

CHAPTER ONE

INTRODUCTION

A. Background

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.¹ 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.

The electoral system is a thing that is unseen by voters in an election. Electoral system shall be the key factor of any success or a failure of a legislative election, because it is the mechanism used in the selection and delegation of sovereignty to the people's representatives.² 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

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

² Ramlan Subekti, 1992, *Memahami Ilmu Politik*, Jakarta, Gramedia Widya Sarana, p. 181.

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 institutions.³

The 1999 legislative election used the closed proportional system but this system is considered to perpetuate the political party oligarchy, only the political party elite is likely to become the top candidate and may advance to the parliamentary seat.⁴ In the 2004 elections, the electoral system was changed a bit. The closed proportional system in 2004 provide an opportunity for candidates who were not in the highest serial number whose votes reached the Voters Divider Numbers (BPP) set. For the first time, the 2004 elections carried out elections for DPD members and also direct presidential elections. In the 2009 elections the open proportional system was fully used. This policy also has a legal basis in the form of a Constitutional Court Decision.⁵

In the 1999 election, people's interest in political parties became the reason for choosing the political parties, then in the 2009 legislative election the political party factors shifted to someone's personal character. 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

³ Sigit Pamungkas, 2009, *Sistem Pemilu*, Yogyakarta, Jurusan Ilmu Politik Fakultas Ilmu Sosial dan Ilmu Politik UGM, p. 43.

⁴ Asrul Ibrahim Nur, "Menatap Pemilu Legislatif dan Masa Depan Demokrasi", *The Indonesian Institute*, p. 40.

⁵ *Ibid.*

having a lot of money is a mandatory requirement for a legislative candidate if he wants to qualify for parliament. Aggravated by party cadre requirement that do not require legislative candidates as cadres from the beginning. Elections begin to be considered as a five-year routine that does not have the value of sacredness and significance.

In the midst low quality legislative members, the law Number 7 of 2017 on Elections enacted as one of the legitimate grounds for carrying out ‘the true’ concurrent elections, since then the consolidation of democracy in Indonesia has entered a crucial stage. 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. The General Election Commission (KPU) revise the KPU Regulation (PKPU) Number 7 of 2017 and Number 11 of 2017. The two revisions were carried out under the pretext of maintaining the mandate of the Constitutional Court (MK) which granted the material test of article 173 paragraph 1 and 3 of the Election Law.⁶ Law Number 7 of 2017 on the Elections is considered weak when the verification method changes using the sampling method, not the census as stipulated in PKPU before the revision. The sampling

⁶ The Constitutional Court Regulation number 20 of 2019.

method makes the KPU only examine a few members of the total cadres that political parties claim in an area.

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.⁷ 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. For voters, this is certainly more burdensome if they have to think about how the electoral system will affect the outcome of the choices that they make. The corrupt legislature may get benefits from that reason because they understand in the context of the division of authority in the trias politica, the legislature has the duty to oversee the executive (government) performance which may lead to an open door of fresh money.⁸

Indonesia as a state that adheres to the rule of law by AV Dicey, Electoral system has important meaning. Elections are the best and most democratic way to improve political systems of a state with the aim to gain strong legitimacy.⁹ The

⁷ Joko Prihatmoko, 2008, *Mendemokratiskan Pemilu dari Sistem Sampai Elemen Teknis*, Yogyakarta, Pustaka Pelajar, p. 65.

⁸ Montesquieu, 2007, *The Spirit of Laws: Dasar-Dasar Ilmu Hukum dan Ilmu Politik*, translated by M. Khoiril Anam, Bandung, Nusamedia, p. 53.

⁹ Septi Nurwijayanti, Nanik Prasetyoningsih, 2009, *Politik Ketatanegaraan*, Yogyakarta, Laboratorium Hukum Universitas Muhammadiyah Yogyakarta, p. 68.

sovereignty possessed by the people is reflected by the holding of general elections in certain times.¹⁰ A political party's cadre system and general election system must be considered properly. The proportional system that is always glorified must be of doubtful benefits. The election is a vital element as a benchmark for knowing whether or not a country is democratic.¹¹

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 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 party.

B. Statement of Problems

Based on the background above, the problem statements of this research are:

1. Does the district electoral system may improve the qualification of legislative candidate?
2. How the implementation of district electoral system in Indonesia legislative election?

¹⁰ See Article 1 Paragraph (2) of The 1945 Constitution.

¹¹ *Op. Cit.*, p. 59.

C. Objectives of Research

1. To know and understand the root of problematic legislative member and understand the way of creating qualified and competent legislative candidates.
2. To analyze the implementation of district electoral system in legislative election.

D. Benefits of Research

The advantages which could be reached from this research includes:

1. Theoretically

The research grants a better and deeper understanding of knowledge on legislative electoral system. The research also reveals the urgency of district electoral system in legislative election.

2. Practically

The research gives the solution to settle the problems that occur on legislative election.