

Refraction of the 2019 Election System Results

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Abstract. This study raises the case of the eleven names of legislative candidates for the 2019 General Election, with details of six at the central level, and five at the provincial level, who received the most votes and were entitled to be inducted as legislators, but before inauguration day they were fired by the political party that carried them. This qualitative type of research with descriptive-analytical method succeeded in answering the background of this problem; namely that the latter eleven names were not the people wanted by the party elite, but there were other names that were favored. With the dismissal of the eleven names, the eleven favorite names were sworn in as legislators. Through data collection techniques through in-depth interviews and Focus Group Discussions, the results of the analysis conclude that the practice of biasing the open list proportional election system, apart from being contrary to the election law, also damages the credibility of political parties, undermines the rules of the election game, and sparks voter distrust of the Indonesian election. The results of this study recommend the need for similar research at the district/city level.

Keywords: Electoral System, Indonesia's Proportional Election System Bias, Electoral System Refraction

1 Introduction

The main function of an election system is to regulate the mechanism for converting votes in an election into state administrator seats won by candidates. This mechanism is a detailed constitutional arrangement with the main function of converting the results of voting and vote counting, into the seats of elected state officials or candidates who win the election [1][2]. Thus, the results of the implementation of the electoral system have a significant influence on the future political life in a country. The legislative composition resulting from the electoral system, at the same time determines the political constellation of a country's decision-making, influences the relationship between the executive and the legislature, and which ultimately determines the style and direction of government policies of a country as a whole [3], [4]. Thus the importance of the electoral system, even though it looks like a mere numerical formula, in fact determines the complex journey of a country, and all of it starts from the citizens' political participation, determines the composition of the government of a country, at least a few years after the implementation of an election [5][6].

Studies conducted by political scientists show that the electoral system has a significant impact on voter behavior, voter orientation, and the level of voter participation in elections [7]. A representative proportional election system, has a function to encourage the enthusiasm of voters to attend the polling station (TPS) and exercise their right to vote on the D-day of the General Election [8]. Therefore, in front of the voters, many alternative names are provided

to determine who they will choose, and all of them are listed on the candidates list. With so many names of candidates on the ballot paper, it is very likely that voters have the opportunity to choose the candidates who in their view are the best candidates, or exclude candidates who are not better, or even the possibility of not choosing any of the names in the candidates list (Harris, 1997; Ishiyama, 2012). In addition, with their choice, they have high hopes that the candidates they choose will work to fight for the interests of their constituents [9].

The 2019 legislative election system uses Proportional Representation Systems with an open list system variant, as regulated in the Law Number 7 of 2017 concerning General Elections. In the provisions of Article 168 paragraph (2) of the law, it is regulated that the election (is) to elect members of the House of Representative (DPR), Regional Representative Board (DPD), and Provincial Regional House of Representative (DPRD) and Regency/Municipal DPRD is carried out with an open proportional system, while the provisions of Article 422 in the same law declares that the determination of the elected candidates for members of DPR, Provincial DPRD, and Regency/Municipal DPRD from the Election Contesting Political Parties is based on the seats acquired by the Election Contesting Political Parties in an Electoral District, determined based on the acquisition of the most votes in each candidate for members of DPR, Provincial DPRD, and Regency/Municipal DPRD in one respective electoral district (Dapil) listed on the ballot. The implementation of this election system is expected to apply to 20,258 legislative candidates participating in the 2019 general election. That number is fighting for 575 seats in the central parliament in 80 electoral districts, 2,207 parliamentary seats at the provincial level in 272 electoral districts, 17,340 seats in district/city parliaments in 2,206 electoral districts, and 136 regional representative seats in 34 electoral districts [10].

In fact, the Proportional Representation Systems above is not completely consistent when it is applied in the field. There are eleven names of legislative candidates at the central and provincial levels, who received the most votes in accordance with the provisions of the election law, but were not granted constitutional rights to be sworn in. The General Elections Commission (KPU), which initially had even designated them as the ones with the most votes in their respective electoral districts, later removed them from the list of local election winners a few days before the inauguration date. The reason the KPU, the political party that supported them, proposed to drop them, because these ten legislative candidates, according to an internal decision of one-sided political parties, were deemed no longer qualified as members of a political party, while one of the requirements for a person's candidacy according to the law is that they must be submitted/carried by the leadership of a political party. The names of the eleven victims of unilateral action by the political party elite include six candidates for members of the central parliament and five candidates for provincial parliamentarians from Gerindra and PDI-Perjuangan parties.

Starting from the background above, this study wants to reveal the answer to why the ten names of legislative candidates, which according to the law have the right to be inaugurated, were recently proposed by political party elites to be canceled and finally dropped by the KPU from the list of candidates who won the general election entitled to be appointed. The focus of this study will also reveal how the law regulates the mechanism for dismissing legislative candidates who were previously declared the winner of the election but were later annulled.

2 Method

This research is a type of qualitative research. Qualitative research is a research that depends on its processes according to its objectives, namely to understand aspects of social life and reveal the meaning behind the events of the elimination of the eleven legislative candidates, while the approach of this research uses descriptive-analytic [11]. In other words, the aspects studied in the qualitative research are the actions of a person behind the socio-political phenomena that occur, through full understanding (*verstehen*) and it is not just an explanation [12]. This study involved research subjects, consisting of groups of victims, namely eleven legislative candidates, decision makers of the central leadership of political parties who crossed out the eleven names in question, provincial and district/city KPU chairmen and members, and election experts. This research report was prepared by relying on primary sources in the form of in-depth interviews and secondary sources from legal decision documents, KPU decisions, political party decisions, and correspondence files. Data collection techniques, apart from being done through in-depth interviews, are also through a series of Focus Group Discussions (FGD) that were done four times between July and August 2020 which are packaged in an open Webinar format.

3 Result

3.1 Electoral system forbids, regulations allow

In a proportional representative election system, in essence, each candidate is lined up based on the names proposed by political parties. In this system, whether the serial number is placed at the top or even at the bottom, it is entirely left to the political parties, and submitted/proposed by the elites of their respective political parties to the KPU. Here the political party elite has a very absolute role regarding one's fate, even though the laws and regulations require political parties to consider the track records of legislative candidates, the dedication of candidates through the regeneration system, and the placement of the order is carried out democratically. The proportional representation system also outlines several variants for whether this system adheres to an open list or a closed list system of candidates. The implementation of this system in Indonesia, according to Law Number 7 of 2017, uses an open list candidate system. The consequence of this system is that with an open list, the determination of a legislative candidate is entirely in the hands of the people. The variant of this system in the 2019 Election, according to the law, also states that the elected candidate is determined by the majority of votes.

The ten names that were crossed out were the legislative candidates who were proven to have obtained the most votes, and they naturally had the right to be appointed as elected candidates. The KPU as the decision maker, in each respective electoral district (Dapil), has carried out the things that are their duties. The deletion of the eleven names is actually something that should not be done, because they are the people's choice. The majority of votes in one electoral district are entirely in the hands of the voters and the voters have given their right to vote for them, and this should not be interfered by anyone and for any reason [13]. The method used by political parties, be it the Gerindra or the PDI-Perjuangan parties' elites, in the context of building a balanced representative election system, contradicts the aspirations of the people, because the people's choices have dropped to eleven names. That is the deprivation of the constitutional rights of the people in the process of voting and being elected.¹

¹ Adi Surjadi Culla, FGD, June 11st, 2020 administrators.

Academician from Sam Ratulangi University Manado, Ferry Daud Liando, stated that conceptually and theoretically, it is unacceptable to write off the names of the elected candidates for the legislature, because the people's choices must be directly proportional to the names of state. In the concept of the electoral system, what the people want when they are present and exercise their right to vote at the polling station (TPS), must be embodied in the name that will be the result of the conversion of the resulting electoral system. The electoral system is only an instrument for converting people's votes, and it is obligatory for the people's choices to produce the names of the choices they want. Election organizers have the task of facilitating the conversion of the results of the people's choices into the seats of state administrators, in this case the elected legislative candidates from the 2019 legislative elections. With the inherent authority, election organizers are also obliged to ensure that the seats of state administrators resulting from the general election are directly proportional to what the people want. Any party must respect the people's choice, including political parties.²

However, the conceptual and theoretical lines of the electoral system as described above are inversely proportional to the electoral law in Indonesia. Ali Nurdin, a lawyer for the KPU, said that judging from the provisions of the legislation, it is possible to remove members of the legislature. KPU Regulation Number 5 of 2019 regulates the conditions for replacing elected candidates, which in the provisions of Article 32 stipulates five things that allow an elected candidate to be replaced by another candidate, namely if the candidate dies, the elected candidate resigns, the candidate does not meet the requirements to become a member of the DPR, DPD, Provincial DPRD, Regency/Municipal DPRD, legislative candidates are proven to have committed criminal acts in the form of money politics or document falsification, and candidates are proven to have violated the campaign prohibition, as also regulated in Article 426 of Law Number 7 of 2017.³

With this legal basis, the KPU is in a position to only follow the party's proposal. If a party proposes to replace an elected candidate, the KPU will make clarifications in the form of checking the completeness of the requirements for replacing a candidate, such as a letter stating that a person no longer meets the requirements as a legislative candidate, because he is no longer part of the party, while the proposed replacement of an elected candidate until the dismissal of a party member is the authority of political parties.⁴

3.2 Legislator Candidates Favoritism

The main theme why eleven legislative candidates, victims of unilateral exclusion by their supporting parties, is because of favoritism. In the case of the candidate for DPR RI of West Kalimantan 1, Alexius Akim, he was dismissed by the Leadership of Political Party at National Level (DPP) of PDI-Perjuangan, without going through the Party Court process, but was suddenly declared to have violated the code of ethics. He found out after he was summoned by the DPP of PDI-Perjuangan and asked to sign his dismissal. What happened to him was the end result of a series of attempts to shake up his majority vote, after he was reported to the Provincial General Election Supervisory Agency (Bawaslu), then reported to the Bawaslu, and finally criminally reported to the Gakkumdu Center. He was later replaced by Maria Lestari, a one-party and one-dapil colleague. The vote gained under Akim was G Michael Jen0, but

² Ferry Daud Liando, FGD, July 24th, 2020

³ Written and oral statement of Ramdan, Chairman of KPU of West Kalimantan Province, on FGD, August 11st, 2020

⁴ Written and oral statement of Ali Nurdin, Lawyer of KPU, on FGD, July 17th, 2020

Akim's colleague was willing to step down, so naturally, he got the third most votes, namely Maria Lestari, replacing Akim and Jen0.⁵

A similar incident was experienced by Sigit Ibnugroho Sarasprono, a candidate for the House of Representatives of Republic of Indonesia for the Central Java Regional Elections 1 from the Gerindra Party. According to his lawyer, Aris Sektiono, his client received the most votes in the 2019 election. Sigit was decided no longer qualified as a candidate for legislative members because based on the South Jakarta District Court Decision, according to the supporting party, he was deemed no longer eligible as a legislator. Sigit decided that the KPU would no longer be included in the list of elected candidates to be inaugurated. Aris stated that his client recently received news that Sigit was dismissed for violating the code of ethics, while his client had never been summoned in a Party Court hearing and until this report was written, he had also never been given his rights, such as a dismissal decision, even though through his lawyer, Sigit had visited the DPP party⁶. Sigit was eventually replaced by Sugiono, getting the next vote.⁷

Another thing happened to the candidate of South Sulawesi Provincial DPRD for the Dapil 2, Novianus YL Patanduk. According to the chairman of the KPU of South Sulawesi, he won the most votes in his electoral district⁸. What he experienced was more about his inability to meet the 20 million rupiah fund, which was referred to as the mutual cooperation fund. This fund is an internal agreement of the local DPD of PDI-Perjuangan. On the specified deadline, he failed to pay in full, due to financial conditions that did not allow it. In July 2019, he was summoned by the DPP of PDI-Perjuangan to attend a hearing on the vote acquisition lawsuit filed by his colleague, fellow legislative candidate, Risfayanti Muin. On July 31st, 2019, he was asked to attend a hearing at the DPP of PDI-Perjuangan to hear Risfayanti's complaint. In the recapitulation session of the Provincial KPU, he was declared the winner of the most votes. On September 16th, 2019, through a letter from the DPP of PDI-Perjuangan, he was dismissed as a member of the PDI-Perjuangan. He has objected to the decision, but has yet to receive a response. Surprisingly, he said, he was invited to attend a rehearsal for the inauguration of members of the DPRD of South Sulawesi.⁹

Misriani Ilyas worked hard to win the vote. With broad community support, and which he organized, he reaped significant votes.¹⁰ On August 13th, 2019, the local KPU issued a decision that he received the first most votes in the Dapil 2 of the South Sulawesi DPRD.¹¹ However, colleagues from one party in the same electoral district did not accept the vote. Adam Muhammad sued Misriani's victory in being sued to the DPP of Gerindra Party Honorary Council. Despite rejecting Adam's claim, the Panel invited the plaintiff to file a lawsuit in court.

⁵ Alexius Akim, FGD, July 17th, 2020

⁶ Written and oral statement of Lawyers Sigit Ibnugroho Sarasprono, Aris Sektiono, FGD on July 17th, 2020

⁷ KPU Decree Number 1341/PI.01.9-Kpt/08/KPU/IX/2019 September 16th, 2019

⁸ Oral and written material of Chairman of KPU of South Sulawesi Province, Faisal Amir, FGD, July 24th, 2020

⁹ Novianus YL Patanduk, FGD July 24th, 2020

¹⁰ Misriani Ilyas, FGD, August 18th, 2020

¹¹ Chairman of KPU of South Sulawesi Province, FGD, July 24th, 2020

Adam followed up on this suggestion when on June 26th 2019, along with nine other people including himself, he submitted a lawsuit to the South Jakarta District Court.¹²

Adam Muhammad and his friends' lawsuit was tried at the South Jakarta District Court. Decision Number 520/Pdt.Sus.Parpol/2019, which was read out by the panel of judges on August 22nd, 2019, granted all the material for the lawsuit. This means that apart from targeting Misriani, they are also targeting other victims, who have the most votes in their respective electoral districts.

The KPU later on September 16th 2019, followed up on the decision through KPU Decree Number 1341/PI.01.9-Kpt/08/KPU/IX/2019. The main point of this decision is that a number of Gerindra Party candidates, which were originally declared by the KPU as getting the most votes, were replaced by candidates with the next most votes. For example, Ervin Lutfhi and Fahrulrozi Edward, candidates for the House of Representatives of the Republic of Indonesia from the Gerindra Party for the West Java Region XI, who were previously declared by the KPU as getting 520/Pdt.Sus.Parpol/2019 August 22nd, 2019 the third and fourth most votes,¹³ was replaced by Mulan Jameela the fifth-most winner.¹⁴ Ervin felt that he had been treated unfairly, was not given a letter of dismissal, but was suddenly fired without notice, while Fahrulrozi thought that his actions were carried out by a group close to the party elite.¹⁵

The next victim, the candidate for the House of Representatives of Republic of Indonesia, the Gerindra Party for the Dapil of West Kalimantan, Yusid Toyib. His position was replaced by Katherine A. Oe, a person close to the elite of the central party management. Yusid was appointed by the KPU of West Kalimantan as the winner of the most votes on August 31st, 2019, but was later dismissed unilaterally, while he himself had attended the briefing at Lemhanas. The dismissal was admittedly not officially conveyed, but suddenly it was replaced. Yusid stated that he was sued by his successor to the Constitutional Court, but the alleged fraud was not open so the Court rejected it.¹⁶ Another victim is Steven Abraham, the first voter in the Papuan electoral district. Prior to his dismissal, Steven was the Chairperson of the Leadership of Political Party at Local Level (DPC) of Gerindra Party. Merauke was among those who attended the debriefing of candidates elected by the Gerindra Party, and became a speaker because of his success in gaining votes and growing the party in the southern region of Papua. However, suddenly, a few days before the inauguration, Steven, who knew about his removal from the KPU website, did not know why he was dismissed and knew the notification.¹⁷ Steven's replacement is Yan Permenas Mandenas,¹⁸ even though the one who sued was candidate number 4 from the Papuan electoral district, namely Irine—the son of the chairman of the DPP Papua of Gerindra Party, Yani. The same victim, Robby B. Gaspersz, a candidate of the Gerindra Party for DPRD Maluku for Dapil 1, who was replaced by Johan Johanis Lewerissa. In fact, Robby has been designated by the KPU of Maluku as the winner of the most votes through Decision Number 987/PL/.01.8-

¹² South Jakarta District Court Decision Document Number

¹³ Oral and written statement of Chairman of KPU Province, Rifqi Ali Mubarak, August 4th, 2020

¹⁴ KPU Decree Number 1341/PI.01.9-Kpt/08/KPU/IX/2019 September 16th, 2019

¹⁵ Ervin Lutfhi and Fahrulrozi Edward Confessions, FGD, August 4th, 2020

¹⁶ Interview with Yusid Toyib, August 11st, 2020

¹⁷ Statement from Steven Abraham, FGD, August 4th, 2020

¹⁸ KPU Decree Number 1341/PI.01.9-Kpt/08/KPU/IX/2019 September 16th, 2019

Kpt/06/KPU/V/2019 dated May 21st, 2019 with a total of 5,507 valid votes.¹⁹ Johan himself once submitted a request for dispute over the election results to the Constitutional Court (MK), but it was not granted.²⁰

Finally, happened to Welhelm Daniel Kurnala, a candidate for DPRD of Maluku Province for Dapil 6. He has been appointed by the Maluku Provincial KPU Decree Number 606/PL.01.9-Kpt/Prov/VIII/2019 dated August 12nd, 2019 as the winner of the most votes, and his name is included in the list candidates whose decisions are submitted to the Ministry of Home Affairs. However, the local KPU only found out after examining the Decree of the Minister of Home Affairs Number 161.81-4052 of 2019 dated September 13th, 2019, Welhelm's name was not listed in the decision list,²¹ or is not the owner of the name that will be appointed. He just found out that he was replaced by Benhur George Watubun, when he was told that the Maluku Provincial KPU received a copy of the letter from the DPP of PDI-P Number 93/ex/DPP/IX/2019 dated September 27th, 2019. Who is Benhur? According to Welhelm, he is the brother of one of the leaders of the PDI Perjuangan Party.²²

4 Conclusion

The bias practice of the balanced representative election system used in the 2019 elections, as experienced by the ten legislative candidates above, has the aim of making legislative candidates who previously did not get the most votes, but because they are favored by political party elites at the central level, a number of methods are used to make it happen. A number of these methods are to bring the ten legislative candidates to court through a definite, unilateral dismissal, or not through the procedures regulated in the election law, but simply dismissed immediately. Those who were sacrificed, instead of being given the opportunity to defend themselves, were not dismissed through the forum of the Court or the Honorary Council of their respective Political Parties. In another part, dismissal is also carried out first through the judiciary, which apart from not having the authority to try similar cases, because the forum for that is only available at the Constitutional Court or the Election Supervisory Council, as well as a court that does not apply the principles of impartiality. The whole process of favoring like that, is carried out to score the closest people, people who have closeness, and kinship with key people in party management at the central level.

The dismissal of candidates for legislative members through the above methods has the potential to damage the building of the electoral system. The electoral system stipulates that the people's votes expressed at the polling stations must be directly proportional to the results of the conversion of state administrators' seats. The basic function of an electoral system states that the electoral system is made to facilitate the will of the people, so that the candidates who have been elected by the people are those who sit in the legislature, recognized by the international

¹⁹ Oral and written statement of the Chairman of KPU Maluku Province, Samsul Rifan Kubangun, August 11st, 2020

²⁰ Constitutional Court Decision Number 155-02-31/PHPU.DPR-DPRD/XVII/2019 tanggal August 8th, 2019

²¹ Oral and written statement of the Chairman of KPU Maluku Province, Samsul Rifan Kubangun, August 11st, 2020

²² Statement from Welhelm Daniel Kurnala, FGD, Agustus 11st, 2020

community, one basic principle states that the winner of the most votes has the right to be appointed as a state administrator. In addition, this practice undermines the credibility of political parties. If political parties are considered as pillars of democracy, all the rules of the game should be implemented fairly and accountably. The act of firing its cadres in the midst of hopes of being sworn in, apart from encouraging injustice among the cadres themselves, also undermines the credibility of political parties in public. •

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