DISCOURSE ON ELECTION DISTRICT ARRANGEMENTS OF DPR RI

DISKURSUS PENGATURAN DAERAH PEMILIHAN ANGGOTA DEWAN PERWAKILAN RAKYAT REPUBLIK INDONESIA

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ABSTRACT

Article 187 paragraph (5) Law Number 7/2017 (Election Law) stipulates that the arrangement of the electoral districts for DPR members and the number of seats for each electoral district is determined by the legislators by attaching them in Appendix III Election Law. The existence of these provisions prompted the Non-Governmental Organization (NGO) Association for Elections and Democracy (Perludem) to submit a judicial review to the Constitutional Court. With the issuance of Constitutional Court Decision Number 80/PUU-XX/2022, the arrangements regarding electoral districts have undergone quite significant changes. This research is a normative legal research with a qualitative type. The problem approach used is the case, statutory, and comparative approach. The results of the study show that the arrangements regarding electoral districts have undergone significant changes after the issuance of the Constitutional Court Decision Number 80/PUU-XX/2022. This change can be seen from the authority to prepare and allocate seats which were previously in the hands of the legislators (through Annexes III of the Election Law) to the KPU (through KPU Regulations). In addition, several electoral arrangements in Brazil can be adopted by Indonesia, including regarding the proportional calculation method, population data, and the election management body as the institution authorized to manage electoral districts.

Keywords: Constitutional Court Decision; Election; Electoral District; DPR.

ABSTRAK

Pasal 187 ayat (5) UU Nomor 7 Tahun 2017 tentang Pemilihan Umum (UU Pemilu) mengatur bahwa penyusunan dapil anggota DPRD dan jumlah kursi setiap dapi ditentukan oleh pembentuk undang-undang dengan melampirkannya dalam lampiran III UU Pemilu. Adanya ketentuan tersebut, mendorong Lembaga Swadaya Masyarakat (LSM) Perkumpulan untuk Pemilu dan Demokrasi (Perludem) mengajukan judicial review ke Mahkamah Konstitusi. Dengan dikeluarkannya Putusan Mahkamah Konstitusi Nomor 80/PUU-XX/2022, pengaturan mengenai dapil mengalami perubahan yang cukup signnifikan. Penelitian ini merupakan penelitian hukum normatif dengan tipe kualitatif. Pendekatan masalah yang digunakan adalah pendekatan kasus dan perundang-undangan. Hasil penelitian menunjukkan bahwa pengaturan mengenai dapil mengalami perubahan yang signifikan pasca dikeluakannya Putusan Mahkamah Konstitusi Nomor 80/PUU-XX/2022. Perubahan tersebut dapat dilihat dari kewenangan penyusunan dan alokasi kursi yang sebelumnya berada di tangan pembentuk UU (melalui Lampiran III dan IV UU Pemilu) menjadi berada di tangan KPU (melelui Peraturan KPU). Selain itu, beberapa pengaturan pemilu di Brazil dapat diadopsi oleh Indonesia, antara lain mengenai metode penghitungan proposional, data kependudukan, dan lembaga penyelenggara pemilu sebagai lembaga yang berwenang Menyusun daerah pemilihan.

Keywords: Dapil, DPR RI, Pemilu, Putusan MK.

I.   INTRODUCTION

The 1945 Constitution of the Republic of Indonesia, emphasizes that Indonesia is a legal state in which sovereignty is in the hands of the people and is exercised according to the constitution. Sovereignty which is in the hands of the people means that those who are considered as the highest authority in a country are the people.[1] Sovereignty which is in the hands of the people means that those who are considered as the highest authority in a country are the people.[2] People's sovereignty is implemented through a mechanism called general elections. Elections are the most real form and the most concrete form of people's participation in the administration of the state.[3] Elections are also referred to as one of the democratic mechanisms in realizing real people's sovereignty.[4] Based on Article 22E paragraph (2) of the 1945 Constitution, elections are held to elect members of the People's Representative Council of the Republic of Indonesia, hereinafter referred to as the DPR RI.

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[1] Rudy dan M. Iwan, *Pemilu dan Pemilukada*, Yogyakarta: Graha Ilmu, 2020, p6.

[2] Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*, Jakarta: PT RajaGrafindo Persada, 2015, p413.

[3] Budiyono, 2013, "Mewujudkan Pemilu 2014 sebagai Pemilu Demokratis", *Fiat Justisia: Jurnal Ilmu Hukum* 7 (3), p280-282.

[4] Aufa Naufal Rishanda, 2021, "The Regulation of Continuous Election Design's Implementation Based on the Constitutional Court's Decision", *Constitutionale* 2 (2), p80 .

One important factor and an element in building an electoral system which is often a problem in every election is the electoral district.[5] Electoral district is the real arena of political battle, because political parties and candidates for legislative members compete for the votes of voters to get a position as a member of the DPR.[6] Electoral district in their preparation give rise to "engineering" and "trickery" due to the consequences of the electoral system (and its elements) adopted by a country.[7]

There is a provision in Article 187 paragraph (5) of Law Number 7 of 2017 concerning General Elections (Election Law) which regulates the arrangement of the electoral districts for members of the DPR and the number of seats for each electoral district is determined by the legislators by attaching them in Appendix III of the Election Law, encouraging Non-Governmental Organizations (NGO) Association for Elections and Democracy (Perludem) submitted a judicial review to the Constitutional Court. Perludem considers that the arrangement of the electoral districts in the annex to the Election Law is contrary to the principles of the arrangement of electoral districts contained in the Election Law. The legislators as institutions that are given the authority to draw up electoral districts ignore and do not pay attention to the principles of constituting electoral districts. According to Perlufdem, such an arrangement creates legal uncertainty and inconsistency with the electoral district itself. After going through various trial processes, the Constitutional Court issued a Constitutional Court Decision Number 80/PUU-XX/2022. This decision of the Constitutional Court partially granted the petition filed by Perludem. With the issuance of the Constitutional Court Decision, regulations regarding electoral districts underwent significant changes. This research will discuss how the arrangements regarding the electoral districts of DPR members have changed after the issuance of the Constitutional Court Decision Number 80/PUU-XX/2022 and its legal considerations. This research will also compare the arrangements regarding electoral districts in Indonesia and Brazil. This comparison was made to adopt the good things that were done by Brazil to be implemented in Indonesia.

II.   METHOD

This research is a normative legal research with a qualitative type which describes the arrangement of the electoral districts of members of the DPR RI after the Constitutional Court Decision Number 80/PUU-XX/2022. The problem approach used is the case approach, legislation, and comparison. Using this approach, researchers will examine and analyze the Constitutional Court Decision Number 80/PUU-XX/2022 and all laws and regulations regarding electoral districts. The author also uses a comparative approach to compare the electoral arrangements between Brazil and Indonesia.

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[5] Indra Pahlevi, *Sistem Pemilu di Indonesia Antara Proporsional dan Mayotarian*, Jakarta: P3DI Setjen DPR RI, 2015, p67.

[6] Khoirunnisa Agustyati, dkk, *Menetapkan Arena Perebutan Kursi DPRD*, Jakarta: Yayasan Perludem, 2013, p1.

[7] Subhan Purno Aji, 2020, "Evaluasi Pembentukan Dapil Pemilu 2019: Pengukuran Prinsip Kesetaraan Nilai Suara, Proporsionalitas, dan Tingkat Kompetisi Partai Politik", *Call For Paper Evaluasi Pemilu Serentak 2019 Bidang Evaluasi Penyelenggaraan Tahapan Pemilu,* p1.

III. ANALYSIS AND DISCUSSION

a. Arrangements for Dapil Members of the DPR RI After the Constitutional Court Decision Number 80/PUU-XX/2022

Khorunnisa, et al. in their book defines the electoral district as the arena of real political competition because this is where the candidates for the legislature compete for the votes of their constituents.[8] This understanding is also in line with what was put forward by Indra Pahlevi who stated that the electoral district is a "competition area" for political parties participating in elections to win over the votes of voters who will eventually sit in parliament.. J. E. Leib and G. R. Webester define a electoral district as an area separated by geographical boundaries for electing members of the legislature.[9]

Arrangements regarding the electoral districts of DPR RI members are regulated in Chapter III Articles 185-187 and Appendix III of the Election Law. Matters regulated regarding electoral districts include the principles for establishing electoral district, the number of seats for members of the DPR, the scope of the electoral district, the size of the electoral district, the formation (arrangement and allocation of seats) of the electoral district.

1) Principles of Constituting Electoral District

The Election Law requires the principles of electoral districts to be considered in drawing up electoral districts. These principles include:[10]

a) equality of vote values, namely efforts to increase the value of votes (seat prices) which are equal between one electoral district and another with the principle of one person-one vote-one value;

b) adherence to a proportional election system which means prioritizing the formation of electoral districts with a large number of seats so that the percentage of the number of seats obtained by each political party is as equal as possible to the percentage of valid votes it has obtained;

c) proportionality, namely paying attention to equality of seat allocation between electoral districts so that the balance of seat allocation for each electoral district is maintained;

d) territorial integrity, which means that several regencies/cities or sub-districts that are structured into one electoral district must border each other, while still paying attention to territorial integrity and integration, taking into account geographical conditions, transportation facilities and aspects of ease of transportation;

e) are within the same coverage area, meaning that the electoral districts for Members of the Provincial DPRD which are formed from one, several and/or parts of regencies/cities, must be

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[8] Khoirunnisa Agustyati, dkk., *loc.cit.*
[9] Indra Pahlevi, *loc.cit.*
[10] The 2017 Law No. 7 Concerning General Election, Article 185

entirely included in an electoral district for Members of the DPR; Likewise, the electoral district for members of the Regency/Municipal DPRD which is formed from one, several and/or sub-districts must be entirely included in an electoral district for members of the Provincial DPRD;

f) cohesiveness means that the preparation of constituencies takes into account history, socio-cultural conditions, customs and minority groups; and

g) continuity, namely the arrangement of electoral districts taking into account electoral districts that already existed in the previous election, unless the allocation of seats in the electoral district exceeds the maximum limit of seat allocation for each electoral district or if it is contrary to the six principles above.

2) Number of Seats for Member of DPR

The legislators set the number of seats for DPR members to be 575 (five hundred seventy five) seats spread over 80 electoral districts.[11] The number of 575 seats is not explained in the law how to calculate them so as to produce this figure. However, from the data the author obtained through the Minutes of the Working Meeting of the Special Committee on the Bill on Election Organization on 16 February 2017, it was revealed by a member of the PAN faction, that the number 575 is based on calculating the cube root of the number of registered voters from the presidential and vice presidential elections. president in 2014. Furthermore, according to him the calculation of the cube root is a theory from Rentengge Pera and Meicu which juxtaposes the biological theory that the size of the heart is the cube root of the size of the human bod.[12] With the stipulation of the number of seats for DPR RI members in the Election Law, it means that the method for determining the number of parliamentary seats uses the fixed seats method.[13]

3) Area Coverage and Amount of Electoral District

The scope of the administrative areas for members of the DPR RI includes provinces, districts/cities, or a combination of districts/cities, each with a dapil size of at least 3 (three) seats and a maximum of 10 (seats) spread across 80 (eighty) electoral districts.[14] The scope of the administrative areas for members of the DPR RI includes provinces, districts/cities, or a combination of

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[11] *Ibid.,* Article 186

[12] Rein Taagepera dan Mattew S. Shugart, 2002, *Limiting Frames of Political Games: Logical Quantitative Models of Size, Growth and Distribution, Irvine: Center for the Study of Democracy,* University of California, Paper 02-04, p5.

[13] Ramlan Surbakti, dkk., 2011, *Menyetarakan Nilai Suara: Jumlah dan Alokasi Kursi DPR ke Provinsi,* Jakarta: Kemitraan bagi Pembaruan Tata Pemerintahan, p15.

[14] The 2017 Law No. 7 Concerning General Election, Article 187 (1) & (2)

districts/cities, each with a dapil size of at least 3 (three) seats and a maximum of 10 (seats) spread across 80 (eighty) electoral districts. With the size of the electoral district, based on the electoral district class proposed by Arend Lipjhart, Indonesia is in the small to medium class.[15] In small class electoral districts, which are in the range of 3 (three) – 5 (five) seats, there are 12 (twelve) electoral districts. In the middle class electoral districts, which are in the range of 6 (six) – 10 (ten) seats, there are 68 (sixty eight) electoral districts. The difference in the size of the electoral districts is due to the difference in population. The greater the population, the greater the amount of seats allocated in the electoral district. The existence of a minimum rule of 3 (three) seats in each electoral district emphasizes that the electoral system used in Indonesia is a proportional election system by presenting more than 1 (one) seat in each electoral district.

4) Formation (Arrangement and Allocation of Seats) Electoral District

The rules regarding the formation of electoral districts underwent significant changes after the issuance of the Constitutional Court Decision Number 80/PUU-XX/2022. Previously, rules regarding the formation of electoral districts were regulated in Article 187 paragraph (5) of the Election Law. In this rule, the determination and allocation of electoral district seats is the authority of the legislators by including them in Appendix III of the Election Law.

The Constitutional Court stated that the provisions of the norms of Article 187 paragraph (5) of the Election Law were contrary to the 1945 Constitution of the Republic of Indonesia and had no binding legal force as long as they were not interpreted, "The electoral districts as referred to in paragraph (1) and the number of seats in each region the election of members of the DPR as referred to in paragraph (2) is regulated in the KPU Regulations. With the issuance of this decision, this means that the legislators no longer have the authority to compile the electoral districts of members of the DPR. However, the Constitutional Court requested that the KPU continue to consult with the DPR and the Government in drafting the KPU Regulation. This decision also has implications for Appendices III and IV of the Election Law which no longer have binding legal force.

In its legal considerations, the Constitutional Court assessed that conceptually, the arrangement of electoral districts is one of the elements that builds the electoral system. Therefore, as an area of competition, the arrangement of electoral districts must be rational

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[15] Arend Lijphart, 1990, "The Political Consequences of Electoral Laws, 1945-85", *The American Political Science Review*, 84 (2), p481.

and comply with the principles of electoral districts. The Constitutional Court is also of the opinion that dynamic population data must be used as the main basis for the arrangement of electoral districts for members of the DPR, Provincial DPRD and Regency/Municipal DPRD from one general election contestation to the next period contestation.

The Constitutional Court is of the opinion that the arrangement of the electoral districts in Appendix III of the Election Law has violated three principles of the arrangement of electoral districts, namely equality of votes, proportionality and regional integrity. Therefore, the arrangement of electoral districts has resulted in significant disparities in the value (price) of votes between electoral districts, disproportionality in the number and allocation of seats, and the presence of electoral districts that do not fulfill the principle of territorial integrity. The following are the results of research by researchers on these three principles:

a) The Principle of Equal Value (Price) of Voices

Equality in the value of votes is an effort to increase the value of votes (seat prices) which is equivalent between one electoral district and another with the principle of one person-one vote-one value (OPOVOV). The value (price) of votes can be determined by dividing the total population by the number of seats available in an electoral district. Based on the calculation of the population with the number of seats available in each electoral district, it is known that the most expensive vote value belongs to the West Java IV electoral district with a vote value of 766,669 votes. While the cheapest vote belongs to the North Kalimantan electoral district with a vote value of 233,938 votes. This data shows that there has been a very wide disparity in the value of votes between one electoral districts and another. The wide disparity in the value of votes does not only occur on different islands. Inequality even occurs within the same province, in the West Java III, 1 (one) seat represents 391,181 votes, while in the West Java VI, 1 (one) seat represents 766,669 votes.

b) Principle of Proportionality

The principle of proportionality mandates the preparation of electoral districts to pay attention to the equality of seat allocations between electoral districts so that the balance of seat allocations for each electoral districts is maintained. The number of seats in each electoral district is allocated using the proportional calculation method.[16] Indonesia does not stipulate

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[16] Khoirunnisa Agustyati, dkk., *op.cit.,*p20.

what proportional calculation method is used in terms of allocating seats in each electoral district. In this study, researchers will describe the allocation of seats to each electoral district using the proportional calculation method. The proportional calculation method used is the Sainte Lague variant which divides the total population by an odd number 1, 3, 5, 7...etc. The number of divisors for odd numbers is considered very neutral, does not benefit electoral districts with a large population, nor does it benefit electoral districts with a small population.[17]

Based on the allocation of seats using the Sainte Lague proportional variance calculation method, there are 32 electoral districts whose seat allocations are disproportionate, of which 17 electoral districts have excess seat allocations, and 15 electoral districts lack seat allocations. Excess seat allocation occurred in the Electoral District of Aceh I, Aceh II, West Java III, Central Java IV, East Java IX, West Kalimantan II, South Kalimantan I, South Kalimantan II, NTT I, NTT II, Papua, West Sulawesi, South Sulawesi I, South Sulawesi II, South Sulawesi III, West Sumatra I, West Sumatra II. Meanwhile, the shortage of seat allocations occurred in the electoral districts of DKI Jakarta I, DKI Jakarta III, West Java IV, West Java IX, West Java V, West Java VI, West Java VIII, Central Java I, Central Java X, East Java VI, East Java XI, Riau Islands, Riau I, South Sumatra I, South Sumatra II.

The most frequent shortage of seats occurred in the West Java electoral district VI, namely a shortage of 4 seats. Supposedly, based on proportional calculations, the West Java VI gets a maximum allocation of 10 seats. However, the allocation of seats given in the Election Law only amounted to 6 seats. Meanwhile, the most excess seats occurred in the South Sulawesi II, namely an excess of 2 seats. The electoral district of South Sulawesi II should only get an allocation of 7 seats based on a proportional calculation, but the Election Law provides for an allocation of 9 seats for the electoral district of South Sulawesi II.

c) The Principle of Territorial Integration

Integrality comes from the root word integral which means inseparable or integrated.[18] In the Election Law, this principle is defined in the formulation of electoral districts taking into

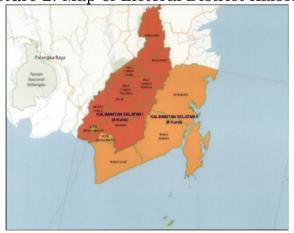[17] Pipit R. Kartawidjaja, *Matematika Pemilu*, (Jakarta: INSIDE, 2004), p6-8

[18] "Integral", KBBI Daring, 2022, https://kbbi.kemdikbud.go.id/entri/integral, accessed on 17/11/2022.

account that several regencies/cities or sub-districts that are arranged into one electoral district must border each other, while still paying attention to regional integrity and integration, taking into account geographical conditions, transportation facilities, and aspects of ease of transportation. From the definition above, it can be interpreted that in drawing up electoral districts, there may not be an electoral districts that is separated by another electoral districts. In the Election Law, arrangements for the preparation of electoral districts can be found that separate regions within a electoral district. These findings are illustrated in the picture below.

Picture 1. Map of Electoral District Jawa Barat III

Picture 2. Map of Elctoral District Kalsel II

From picture 1 above, the arrangement of the West Java III electoral district is not in accordance with the principle of regional integration because it unites the areas of Cianjur Regency and Bogor City which are not whole areas but areas that are separated by other regions into one electoral districts. The same thing happened in the South Kalimantan II electoral district (picture 2), which consists of five administrative areas, namely the City of Tanah Laut, Tanah Bumbu, Kotabaru, City of Banjarmasin, and City of Banjarbaru. In this electoral district, the City of Banjarmasin is not directly adjacent to the

other four administrative areas, but rather to the areas in the South Kalimantan I Dapil, namely Banjar and Barito Kuala.

The arrangement of such electoral districts is certainly the arrangement of electoral districts which ignores the principle of territorial integrity. The principle of territorial integrity mandates that areas in the preparation of electoral districts must border each other. The regions that do not have direct borders will make it difficult for members of the DPR in terms of carrying out their functions, duties and authorities to enter their respective electoral districts. Areas that are not directly adjacent are also difficult in terms of different geographical conditions, transportation facilities that are not integrated, and difficulties in terms of transportation which are contrary to the understanding of the principle of regional integrity itself.

The Constitutional Court considers that if the arrangement of electoral districts is listed in an annex to the law, it will have an impact on the discrepancy between the norms governing the principle of establishing electoral districts and the annex to the law which includes the formulation of electoral districts. This incongruity will create legal uncertainty and at the same time have an impact on people's sovereignty and the rule of law principle. In addition, the Constitutional Court is also of the opinion that the main factors influencing the existence of an electoral district are the existence of new autonomous regions and population. Changes to provincial or district/city autonomous regions through a policy of expansion or merging of regions will have an impact on the configuration of electoral districts. In addition, changes in the composition of the population, whether due to migration, addition or reduction of the population will also affect the electoral districts and the allocation of seats. The dynamic factors that influence the formation of electoral districts certainly need to be changed. If the arrangement of electoral districts and the allocation of seats is contained in the annex to the law, it becomes impossible to do without making changes to the law. This means that the inclusion of electoral districts in the annex to the law will in fact create uncertainty in fulfilling the principles for establishing electoral districts. This uncertainty is even more pronounced when there are facts regarding the politics of the general election law legislation, which actually leads to the point where changes are not made for each election period, but instead are used or enforced for several election periods.

According to the Constitutional Court, the arrangement of electoral districts and the allocation of seats in the Appendix to the Election Law needs to be canceled and the determination of the arrangement of electoral districts and the allocation of seats to the KPU must be submitted to the KPU through a KPU regulation. The consideration of the Constitutional Court in handing over the authority to formulate electoral districts to the KPU is due to the provisions of Article 12 letter d of the Election Law which states, "The KPU is tasked with coordinating, organizing, controlling and monitoring all stages of the general election". One of the stages described in the provisions of Article 167 paragraph (4) of the Election Law is the preparation of electoral districts. Therefore, if the provisions of Article 12 and Article 167 paragraph (4) of the Election Law are read in a systematic relationship, the construction of the norm can simply be understood as "implementing the stages of the election in

the form of setting up electoral districts is the task of the KPU as the organizer of the general election".

The handover of the authority to formulate electoral districts to the KPU is carried out in the context of maintaining the application of the principle of fairness in the administration of elections and ending legal uncertainty that arises due to out-of-sync norms with one another regarding the arrangement of electoral districts in the Election Law. In addition, handing over the authority to formulate electoral districts to the KPU will facilitate adjustments to changes in electoral districts caused by changes in population, without the need to amend a law. This was also done in order to maintain the KPU's duties as the organizer of all stages of the election from start to finish. According to the Constitutional Court, if other parties participate in determining the stages, there is a possibility of a conflict of interest. By returning the KPU's role in drawing up electoral districts, all potential conflicts between the Election Law and the 1945 Constitution due to legal uncertainty will be answered and ended. The Constitutional Court is of the view that the Election Law only needs to regulate the principles of electoral districts, the minimum and maximum number of seats for each electoral district, as well as the total number of seats for the DPR.

b.   The Electoral District Arrangements of The Brazilian Parliament

The selection of Brazil as the object of comparison is based on several factors, including:
1) Brazil and Indonesia are developing countries;
2) Brazil and Indonesia are countries with a presidential system of government in a republic form;
3) Brazil and Indonesia are countries with open proportional electoral systems.

In Brazil, the rules regarding the number of seats for members of the Brazilian Parliament (Câmara dos Deputado) are regulated in the Supplementary Law of the Federal Republic of Brazil No. 78 of December 30, 1993. This rule is a derivative rule from Article 45 Part 1 of the Constitution of the Brazilian Federated Republic of 1988 which stated that the number of members of the Brazilian Parliament would be determined by a supplementary law in proportion to the population. In the Supplementary Law, it is determined that the number of members of the Brazilian DPR does not exceed 513 (five hundred and thirteen) representative seats.[19] This amount must be divided into each electoral district proportionally to the population of each electoral districts. The population size must be determined on the basis of a census provided by the Brazilian Institute of Geography and Statistics in the year prior to the election.[20] The origin of the determination of the number of 513 (five hundred and thirteen) seats is not explained in the Supplementary Law. However, it can be concluded that by stipulating the number of seats for DPR members in the Supplementary Law, it means that Brazil uses the same method of determining the number of parliamentary seats as Indonesia, namely using the fixed seats method.

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[19] Article 1 Federal Republic of Brazil Supplementary Law No. 78 of 30 December 1993
[20] *Ibid.*

The administrative scope of the Brazilian parliamentary constituencies includes the states and federal districts.[21] Brazil consists of 26 (twenty six) states and 1 (one) federal district. Thus, Brazil has 27 (twenty seven) electoral districts. Each electoral district has a minimum size of 8 (eight) and a maximum of 70 (seventy) seats. With this range of electoral districts, based on the electoral district class proposed by Arend Lipjhart, Brazil is in the middle to large class. In the middle class electoral districts, which are in the range of 6 (six) – 10 (ten) seats, there are 13 (thirteen) electoral districts. In the large class electoral districts, which have more than 10 (ten) seats, there are 14 (fourteen) electoral districts. With a minimum configuration of 8 (eight) seats in each electoral district, it can be concluded that Brazil uses a proportional election system which is also used by Indonesia.

Brazil stipulates that the allocation of seats to each electoral district must be proportional to the population of each electoral district. The population size must be determined based on a census provided by a special agency called the Brazilian Institute of Geography and Statistics, in the year before the election.[22] The calculation of seat allocation for each electoral district is calculated by an election management body in the form of the Election Court or the Superior Electoral Tribunal (TSE). In allocating seats to each electoral district, the TSE first determines the National Population Quotient (QPN), which is the result of dividing the country's population based on the latest census by the number of seats in Brazil's DPR. Next, the Quotient Population Estadual (QPE) is calculated by dividing the population of each electoral district by the QPN. QPE is the basis for determining the number of seats each electoral districts is entitled to, so QPE only considers whole numbers.[23] With this formula, it can be concluded that Brazil uses the hare quota method in allocating seats to each electoral district.

Things that Indonesia can adopt from Brazil in the preparation of electoral districts include:

1) Proportional Calculation Method

Brazil has established the main principle in the preparation of electoral districts, namely the principle of proportionality in allocating DPR seats to each electoral districts. This is even regulated in the 1988 Constitution of the Federated Republic of Brazil which states that the determination of the number of seats must be determined proportionally to the population of each electoral district. Unlike Indonesia, which only determines the principle of constituting electoral districts, Brazil also determines the method used to implement the principle of proportionality. Brazil uses the proportional calculation method for variations in hare quotas, so that seats can be allocated proportionally. This is what Indonesia must

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[21] Article 45 The 1988 Constitution of the Federal Republic of Brazil

[22] Article 1 Federal Republic of Brazil Supplementary Law No. 78 of 30 December 1993

[23] Salma Freua, 2022, Entenda como é feita a conta que define o número de deputados de cada estado, Available from: https://www.cnnbrasil.com.br/politica/entenda-como-e-feita-a-conta-que-define-o-numero-de-deputados-do-meu-estado/, [retrieved: January 26, 2022].

adopt in allocating electoral seats. Indonesia must determine which proportional calculation method to use in allocating electoral seats because so far there has been no specified method for drawing up electoral districts. This is done so that seats in each electoral district can be allocated proportionally.

2) Population Data

Brazil in allocating DPR seats to each electoral district must be proportional to the population of each electoral district. The population size must be determined based on a census provided by a special agency called the Brazilian Institute of Geography and Statistics, in the year before the election. This is what Indonesia must also do, there needs to be rules governing what population data is used in compiling and allocating seats in each electoral district. Indonesia can take lessons from Brazil, which uses population data based on censuses provided by a special agency, the Brazilian Institute of Geography and Statistics, such as the Central Bureau of Statistics of the Republic of Indonesia. The choice of a special institution that is professional in the field of statistics in providing population figures for the purposes of preparing electoral districts is exemplary for Indonesia. This is done to end the problem of data asynchronousness between state institutions.

3) Election Organizing Institutions as Institutions with the Authority to Prepare Dapils

Brazil stipulates that the preparation and calculation of seat allocation for each electoral district is calculated by an election management body in the form of the Election Court or the Superior Electoral Tribunal (TSE). This is in line with the principle of impartiality (impartiality) in the arrangement of electoral districts put forward by Lisa Handley. This principle explains that an institution that has the authority to form a constituency must be non-partisan, independent and professional, and not have an alliance with a particular political party.[24] Indonesia must also follow the example of what Brazil has done by giving the authority to draft and allocate seats to the election management body, not to the legislators. This is in line with the Constitutional Court Decision Number 80/PUU-XX/2022 which has handed over the authority to draw up electoral districts to the election management body, namely the KPU.

IV. CONCLUSION

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[24] Lisa Handley, 2007, *Challenging the Norms and Standards of Election Administration: Boundary Delimitation*, Washington D.C.: IFES, p59-60.

The arrangements regarding the electoral district underwent significant changes after the issuance of the Constitutional Court Decision Number 80/PUU-XX/2022. This change can be seen from the authority to prepare and allocate seats which were previously in the hands of the legislators (through Annexes III and IV of the Election Law) to the KPU (through KPU Regulations). The Constitutional Court in its legal considerations considered that the arrangement of the electoral districts in Appendix III and IV had created legal disharmony because they were not in accordance with the principles for the arrangement of electoral districts as contained in the Election Law. This incongruity will create legal uncertainty and at the same time have an impact on people's sovereignty and the rule of law principle. In addition, several electoral arrangements in Brazil can be adopted by Indonesia, including regarding the proportional calculation method, population data, and the election management body as the institution authorized to draw up electoral districts.

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