in the 1955 election was the binding list system and the free list system (Miriam Budiardjo, 2008, p. 486). According to this system, voters can cast their votes to candidates on the list, besides voters

can cast their votes to political parties participating in the elections. Voters' votes given to candidates would be counted as the votes acquired by the candidates concerned, meanwhile the votes given to political parties would be given to candidates by the political party according to their serial number. In addition, in the 1955 election, a person could become an individual candidate as an election participant without going through a particular political party.

In the 1955 election, the candidates who were elected were those who received votes according to the *BPPD* (List Voters Dividing Numbers). If no candidate gets votes in accordance with the *BPPD*, then the voters' votes would be given to the political party which would determine who would become the candidate. The candidate with the top number would get the votes of the voters who chose the political party of the candidate, however the priority of votes would still be given to the candidates who get more than half of the *BPPD* votes. The votes that were not used up in the distribution in the electoral districts would be divided at the central level by adding up the remaining votes from the constituencies that had not been converted into seats (Miriam Budiardjo, 2008, p. 486).

The General Election of 1971

The 1971 election was attended by ten political parties in Indonesia at that time, including: Golkar, NU, Parmusi, PNI, PSII, Parkindo, the Catholic Party, Perti, IPKI, and the Murba Party. This year's election used a proportional system with a closed list system. Voters cast votes only for political parties, and political parties would vote for the candidate with the top serial number. The votes would be given to the next sequence if the candidate with the top serial number had got enough votes for the quota of one seat.

For the general election of regional DPR members, the election was a provincial area, while for DPRD I the electoral district was the one province concerned, and for DPRD II the electoral district was the region level II concerned. However, there is a bit color of the district system in it, because each regency was allocated one DPR member seat to represent the area. In general election of this year each member of the DPR would represent 400,000 people. (www.nasional.kompas.com. accessed on October 16, 2020).

The Election of 1977

This election was only attended by two political parties, namely PPP and PDI, while Golkar did not want to call "itself" a political party even though it participated in the 1977 elections. Based on the provisions in Law No.3 of 1975 on Political Parties, the ten political parties in Indonesia at that time had to merge or join the PPP or PDI. The Parties based on Islam chose to join PPP, including NU, Parmusi, Perti, and PSII, while nationalist parties preferred to join the PDI, including PNI, Parkindo, the Catholic Party, IPKI, and Partai Murba.

This year's elections used a proportional system with a closed list system. Voters cast votes only for political parties, and political parties voted for the candidate with the top serial number. The votes were given to the next sequence if the candidate with the top serial number had received enough votes for the quota of one seat.

For the general election of regional DPR members, the election was a provincial area, while for DPRD I the electoral district was the one province concerned, and for DPRD II the electoral district was the region level II concerned. However, there was a bit color of the district system in it, because each regency was allocated one DPR member seat to represent the area. In the elections this year each member of the DPR would represent 400,000 people.

The General Election of 1982

This year's election was only attended by two political parties, namely PPP and PDI, while Golkar did not want to call "itself" a political party even though it participated in the 1982 elections. This year's elections used a proportional system with a closed list system. Voters cast votes only for political parties, and political parties voted for the candidate with the top serial number. The votes were given to the next sequence if the candidate with the top serial number had received enough votes for the quota of one seat.

For the election for regional DPR members, the election was a provincial area, while for DPRD I the electoral district was the one province concerned, and for DPRD II the electoral district was the level II region concerned. However, there was a bit color of the district system in it, because each regency was allocated one DPR member seat to represent the area. In the elections this year each member of the DPR would represent 400,000 people.

The Election of 1987

This year's election was only attended by two political parties, namely PPP and PDI, while Golkar did not want to call "itself" a political party even though it participated in the 1987 election. This year's elections used a proportional system with a closed list system. Voters cast votes only for political parties, and political parties voted for the candidate with the top serial number. The votes were given to the next sequence if the candidate with the top serial number had received enough votes for the quota of one seat.

For the election for regional DPR members, the election scope is a provincial area, while for DPRD I the electoral district is the one province concerned, and for DPRD II the electoral district is the level II region concerned. However, there is a bit color of the district system in it, because each regency is allocated one DPR member seat to represent the area. In the elections of these years each member of the DPR would represent 400,000 people.

The General Election of 1992

This year's election was only attended by two political parties, namely PPP and PDI, while Golkar did not want to call "itself" a political party even though it participated in the 1992 elections. This year's election used a proportional system with a closed list system. Voters cast votes only for political parties, and the political parties would vote for the candidate with the top serial number. The votes was given to the next sequence if the

candidate with the top serial number had received enough votes for the quota of one seat.

For the election for regional DPR members, the election is a provincial area, while for DPRD I the electoral district is the one province concerned, and for DPRD II the electoral district is the level II region concerned. However, there is a bit color of the district system in it, because each regency is allocated one DPR member seat to represent the area. In the elections of this year each member of the DPR would represent 400,000 people.

The General Election of 1997

This year's election was only attended by two political parties, namely PPP and PDI, while Golkar did not want to call "itself" a political party even though it participated in the 1997 election. This year's election used a proportional system with a closed list system. Voters cast votes only for political parties, and political parties will vote for the candidate with the top serial number. The votes will be given to the next sequence if the candidate with the top serial number has received enough votes for the quota of one seat.

For the election for regional DPR members, the election is a provincial area, while for DPRD I the electoral district is the one province concerned, and for DPRD II the electoral district is the level II region concerned. However, there is a bit district system color in it, because each regency is allocated one DPR member seat to represent the area. In the elections of these years each member of the DPR will represent 400,000 people.

The General Election of 1999

The electoral system that was practiced in the implementation of the 1999 election was a closed list proportional system. The system used was exactly the same as the new order's electoral system as described above. The 1999 election was the election most followed by political parties participating in the election. A total of 48 political parties participated in the 1999 election.

The election of this year used a proportional system with a closed list system. Voters cast votes only for political parties, and political parties will vote for the candidate with the top serial number. The votes will be given to the next sequence if the candidate with the top serial number has received enough votes for the quota of one seat.

For the election of the regional DPR members, the election is a provincial area, while for DPRD I the electoral district is the one province concerned, and for DPRD II the electoral district is the level II region concerned. However, there is a bit of district system color in it, because each regency is allocated one DPR member seat to represent the area. In the elections these years each member of the DPR would represent 400,000 people.

The General Election of 2004

During the implementation of the 2004 elections, the electoral system that was practiced underwent changes. In the 2004 elections there was also a new institution within the legislative body, namely the DPD (Regional Representative Council). For the general election for DPD members, the district system is used but with multiple representatives (four seats for each

province). The electoral district was the province. The participants were individuals. Since each province or constituency has four seats, while the votes of the losing contestants cannot be transferred, the system used here can be called the multi-representative district system.

For the election of DPR and DPRD members, a proportional system with an open list system is used, so that voters can cast their votes directly to the chosen candidates. In this case the voters cast their votes for the party, the candidate at the top has a great chance of being elected because the votes given to the party belong to the candidate at the top. So there are similarities in the system used in the elections for DPR and DPRD members in the 2004 elections with that of the 1955 elections. The difference is that in the 1955 election there was a priority to give party votes to candidates who received more than half of the BPPD votes.

There is a color of the district system in calculating the seat acquisition of DPR and DPRD seats in the 2004 election, namely the votes acquired by a party in an electoral district which is not sufficient for one Voters Dividing Number (*BPP*) cannot be added to the party gains in other electoral districts, for example, to be added so that it would be enough for one seat. This is a feature of a district system, not a proportional system. (www.nasional.kompas.com, accessed on October 2, 2020).

From a gender perspective, the 2004 elections explicitly provided greater opportunities affirmatively for the role of women. Article 65 of Law No. 12 of 2003 states that every political party can nominate candidates for DPR and DPRD members by taking into account women's representation of at least 30% for each electoral district. This is another progress made in the 2004 elections.

There are also attempts to simplify or reduce the number of political parties through non-coercive means. This can be seen in the selection procedure for political parties that will participate in the elections. There are a number of requirements, both administrative and substantial that must be fulfilled by every political party in order to participate in the election, including determination of the electoral threshold by obtaining at least 3% of the number of seats for members of the central legislative body, obtaining at least 4% of the number of seats in the DPRD of provinces that are spread over at least half of the total number of provinces in Indonesia, or obtain at least 4% of the number of seats in the DPRD of regencies / cities that are spread over half the number of regencies / cities in Indonesia. For the election of the President and the Vice President, obtain at least 3% of the number of seats in the agency concerned or 5% of the number of valid votes nationally.

The General Election of 2009

The electoral system implemented in the 2009 Election was an electoral system with an open proportional system whose calculations were based on a number of electoral regions or electoral districts (seventy-seven electoral districts), in which the participants of the general election are political parties. This general election was the first to be conducted by determining the elected candidates based on the majority of votes, not by serial number (voters choose candidates for DPR members, not political parties).

The 2009 general election for DPR members was attended by 38 political parties. On July 7, 2008, the KPU announced a list of 34 political parties that had passed factual verification to participate in the 2009 Election, of which 18 political parties were political parties that would participate in the election for the first time or previously changed their names. Sixteen other political parties were participants in the 2004 elections that succeeded in getting seats in the DPR for the 2004-2009 period, so that they were immediately entitled to become participants in the 2009 elections. In its development, the Constitutional Court decided that all political parties participating in the 2004 elections had the right to participate in the 2009 elections. So that based on the verdict of the DKI Jakarta State Administration (PTUN) No. 104 / VI / 2008 / PTUN.JKT, the KPU determined four more political parties as participants in the 2009 General Election. (www.nasional.kompas.com, accessed on October 12, 2020).

The General Election of 2014

The 2014 general election was held on April 9, 2014 to elect 560 DPR members, 132 DPD members, and DPRD members throughout Indonesia for the 2014-2019 period. The 2009 legislative elections were held simultaneously in all regions of Indonesia. In the Election Law Number 8 of 2012 which was the legal basis for the 2014 election, the parliamentary threshold for the DPR was set at 3.5%, up from the 2009 election which was 2.5%.

On September 7, 2012, the KPU announced a list of 46 political parties that have registered to participate in the 2014 elections, of which several parties are political parties that would participate in the election for the first time or have just changed their names. Nine other parties were participants in the 2009 general election that succeeded in getting seats in the DPR for the 2009-2014 period.

On September 10, 2012, the KPU passed 34 political parties that met the registration requirements of at least 17 documents. Furthermore, on October 28, 2012, the KPU announced that 16 parties had passed administrative verification and would undergo factual verification. In its development, in accordance with the decision of the Honorary Council for General Election Organizers, factual verification was also carried out on 18 political parties that did not pass administrative verification. The results of this factual verification were determined on January 8, 2013. The KPU announced 10 political parties as participants in the general election of 2014. (www.detik.com, accessed on October 18, 2020).

In subsequent development, the decision of KPU was sued by several political parties that did not pass verification to the PTUN, but there were only two political parties whose lawsuit was granted by PTUN, namely the Bulan Bintang Party and the Indonesian Justice and Unity Party. The KPU then granted the PTUN decision and determined the two political parties to participate in the 2014 legislative elections. The electoral system implemented in the 2014 legislative election is exactly the same as that of the 2009 legislative election, namely an open proportional election system.

The General Election of 2019

The draft of the election law for 2019 had experienced a long debate. There are five crucial issues that are debated in the draft of the election law, namely: the presidential election threshold, the parliamentary threshold, the allocation of seats for DPR members in the regional elections, and the electoral system.

Regarding crucial issues in the electoral law, one of which is the election system. The electoral system used in the concurrent election in 2019 is an open proportional system as stated in Law Number 7 of 2017, in which the seats obtained by political parties will be given to the legislative candidates in that political party with the most votes.

Conclusion

The legal rules regarding the conduct of elections always change, likewise, the legal rules for the implementation of elections in Indonesia. Every time an election is about to be held in Indonesia, the legal regulations (legal basis) always change, depending on the socio-political situation and conditions during the election year, starting from the highest level of legislative regulations to the lowest (from the acts up to the General Election Commission regulations, presidential decrees, ministerial regulations, or other regulations). Changes in regulations regarding the implementation of elections in Indonesia have occurred since the 1955 elections were held until the simultaneous elections in 2019. Since the implementation of the 1955 elections, Indonesia has always practiced a proportional electoral system, the electoral system that is considered suitable to be applied in Indonesia. This proportional electoral system is practiced with various modifications (both the open proportional electoral system and the closed proportional system), there are even district elements in the proportional electoral system in Indonesia, for example there are electoral districts that can be equated with districts in the district electoral system. The practice of the electoral system to be used in elections in Indonesia is almost always debated, both among constitutional law intellectuals and politics. This has always been felt, especially during the holding of simultaneous elections in 2019 which caused very tough debates in the legislative body (when discussing the draft election law) regarding what electoral system to use in Indonesia.

References

- Azed, Abdul Bari & Amir, Makmur. (2013). *Elections and Political Parties in Indonesia*. Jakarta, Center for Constitutional Law Studies Faculty of Law University of Indonesia.
- Asshiddiqie, Jimly. (2010). *Introduction to Constitutional Law*. Jakarta, PT RajaGrafindo Persada.
- _____. (2015). *Strengthening the Government and Judiciary System*. Jakarta, Sinar Grafika.
- Budiardjo, Miriam. (2008). *Revised Edition of the Basics of Political Science*. Jakarta, PT Gramedia Pustaka Utama.

- Fadjar, A. Mukthie. (2013). *Elections, Dispute of Election Results, and Democracy: Building Legislative Elections, President and Regional Heads and Democratic Election Result Dispute Resolution*. Malang, Setara Press.
- Indonesian Elections in Figures and Facts*. (1999). Public Relations Bureau of the General Election Commission.
- Labolo, Muhadam & Ilham, Teguh. (2015). *Political Parties and the General Election System in Indonesia*. Jakarta, RajaGrafindo Persada.
- Riwanto, Riwanto. (2016). *Political Party Law and Election Law in Indonesia: Its Effect on the Implementation of Quality Elections and Effective Presidential Government Systems*. Yogyakarta, Thafa Media.
- Santoso, Topo *et.al.* (2006), *Election Law Enforcement: Practices of Election 2004, Election Studies of 2009-2014*. Jakarta, USAID.
- The Constitution of the Republic of Indonesia of 1945, 2010, Secretariat General of the MPR RI.
- This is the Reason why the Constitutional Court Decides Concurrent Election 2019*.
- <http://nasional.kompas.com/read/2014/01/23/Ini.Alasan.MK.Putuskan.Pemilu.Serentak.2019>.
- History of the General Election Organization*. <http://www.kpu.go.id>.
- <http://www.kpu.go.id>.
- <http://detik.com>.
- www.nasional.kompas.com.

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