

Challenges in Reforming Election Law in Indonesia

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Abstract

This article explores the evolution of Indonesia's electoral system reforms since the restoration of democracy in 1998 and examines how these reforms have influenced Indonesian democracy through successive elections. To this end, the paper addresses two key inquiries: first, it identifies the primary stakeholders crucial for initiating and conducting the reform process; second, it outlines the objectives of these stakeholders in pursuing electoral reform. The findings suggest that the motivations of political elites are largely driven by a need to preserve and protect their own interests. This article aims to contribute to the discourse on electoral reform in Indonesia and its implications for the future trajectory of Indonesian democracy.

Keywords: Electoral Reform; Election Law; Indonesian Democracy.

1. Introduction

The ongoing electoral system reform, which includes the revision of the general election law, serves as a significant case study in electoral system design. In Indonesia, the election law has been subject to continuous changes, indicating a persistent struggle among political forces. Initially, the process of amending the election law received limited public attention. However, following the downfall of the New Order, the public focus shifted towards pivotal issues such as the trial of Suharto, constitutional amendments, regional autonomy, and the abolishment of the dual function of ABRI or the military (Horowitz, 2013: 16). While the reform agenda does not specify the exact electoral system to be adopted, it acknowledges that this discussion will be incorporated into the amendment of the 1945 Constitution.

The initial post-reform election law (UU No. 2, 3, 4/1999) is commonly regarded as a transitional law that allows for adjustments based on the evaluation of its implementation results (Pahlevi, 2016). Despite expectations for significant changes to the electoral regime structure of the New Order, the law remained largely unchanged. The closed-list proportional representation system,

previously in place during the New Order era, was reinstated for the first election of the 1999 reform era. Lawmakers chose to prioritize establishing a solid foundation for the representation system, setting aside various community and intellectual aspirations, including the proposal for a plurality/majoritarian electoral system (commonly known as the "district system" among election matter activists in Indonesia).

Since 1999, revisions to the election law have continuously taken place during the DPR period. The process remains the same: the DPR receives the initial draft of the bill (RUU) for processing and adoption. The process of creating this law has started to attract greater public attention than before. Even though various non-governmental organizations (NGOs) concerned with election issues have carried out intensive advocacy, the DPR consistently revises the election law in line with the interests of the parties in parliament, while the Constitutional Court (MK) has repeatedly annulled several articles in the law.

This article is driven by the observation of a particular phenomenon. Despite the evident and tangible negative impact of the current election system, why do lawmakers resist making substantial changes to the election

law? What are the barriers and challenges encountered in the process of revising the election law? This article will delve into the pressing need for electoral law reform and the ongoing nature of these changes while also addressing the persistent challenges stemming from their implementation. It aims to fill a gap in existing research, as few studies have focused on the repeated attempts to reform the electoral system.

2. Theoretical Perspective

In theoretical terms, a rationality-based focus on the self-interested incentives of actors serves as the foundation for most analyses of the changes to the electoral system (Katz, 1980). The argument presented is that while rationality assumptions hold considerable importance, they are ultimately inadequate. This viewpoint particularly addresses politicians and their advisors, who are recognized as the central figures in this process. In the context of Indonesia, politicians who gain from their incumbency express concerns about the future of their parties should there be a shift in the political balance against them as a result of agreeing to reforms (Boix, 1999). Efforts to discourage or impede the entry of new political participants obstruct meaningful electoral reform. Stringent requirements render it difficult for emerging parties to compete in elections, let alone fulfil any established thresholds. Consequently, only seasoned politicians with extensive legislative backgrounds are involved in the development of electoral laws. Individual politicians strive to enhance their prospects for re-election, while it is commonly assumed that political parties aim to maximize their representation in legislative bodies.

This rational choice approach (Rahat, 2004) will be employed to address these inquiries. Nevertheless, another factor, such as the institutional approach, may also play a

role in impeding electoral law reform in Indonesia.

Kitschelt (1999: 29) underscores the critical role of institutional choices in post-communist democracies. Furthermore, his analysis investigates essential characteristics of the preceding authoritarian regime, such as the distribution of political resources and the mobilization capacities of various actors. These factors can profoundly influence the path of institutional change.

3. Method

This article explores the motivations that led to electoral reforms and examines the influence of elites in shaping these changes. The article aims to gain a deeper understanding of the behaviours exhibited by political parties and politicians regarding the development of electoral laws and regulations. In addition, it shall illuminate the failure of the electoral reform in a fragmented multiparty system.

To this end, we have gathered data from newspapers and magazines, as well as published and unpublished documents, and conducted in-depth interviews. These interviews enhance the comprehension and interpretation of the motives and choices made by key actors involved in the reform process. Participants include party functionaries, members of the special committee on electoral law within the DPR, academics with expertise in Indonesian party politics, and activists from civil society organizations who have a vested interest in electoral issues.

The primary analytical method employed is process tracing. According to Crasnow (2017), process tracing is a technique used to provide evidence for causal mechanisms that facilitate the testing of hypotheses in case studies. Process tracing involves analyzing a case into a sequence of events and demonstrating how these events are plausibly interconnected, considering the interests and

circumstances faced by various groups or individual actors (Mahoney and Rueschemeyer, 2003).

4. Result and Discussion

It is widely recognized that frequent changes in election laws characterize Indonesian electoral politics. Similar to several other countries, the influence of political parties shapes the process of amending election laws, with a tendency to support changes that are less unfavourable to them. Major parties typically favour laws that can enhance their electoral chances, while mid-sized parties aim to maintain or enhance their standing. Smaller parties, on the other hand, are more likely to endorse laws that prevent them from being excluded from parliament.

Revisions to electoral law tend to focus predominantly on normative aspects rather than addressing the fundamental issues they may engender. Although there is a prevailing dissatisfaction among politicians regarding the current system, they often lack the authority needed to enact substantive changes (Fox, 2024). In anticipation of each revision period, there is a consistent call for electoral law reform aimed at streamlining the party system.

However, there are factors that hinder the emergence of a significant reform. First, the consensus-based decision-making process, which emphasizes the interests of each political party, frequently obstructs the possibility of meaningful reform. Additionally, the structure and composition of parliament, characterized by a significant number of veto players, lead to a relatively equitable distribution of political power throughout decision-making processes. This is evidenced by the average number of effective

parliamentary parties, which ranged from 7.07 to 7.26 between 2004 and 2024.¹

The primary challenge in implementing significant change stems from the fact that decision-making within institutions often relies on achieving consensus, making it difficult to enact substantial reforms. Lawmakers consistently seek to identify common ground that can produce benefits for all parties involved (Hanan, 2014). When discussing potential changes to election laws, the debate typically centers on the height of the threshold and the configuration of electoral districts.

It is important to recognize that decisions are not invariably reached through consensus. During the discussions surrounding potential amendments to the 2019 election law, various factions (*fraksi*) within the DPR opted to adopt a voting process. However, the elements that were subject to the vote did not bring about significant modifications to the electoral system, as they were limited to the electoral threshold and the dimensions of the electoral district (Edy, 2017). Three opposition parties abstained from the voting procedure.

Second, the intermittent debates throughout the law-making process predominantly reflect the interests of established parties, thus hindering the electoral reform initiative. Although election laws are routinely updated prior to each election, these revisions have not effectively addressed the existing challenges. Discussions about alterations to the electoral system are infrequent due to the clash of conflicting interests (Shair-Rosenfield, 2019). For example, the implementation of the notorious open list proportional representation (OLPR) system has yet to motivate legislators (DPR) to explore alternative electoral systems. There were conversations about shifting the system

¹ The calculation in this figure is based on the method proposed by M. Laakso and R. Taagepera, “‘Effective’ Number of Parties: A Measure with Application to

West Europe,” *Comparative Political Studies* 12, no. 1 (1979): 3–27.

from OLPR to closed list proportional representation (CLPR) as proposed by PDIP. However, these discussions faded due to other parties' reluctance to bolster PDIP's bargaining power. Major parties like PDIP usually advocate for a high threshold, which requires support from other parties. Interestingly, the Nasdem Party suggested a 7% threshold ("Naikkan Parliametary Threshold Jadi 7 Persen" 2016). Ultimately, the consensus reached did not align with the preferences of either PDIP or Nasdem, resulting in an agreed threshold of 4% in order to accommodate those advocating for the existing OLPR system.

The third factor that hinders legislators in enacting substantial reforms to the electoral system is their concern regarding the potential future ramifications of such reforms. Additionally, there exists apprehension about the likelihood of repeating past mistakes, and the the evolving nature of public opinion.

Parliamentary parties have adopted measures to fortify their positions by imposing stringent criteria for obtaining seats, commonly referred to as the parliamentary threshold. The absence of new entrants, who might introduce substantial reforms to election laws, has led to only minor amendments being enacted by established parties. In the 2024 elections, no new party secured a seat in parliament, thereby reinforcing the influence of long-standing figures in the formulation of election laws. As a result, the direction of these laws continues to be guided by these established individuals, contributing to a persistent lack of significant changes to date.

Another factor at play is the concern among parties about unfavorable outcomes stemming from major alterations to the electoral system. Various parties are advocating for a shift to a district system, akin to what was proposed during the 1999 elections. The Golkar Party stands as the sole supporter of this system, a position that reflects its self-interest (Crouch, 2010). This

approach is seen as providing them with a substantial opportunity to secure seats, given the relatively even distribution of their votes compared to other parties. From the perspective of rational choice theory, it becomes clear that other parties oppose this system, as it would likely reduce their representation in the DPR. The district system (plurality/majoritarian) is expected to greatly simplify the party system (Benoit, 2001: 203–24).

Has there been any discussion regarding alternative electoral systems to OLPR? According to the minutes from the 2019 Election Bill special committee meeting, there was a meaningful debate on whether to maintain the OLPR system or transition to a CLPR. Election advocates explored an alternative electoral framework as a potential compromise in the discourse between these two approaches. LIPI proposed a mixed electoral system featuring the Multi-Member Majoritarian (MMM) variant, which could effectively integrate the advantages of both open and closed list proportional systems (Setjen DPR RI, 2017). Nevertheless, these proposals did not receive significant attention, as lawmakers expressed hesitance to undertake the risks associated with fundamentally altering the electoral system.

The DPR's apparent lack of interest in exploring electoral systems beyond the current proportional model can be attributed to several key factors. Firstly, parties advocating for alternative systems, such as a mixed electoral system, did not provide a sufficiently detailed explanation during the inquiries posed at the Special Election Committee meeting. Secondly, the DPR's hesitance to delve into other electoral options is aggravated by a lack of clear and comprehensive information about these alternatives. Moreover, the absence of an in-depth analysis regarding the potential negative impacts of the OLPR system has led the majority of parliamentary parties to perceive the existing system as the most

favourable option. Additionally, this reluctance to amend the current electoral framework is reinforced by lawmakers' comfort and familiarity with the existing system. The interconnected nature of the third and fourth factors reflects apprehensions concerning the recurrence of past negative experiences, along with public resistance to changes in the OLPR system. A particularly concerning historical example for legislators is the CLPR system, which granted significant authority to party leaders in determining the electability of candidates for legislative positions. Within this system, candidates with advantageous connections to party leaders were more likely to attain prominent roles, as their electability depended significantly on their ranking within a party's successful vote that secured a seat.

Recent public sentiment strongly favours the adoption of the OLPR system as opposed to a CLPR. The Chairman of the General Election Commission's (the KPU) suggestion to consider implementing the CLPR, contingent upon satisfying certain demands from several parties as stipulated by the Constitutional Court (MK), has led to considerable opposition from diverse segments of society (Tempo.Co, 2023). In response to this situation, eight political parties have publicly rejected the closed proportional system (Media, 2023). Notably, several of these parties (such as PKS and Golkar) had previously backed the CLPR during deliberations on the 2014 Election Bill, as indicated in research documentation. This reversal indicates that their opposition is primarily driven by public pressure rather than a genuine shift in perspective, as party elites may still perceive the CLPR as advantageous for maintaining control over the nomination of legislative candidates within their ranks.

5. Conclusions

The ongoing challenge of reforming election law remains significant, particularly

with no amendments implemented for the 2024 elections. The issues associated with the OLPR system have not received adequate attention, and there is a concerning lack of clear, measurable efforts from lawmakers to address these challenges prior to the upcoming election. Rather than focus on critical issues, the KPU is being called upon to demonstrate creativity in order to mitigate potential negative impacts. However, the KPU's emphasis on non-technical matters, such as strategies to protect local poll administrators (KPPS), detracts from more substantive concerns like the quality of representation—an essential element in fostering a healthy representative democracy.

It appears that lawmakers are more preoccupied with the personal advantages of minor changes rather than with genuinely improving the electoral process. Similarly, the response of political parties to civil society's demands regarding both OLPR and closed CLPR systems seems largely motivated by a desire to fulfil those demands superficially.

In light of these circumstances, it is now imperative to initiate a public dialogue regarding alternative electoral systems that extend beyond the traditional open and closed lists proportional frameworks. Many countries have effectively utilized mixed electoral systems, such as Mixed-Member Proportional (MMP) and Mixed-Member Majoritarian (MMM), to navigate the challenges associated with the limitations of existing systems. Instead of perpetuating debates on the merits of OLPR versus CLPR, we should focus our efforts on studying and exploring mixed electoral systems, which have the potential to integrate strengths while addressing the weaknesses of the current frameworks.

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