

**THE URGENCY OF DISTRICT ELECTORAL SYSTEM IN INDONESIA**

**PUBLICATION MANUSCRIPT**



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## THE URGENCY OF DISTRICT ELECTORAL SYSTEM IN INDONESIA

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### ABSTRACT

Elections must be conducted honest, fair and democratic. In order for elections to reach this level, some conditions and preconditions are needed as a support. The study of electoral system shall be the key factor of any success or a failure of a legislative election because it is the mechanism that used in the selection and delegation of sovereignty to the people's representatives. Electoral systems have a complex dimensions includes the balloting, district magnitude, division of the areas of constituency, electoral formula and threshold. Indonesia has done in total twelve legislative elections using the proportional system with various modification. By using the juridical-normative method, author examines library materials and regulations with comparative studies to the United State of America and Malaysia. This research is intended to found better legislative electoral system for Indonesia. The research shows that United State of America used the district electoral system with equal apportionment method. Meanwhile, Malaysia use first past the post method with the coalition that made before the election phase and the legislative candidate proposed by the coalition. The results of the research indicates that there is an urgency to change Indonesia's legislative electoral system into district electoral system, in order to improve the quality of legislative candidate and a benchmark of better democracy.

**Keywords:** *District System, Electoral System, Legislative Election, Proportional System*

## **I. Introduction**

### **A. Background of Research**

Twenty years after the reformation, the society has undergone many changes in a positive direction regarding awareness in politics. This awareness in many ways certainly influences voter preferences towards legislative candidates. Legislative Elections are seen as the most powerful way for people to participate in modern representative democracy because the role of the legislature in the democratic political system is vital.<sup>1</sup> The 2018 Local Concurrent Election and the 2019 Concurrent election, reflects the latest voter behavior that tends to be liquid; no longer tied to the concept of political flows, ideology, and sentiment of identity which has been a political commodity of political parties. The pattern of People's political behavior leads to a rational-critical. Yet, the electoral system is failed to be seen as the key factor of a legislative election.

Reflected from the history that continues to be repeated to the 2019 election. The proportional system was used consequently with some modification here and there. In essence, the proportional system is a portrait of population statistics. This means that there is a correlation between the proportion of the population and representatives sitting in representative

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<sup>1</sup> Moh. Kusnardi and Ibrahim Harmaily, 1988, *Hukum Tata Negara Indonesia*, Jakarta, Pusat Studi Hukum Tata Negara FH UI, p. 140.

institutions.<sup>2</sup> Since then, political parties prioritize the aspects of persona and popularity rather than intellectual ability, track record, and integrity in determining legislative candidates. Popularity and having a lot of money is a mandatory requirement for a legislative candidate if he wants to qualify for parliament.

The formulation of the law of Election which was completed last 2017 is full of short-term political interests ahead for the 2019 election. The basic principles of universal suffrage in the law of Election has not implemented and caused a simplification of verification process which opposed to the spirit of democracy. This proves the lack of vision in every Election Law that has been compiled so far. Elections are called "meaningful" if they fulfill three criteria, namely openness, accuracy, and effectiveness.<sup>3</sup> The concurrent election brings confusion to the public about how the electoral system is implemented. People will focus on candidates who are nominated, both presidential and legislative. Especially on the concurrent election that has just been conducted shows that the community is focused on the president who is nominated and not the legislative candidate who is the representative of the people.

Therefore the author intends to analyze the urgency of district electoral system in legislative election as a way to maintain a balance of profits as large

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<sup>2</sup> Sigit Pamungkas, 2009, *Sistem Pemilu*, Yogyakarta, Jurusan Ilmu Politik Fakultas Ilmu Sosial dan Ilmu Politik UGM, p. 43.

<sup>3</sup> Joko Prihatmoko, 2008, *Mendemokratiskan Pemilu dari Sistem Sampai Elemen Teknis*, Yogyakarta, Pustaka Pelajar, p. 65.



as for the interests of the people. This system has only been used as an electoral system in the DPD election which has so many advantages in the representation of ideology, transparency and quality of legislative candidate that still prioritizes the interests of the people by the accommodation of political part.

## **II. Statement of Problem**

Does the district electoral system may improve the qualification of legislative candidate and how the implementation of it in Indonesia?

## **III. Research Method**

### **A. Type of Research**

This research is a juridical-normative<sup>4</sup> research with statutory and comparative approach, which means that this research examine the library materials, the 1945 Constitution and the election law especially regarding the issue of electoral system, political system and interference, the implication of chosen electoral system on political system, political party, quality and competency of Legislative Candidates, government policy making process, public accountability. The research shows how the law regulates such condition and how the application of it is.<sup>5</sup> The comparative approach used to compare the United State of America's legislative electoral system and Malaysia in analyzing the possible legislative electoral system for Indonesia.

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<sup>4</sup> Soerjono Soekanto and Sri Mamudji, 2007, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, Jakarta, PT Raja Grafindo Persada, p. 12.

<sup>5</sup> Soemitro, Hanitijo, Ronny, 1990, *Metodologi Penelitian Hukum dan Jurimetri*, Jakarta, Ghalia Indonesia, p. 10.

## **B. Type of Approach**

A statutory and case approach with particular references to history were implemented in this research. The study had been carried out by analyzing the storyline of the historical implementation and development of electoral system that used to provide a comprehensive understanding of the issue. In juridical-normative researches, the statutory approach was used to explore specific statutes as the main issue analyzed in the normative legal research.<sup>6</sup> To clearly understand the implementation of legal norms conducted in legal practices, a comparison is needed.<sup>7</sup> The comparative approach used to compare the United State of America's legislative electoral system and Malaysia in analyzing the possible legislative electoral system for Indonesia.

## **C. Type of Data**

Sources of data in this research were collected by the secondary data method which means that the data collection is taken from the library research of literature study. The secondary data that were collected are namely:

### **1. Primary Legal Material**

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<sup>6</sup> Johny Ibrahim, 2006, *Teori dan Metodologi Penelitian Hukum Normatif*, Second Edition, Malang, Bayu Media, p. 302-303.

<sup>7</sup> Johny Ibrahim, *Op. Cit.*

The primary legal materials taken from legal documents, legislation, and treaties, which are relevant to this research are:

- a) The 1945 Constitution,
- b) The Law Number 27 of 1948,
- c) The Law Number 7 of 1953,
- d) The Law Number 9 of 1954,
- e) The Law Number 47 of 1954,
- f) The 1992 United States Constitution,
- g) The Law Number 20 of 2004,
- h) The Law Number 10 of 2006,
- i) The Law Number 10 of 2008,
- j) The Constitutional Court Decision Number 24 of 2008,
- k) The Law Number 42 of 2008,
- l) The Law Number 15 of 2011,
- m) The Law Number 8 of 2012,
- n) The Constitutional Court Decision Number 14 of 2013,
- o) The Law Number 7 of 2017,
- p) The Constitutional Court Decision Number 20 of 2019,
- q) The United States Code Title 2,
- r) The United States Code Title 13, and
- s) The United States Code 52.

## 2. Secondary Legal Material

Secondary legal materials consist of several books, journals, news, and related articles to the topic.

### 3. Tertiary Legal Material

The tertiary legal material means any other materials which support the research. It covers the legal materials that provide instructions or explanations of primary and secondary legal materials from the outside field of law, e.g., the field of politics, sociology, and language as supporting material of complementary. In this research, the tertiary legal materials are:

- a) Law Dictionary: Black's Law Dictionary written by Henry Campbell; and
- b) English Dictionary: Kamus Inggris Indonesia, written by John M. Echols and Hassan Sadily.

#### **D. Method of Data Collection**

The method of data collection in this research had been done by a library research which included reading, analyzing, and deriving conclusion from related documents such as Charters, Declarations, Law Books, Legal Journals, Websites, and other materials related to the main problem of the research.

#### **E. Method of Data Analysis**

The method of data analysis had been carried out systematically through a consistent juridical qualitative analysis. Systematically means the research

analyses international laws, municipal laws and other norms which related to the existence of electoral systems. Juridical point of view means connecting the law principles, regulations, norms and another related to the main problem of this Research.<sup>8</sup>

#### **IV. Finding and Analysis**

##### **A. The Analysis of Indonesia Legislative Electoral System**

###### **1. Proportional System**

The research shows that a proportional system is always an option in organizing elections with various modifications. The trend since the New Order also shows that the amendment, refinement, and replacement of regulations has always been an option when proportional system policies were continued in the first elections of the reform era, namely the 1999 Election. This can be seen from the promulgation of the package of political laws in 1998, 2003 and 2008 (Political Parties, General Elections of the DPR, DPD and DPRD, as well as the Law and Structure of DPR, DPD and DPRD). The greater the number of representatives to be elected from one electoral district the more electoral system will be proportional.<sup>9</sup>

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<sup>8</sup> Mukti Fajar ND and Yulianto Achmad, 2009, *Dualisme Penelitian Hukum*, Yogyakarta: Pencil Komunika, p. 123.

<sup>9</sup> Andrew Reynolds, Reilly, B., & Ellis, 2008, *Electoral System Design: The New International IDEA Handbook*, Stockholm, Idea International, p. 69.

The overall weaknesses of the proportional system are Managing coalitions that do not have enough common ground in terms of policies or support bases.<sup>10</sup> Small parties get disproportionately large powers. The inability of voters to push for accountability by displacing a party from power. Difficulties for voters to understand or for election organizers to implement these regulations are sometimes complicated.

The list of representations in a proportional system is underestimated. The representation list of Proportional system does not by itself describe this electoral system as a whole: there are details that must be specified.<sup>11</sup> The system used to count the allocated seats of the counted votes use the highest average or the Largest Remainder Method. The Largest Remainder Method may be defined when one seat is allocated in electoral areas in each set of calculations to the party with the highest total votes. When a seat is allocated, the party's original vote is reduced by division. The most commonly used range of dividers is D'Hondt and Sainte-Laguë.

The Highest Average Method tends to favor larger parties than its the alternate the Largest Remainder Method.<sup>12</sup> Indeed, the Largest Remainder method is more profitable for small parties, because after the

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<sup>10</sup> *Ibid*, p. 70.

<sup>11</sup> *Ibid*, p. 70.

<sup>12</sup> *Ibid*, p. 198.

parties have seats in their constituencies and have received quotas full of votes, some seats remain unoccupied, and some votes remain for each party, not a full quotas. The remaining seats were then given to parties in accordance with the number of votes they received.<sup>13</sup>

The Open Proportional Election System used to elect DPR and DPRD Members has several major weaknesses. First, the Open Proportional system as a procedure and mechanism for converting people's votes into seats of state administrators is too complex.<sup>14</sup> The first complexity appears in the number of alternative choices that are too many. Voter must choose from at least 36 candidates from 12 political parties (3 x 12) to a maximum of 120 candidate names from 12 parties (10 x 12) for the DPR, and from at least 36 (3 x 12) names of candidates and a maximum of 144 (12 x 12) names of candidates for DPRD.<sup>15</sup> The second complexity is seen in the Proportional Formula with the Hare quota method and the application of the biggest remainder for the composition of the seats. The division of seats for each Electoral District for Election Participants is carried out through a long steps:

- 1) Determination of Voters' Dividers or the number of votes for one quota. The combined number of valid votes for all Election

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<sup>13</sup> *Ibid*, p. 199.

<sup>14</sup> Ramlan Surbakti, 2015, *Naskah Akademik dan Draft RUU Kitab Hukum Pemilu: Usulan Masyarakat Sipil*, Jakarta, Kemitraan bagi Pembaruan Tata Pemerintahan, p. 25.

<sup>15</sup> *Ibid*, p. 26.

Participant Political Parties divided by the number of seats allocated to the Electoral District concerned.

- 2) Distribution of electoral seat to Election Participants. The number of valid votes for each political party divided by the Voter Divider Numbers (one quota).
- 3) The Remaining Seat distribution (If there are still undivided seats or Remnant Seats) is based on the largest reminding principle, ie Chair Remnants are distributed to the Election Contesting political parties based on the number of remaining votes (the number of votes do not reach the Voter Dividers is categorized as Voice Remaining).
- 4) Determination of elected candidates (procedures for determining who seats the Party) based on the highest votes.

Secondly, the open proportional electoral system provides incentives for candidates, voters or voting and counting officers (KPPS, PPS, and PPK) to engage in vote-buying transactions. These incentives appear in the following three elements of the system.<sup>16</sup> The number of electoral districts between 3-10 (DPR) and 3-12 (DPRD), quota methods (BPP) and the largest reminding in dividing the remaining seats (the number of votes not reaching the Voters' Dividers is also categorized as

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<sup>16</sup> *Ibid*, p. 27.



remaining votes) are the causes the seats relatively easy to get. Voters are asked to vote for candidates and in order to be determined has a seats, a candidate does not require to reach the majority or the Voter Dividing Numbers, but rather reaches more votes than the number of votes for each other candidate from the same party and in the same electoral district.

## 2. District System

Indonesia uses two different systems in its two legislative rooms. The district system is used to elect DPD members, while DPR members are elected by proportional systems. This district system is also called Plurality/ Majority System.<sup>17</sup> The principle of a plurality/ majority system is simple. After the vote is given and the total number is calculated, the candidate or parties with the most votes are declared the winner. This district system has several variants including First Past the Post (FPTP), Block Vote (BV), Party Block Vote (PBV), Alternative Vote (AV) and Two Round System (TRS).<sup>18</sup>

First Past the Post (FPTP) is the simplest form of a plurality/ majority system, using a single representative constituency and

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<sup>17</sup> Andrew Reynolds, Reilly, B., & Ellis, *Op. Cit.*, p. 30.

<sup>18</sup> Narelle L Miragliotta, 2015, "Little Differences, Big Effects: An Example of the Importance of Choice of Method For Transferring Surplus Votes in PR-STV Voting Systems", *Representation*, vol. 41, p. 15–23.

candidate-oriented voting. Voters are given the names of the proposed candidates and vote by choosing one, and only one, from the names. The winning candidate is the person who won the most votes.<sup>19</sup> The main disadvantage of this system is that the parties in the FPTP system typically nominate the most acceptable candidates in a particular district so as not to alienate the majority of voters. Therefore according to Duverger, this approach approaches the true sociological law.<sup>20</sup>

Indonesia chose to use a variant of the multi-district district system which was determined to have 4 (four) seats, with its constituency being the Province. This is mandated by article 22C point (2) of the 1945 Constitution, which states that all members of the Regional Representative Council are no more than one third of the number of the House of Representatives. This multi-district system district is a district system with a Block vote variant. This variant emerged as a solution to the nature of the exclusion of minority groups from fair representation in the Majority System because it was able to maintain the ability of voters to vote for individual candidates. Voters have as many votes as seats to be filled in their constituencies, and are

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<sup>19</sup> *Ibid*, p. 39.

<sup>20</sup> Maurice Duverger, 1963, *Political Parties: their Organization and Activity in the Modern State*, United States, Wiley, p. 217.

free to choose individual candidate candidates regardless of party affiliation.<sup>21</sup>

The district system is related to the two-party system or even the no-party system, while Indonesia has a multiparty. If this system is associated with the establishment of the DPD in the Indonesian constitutional realm directly or indirectly it has mapped people's aspirations into two shafts. The first axis is the general aspirations of the people which are represented by the representation of the DPR. The second axis is the aspirations of the regional (territorial) people which are represented by their representation in the DPD. That is why the DPR which is filled by political parties is often termed political representation, while the DPD is a regional or territorial representation.<sup>22</sup>

## **B. Comparative Survey on District System**

### **1. The United States of America**

United State of America is a federal country consisting of 50 states, 490 members of the House of Representatives and 100 Senate members.<sup>23</sup> The United States use the *trias politica* theory in order to

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<sup>21</sup> Andrew Reynolds, Reilly, B., & Ellis, *Op. Cit.*, p. 49.

<sup>22</sup> Jimly Asshiddiqie, 2005, *Kemerdekaan Berserikat: Pembubaran Partai Politik dan Mahkamah Konstitusi*, Jakarta, Konstitusi Press, p. 138.

<sup>23</sup> The United State Congress, <https://www.congress.gov>, accessed on 1 March 2019, at 19.14.

separating the power of state organs.<sup>24</sup> The legislative power (Congress) of the United States shall consist of a Senate and House of Representatives. This shows that United State of America uses a bicameral system. The phenomenon of bicameral systems in the world has two distinct historic origins. First established in England and later in the United State of America itself.<sup>25</sup>

Lijphart said about a ‘conservative brake’ as the most important original function of most senates.<sup>26</sup> In conclusion, a bicameral system in federal states is a means of offering, at the level of the member states, a more equal representation than a unicameral system which constituted on the basis of one man one vote. National Elections take place every even-numbered year. Every four years the president, vice president, one-third of the Senate, and the entire House are up for election (on-year elections). On even-numbered years when there isn't a presidential election, one-third of the Senate and the whole House are included in the election (off-year elections).<sup>27</sup>

The House of Representatives and the Senate elected using different system. The House of Representatives or mostly known as the

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<sup>24</sup> Montesquieu, 2007, *The Spirit of Laws*, Bandung, Nusamedia, p. 189.

<sup>25</sup> Betty Drexhage, 2015, *Bicameral Legislatures: an International Comparison*, Ministry of the Interior and Kingdom of Netherland, p. 7.

<sup>26</sup> Arend Lijphart, 2012, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*, Yale, Yale University Press, p. 190.

<sup>27</sup> The United States Senate, <http://www.senate.gov/reference/index/elections/htm>, accessed on 26 May 2019, at 09.58am.

lower house shall be composed of Member who chosen every second year by the People of several States and the Electors in each State shall have the qualifications requisite for electors of the most numerous Branch of the State Legislature. The allocation of seats is based on the population within the states but shall not exceed one for every thirty Thousand and at least shall has one Representative.<sup>28</sup> The Representatives apportioned among several States which included within the United States, according to their respective numbers, following the decennial census. According to the Constitution, the census has one fundamental purpose which to ensure that the representation of each state in the U.S House of Representatives reflects the relative size of its population.<sup>29</sup>

The apportionment of Congressional Districts determined every ten years, as required by the United States Constitution, following a national census. The equal proportions based on the Title 2 section 2a of the United State Code, requires the Census Bureau to compile a priority list of states. The priority values are determined by dividing the geometric mean of its current House seats with the State's population.<sup>30</sup> So, each of the fifty States was first awarded with one seat out of 490

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<sup>28</sup> *Ibid.*

<sup>29</sup> *Op. Cit.*

<sup>30</sup> The United States Census Bureau, 2010, *Strength in Numbers: Your Guide to census 2010 Redistricting Data From the U.S Census Bureau*, Washington DC, U.S Census Bureau, p. 3.

total. Then the 51<sup>st</sup> seat went to the state that had the highest priority value, which later be their second seat. A priority value is based on a state's apportionment population and the number of its next potential seat. The formula for a priority value (PV) is:

$$PV(n) = \frac{\text{State Apportionment Population}}{\sqrt{n + (n - 1)}}$$

Meanwhile, the Senate of the United States shall composed of two Senators from each State. No person shall be a Senator who shall not have attained the age of thirty years and been nine years as a citizen of the United State. The United States Constitution mandated the Senate to be divided into three classes for purposes of elections. Senators are elected to six-year terms, and every two years the members of one class-approximately one-third of the senators-face election or reelection. The times, places, and manner of holding elections for Senators shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

## 2. Malaysia

Malaysia is one of the world's few stable "hybrid", or "multiparty, electoral, but undemocratic regimes" regimes,<sup>31</sup> sustaining a mix of

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<sup>31</sup> Larry Diamond, 2002, "Thinking about Hybrid Regimes", *Journal of Democracy*, vol.13, p. 35.

participation and constraint types of political party. Parties are the key players in Malaysian political life. Up until now, competition has been between a firmly fixed BN and a fairly stable set of opposition parties, which are frequently allied in electoral pacts or coalitions. Just as Sartori posits should be the case, Malaysian parties serve both representative and expressive functions: developing and transmitting popular interests; channelling participation and structuring competition; and at least claiming intent to govern for the sake of the whole, rather than just on behalf of a given faction. However, no matter how leader-identified or -oriented individual parties may be – not least the United Malays National Organization (UMNO), which dominates the BN – as institutions, they are marked by internal competition, suggesting not just the space for new political patterns to emerge, but also pockets of more “democratic”, or at least fervently contested, space within a comparatively undemocratic polity.

Sartori notes that intra-party competition (for instance, in a one-party state) is not functionally equivalent to inter-party competition, as winners of party polls need not be responsive to the governed. That so many key political battles are worked out within the party or in the course of intra-coalition negotiations effectively removes these issues from the political marketplace and limits the scope of what general

elections actually determine.<sup>32</sup> To date, the BN has been able to claim that what has made this system right for Malaysia is the structure of social cleavages. However far from Lijphart's ideal-typical consociational democracy, the structure of governance in Malaysia still echoes that pattern of government by a vertically organized "elite cartel", in which carefully channelled participation defuses potentially destabilising inputs from a segmented public.

The presence of the two coalitions, each of which is apparently sufficiently internally resilient to persist, and attracts a nearly equal share of the popular vote, does not necessarily argue against this mode of pre-election coalition-building, but it does call into question how relevant or stable the communal cleavages that gave rise to this norm actually are. Such questioning is all the more germane since the BN's negotiations failed to ensure anywhere near proportionate elected representation for Malaysian Chinese, notwithstanding the coalition's vehement claims to inclusivity and (perhaps countervailing) attention to matters presumed of especial concern to the Chinese community.<sup>33</sup>

The latest elections clearly revealed the real fragility and, hence, the careful strategy, of even Malaysia's strongest parties. Malaysia does

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<sup>32</sup> Weiss, Meredith L, 2013, "Coalitions and Competition in Malaysia – Incremental Transformation of a Strong-Party system", *Journal of Current Southeast Asian Affairs*, vol.32, p. 22.

<sup>33</sup> *Ibid*, p. 23.



remain a hegemonic party system, inasmuch as the BN maintains a clear advantage in securing parliamentary seats, and, within the BN, UMNO is stronger than ever before, not least due to the near-total failure of its Chinese-based Malaysian Chinese Association (MCA) and Parti Gerakan Rakyat Malaysia (Malaysian People's Movement Party) component parties. However, reliance upon networks internal to the party was far less overtly costly for candidates. Both UMNO and PAS in particular function as mass parties, with on-going activities within an extensive structure of local branches and officials. Some of their coalition partners have less developed grassroots bases, and hence function more like cadre parties, kicking into gear as an election approaches. Overall, though, taken as coalitions, both BN and Pakatan have remarkably dense networks of supporters internal to the party, however dependent they may still be on supportive external allies in reaching out beyond party members and core constituencies.<sup>34</sup>

## **C. The Rebuilding of Indonesia Legislative Electoral System**

### **1. Reason to Rebuild**

As a contest that fights for people's trust, an election will be legitimate and gain legitimacy if it is carried out fairly. Fair elections are one of the constitutional mandates that are explicitly contained in Article

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<sup>34</sup> Weiss, Meredith L, *Op. Cit.*, p. 28.

22E Paragraph (1) of the 1945 Constitution. By using a conceptual approach, the results of the study conducted, the electoral justice desired by the constitution are based on the concept of justice as fairness and social justice contained in the Fifth Precept of the Pancasila. In Article 22E paragraph (1) the 1945 Constitution of the Republic of Indonesia is stated, general elections are carried out directly, publicly, freely, secretly, honestly and fairly every five years. In accordance with these provisions, "fair" is one of the principles of election management. Therefore, this principle must deepen the electoral system which consists of electoral law and electoral process.<sup>35</sup>

From the research, author found the most consistent finding in the electoral literature was the Duverge's Law. The Duverger law shows the mechanical and psychological effects on Single-Member Districts (SMD) will lead to two-party competition, whereas larger district magnitude produce multiparty system.<sup>36</sup> As SMD only lead to one winner, small parties are expected to be disappear or align with the bigger parties in order to have greater chance to win. Duverger himself suggested that district competition could spill over into the Proportional tier, yet most scholars supportive of a contamination thesis focus on

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<sup>35</sup> Khairul Fahmi, 2016, "Menelusuri Konsep Keadilan Pemilihan Umum Menurut Undang-Undang Dasar 1945", *Jurnal Cita Hukum*, vol.4, p. 168.

<sup>36</sup> Singer, M.M., Stephenson, L.B, 2009, "The political context and Duverger's theory: Evidence at the district level", *Electoral Studies*, p. 480–491.

additional factors that cross tiers, such as party interests or qualifying for public funds which may increase the number of district candidates.<sup>37</sup>

## 2. The Substance of Rebuilding

### a. The Election and Electoral System

Current standards of ideal behavior in national political life are no longer just relying on the measures of certainty, justice, and benefit of the law based on the principles of rule of law, but more than that, elections and the practice of political activities in the present era are idealized to have more integrity with a more substantial foundation of political ethics. Law is important, but it is no longer sufficient to guard and control the ideal behavior of post-modern society. By prioritizing ethical considerations to perfect the legal logic for substantive justice, the quality of democracy can be improved not just as a procedural democracy, but democracy that is more substantial and has integrity.<sup>38</sup>

### b. Balloting and Constituency

Indonesia shall not rawly follows what United States do to its election. The one that may be applied is how the United States determine its Constituency areas and balloting. Using the method

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<sup>37</sup>Timothy S Rich, 2015, "Duverger's Law in Mixed Legislative System: The impact of National Electoral Rules on District Competition", *European Journal of Political Research*, p.184.

<sup>38</sup> Kofi Annan, 2013, *Interventions: a Life in War and Peace*, Penguin Books, p. 217.

of Equal apportionment rather than proportional will suites Indonesia's condition better. The equal apportionment goes in line with concurrent election and presidentialism. Considering the phenomenon of the addition of DPR seats and the lack of transparency in the electoral district stipulation by the Election Bill Special Committee, there is a possibility of Gerrymandering's reasoning.

c. Party System

Party systems that are deemed to be suitable both in the context of Indonesian politics (plural community structures and party history) and with the form of presidential government are moderate pluralism party systems.<sup>39</sup> Extreme pluralism is seen as incompatible with the form of presidential government<sup>40</sup> Moreover with Pancasila as *grundnorm*. The simple pluralism party system is very much in line with the form of presidential government but does not fit into the structure of society and Indonesian party history, especially less realistic compared to the party system that actually occurs in Indonesia today. Therefore, creating a coalition before the

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<sup>39</sup> Jose Antonio Cheibub, 2007, *Presidentialism, Parliamentarism and Democracy, Government Coalitions and Legislative Success under Presidentialism and Parliamentarism*, Cambridge, Cambridge University Press, p. 173.

<sup>40</sup> Juan J. Linz, 2011, "The Failure of Presidential Democracy: The Case of Latin America", *Comparative Political Studies*, XXVI (May), p, 138.

election phase as Malaysia does is important. The candidate shall come from the coalition rather than from each political party.

## **V. Conclusion and Recommendations**

### **A. Conclusion**

District electoral system may improve the quality of the candidate as shown by the research on United States and Malaysia. Indonesia had been conducted the concurrent election in the 2019 and the concurrent election creates a coattail effect, where the electability of presidential candidates will influence the electability of legislative candidates. Voters tend to choose political parties or coalitions of political parties that nominate their chosen president. The Proportional system with Saint-lague variant in a concurrent election shows some problems. The district electoral system in legislative election is applicable in Indonesia with some conditions and adjustment. The method of re-districting using equal apportionment rather than proportional will suites Indonesia better. As Indonesia using the multiparty system, the coalition shall be taken form into two big coalition in order to goes in accordance with presidentialism and take place before the election phase. This aimed to make a steady coalition that based on peoples interest and the legislative candidate shall proposed by the coalition not from individual party.

### **B. Recommendations**

The House of Representative shall change the Proportional system to Mixed member Majoritarian or in another words District system. The changes

shall not directly limit the number of political party but the system itself who will do the work. The balloting and constituency making shall use the equal apportionment rather than proportional system, so that the votes shall not goes to waste and it opens the more just opportunity to all political party and or individual who will participate. The coalition of political party shall conducted before the election phase and the coalition shall propose the candidate. The candidate of legislative does not came from individual party but the coalition. The concurrent election shall have an interval time between president and legislative election, so that the legislative-threshold be well maintain and logistic are fully prepared. In the end, the House of Representatives shall amend the organic law of election.

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