



THE REPLACEMENT OF THE ELECTED MEMBERS OF HOUSE OF REPRESENTATIVE IN OPEN LIST PROPORTIONAL GENERAL ELECTION

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Article Info

Received :18/03/2021

Approved: 29/04/2021

DOI: 10.24815/sklj.v5i1.20415

Keywords:

The House of Representative;
Electoral System;
Elected Candidates
Replacement

Abstrak

The filling of replacements for elected members of the House of Representative who no longer meet the requirements at the time of election with a candidate who has a lower vote than other candidates by the party is contrary to the open list proportional electoral system. This study describes the process of changing candidates who no longer meet the requirements at the time of voting in terms of the applied electoral system. The research method uses normative juridical research. The determination of the elected candidates for the House of Representative members in an open list proportional system is determined by the majority of the votes acquired by the candidates. The vote of a candidate who no longer meets the requirements to become the valid vote of a political party, in an open list proportional electoral system, the party should cast the vote to the candidate who has the next most votes to gain a seat in the parliament. Parties as participants in the elections for the House of Representatives do not have the discretionary power to transfer their votes to candidates who have lower votes than other candidates because they are against the morals and ideals to be achieved in the application of an open list proportional electoral system.

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I. INTRODUCTION

Filling in the members of the People's Representative Council (hereinafter referred to as DPR) with the most votes gained from the results of general elections who no longer meet the requirements or have died in the open list system of proportional elections (open list system) should be replaced by candidates for DPR members with the second most votes with political parties. and the same constituency. Obtaining votes by a candidate who no longer meets the requirements at the time of the election will become the legitimate vote of a political party, because in an election with an open list proportional system, the people by choosing a candidate that is promoted by a party are considered to have chosen the party.¹

The election of DPR members using an open list proportional electoral system aims to open as much space as possible to the implementation of people's sovereignty in the elections. This system is considered to be one of the best systems in exercising people's sovereignty in organizing elections

¹ Fajlurrahman Jurdi, *Pengantar Hukum Pemilihan Umum*, (Jakarta: Kencana, 2018), pp. 130.

where the people in addition to assessing and electing parties can also recognize and directly vote for the DPR candidates who are promoted by each party. Thus what determines the election of members of the DPR is not a political party but the number of popular votes obtained. (Law No.7 of 2017, Art. 422). This will be inversely proportional when referring to elections with a closed list proportional system where voters only choose political parties and the one who determines the members of the DPR in parliament is the political party that wins the election.

In a country that adheres to democracy, the idea of people's participation in which the people have the right to determine who will be the leader will determine public policy.² According to CF Strong, democracy is a system of government in which the majority of people participate in government through representation, this representation which will fight for the will of the people in running the country.³ The determination of a leader who represents the people is of course carried out through elections. Elections are a democratic means of forming a system of state power with people's sovereignty. Theoretically and normatively, the people are often said to be the holders of the highest power in a country, then trust and hand over power to their representatives through elections to fight for common interests.⁴ In the DPR elections, Article 422 of Law no. 7 of 2017 concerning Elections states that the determination of the winner of the election is based on the seat acquisition of a political party participating in the election and is determined based on the most votes obtained by each candidate in the party with the same electoral district. Here there are still problems that arise, one of which is what if the candidate for DPR members at the election time is declared no longer eligible as a candidate for DPR members while the ballot paper is no longer possible to change or delete the candidate's name.

Candidates who no longer meet the requirements at the time of the election and are still on the ballot papers and punched by voters, then based on Article 55 Paragraph (3) of the General Election Commission Regulation Number 3 of 2019 concerning Voting and Counting of Votes in General Elections, the votes are declared valid and become the legitimate vote of a political party because based on Article 172 of the Election Law those participating in the election for DPR members are political parties not from individuals (UUD 1945, Art. 22E Paragraph (3)). Thus, political parties as election participants are considered to have the authority to give candidates who are considered to be the party's best cadres.

Each party participating in the election should, in the process of recruiting candidates for candidates to be carried out in the DPR elections, have selected the best cadres who deserve to be won in the election.⁵ Thus no matter how many candidates are nominated by the party, they are overall

² Abdul Bari Azed, *Pemilu & Partai Politik di Indonesia*, (Jakarta: FH UI, 2005), pp. 20.

³ Eddy Purnama, *Negara Kedaulatan Rakyat*, (Bandung: Nusamedia, 2007).

⁴ Eddy Purnama, *Lembaga Perwakilan Rakyat*, (Banda Aceh: Syiah Kuala University Press, 2008).

⁵ Fajlurrahman Jurdi, *Penganar Hukum Pemilihan*, pp. 126.

worthy to fight to win the election and the one who determines the victory of each candidate is the candidate who gets the most votes from the voters, not from the party.

Granting the widest possible authority to political parties in determining the transfer of vote acquisition against the substance of the people's sovereignty and the application of an open list proportional system election in the election of members of the DPR where political parties have the opportunity not to apply the substance of the people's sovereignty itself. In the understanding of people's sovereignty (democracy), it is the people who are considered as the owners and holders of the highest power in a country,⁶ so that the people determine who has the right to represent them in government.

A democratic state certainly justifies the existence of political parties as part of the implementation of democracy. Political parties have a central position and role in every democratic system because they play an important role as a liaison between the state government and its citizens.⁷ One of its important roles is in the implementation of elections. However, according to the author, political parties must have limitations regulated by statutory regulations so that they do not exceed the boundaries that are contrary to the wishes of the people as the holder of the highest sovereignty in the country.

II. RESEARCH METHODS

This study uses a normative juridical research method,⁸ by conducting a study of legal norms (applicable provisions) using library materials as secondary data. The normative approach is used with the aim of reviewing and analyzing literature or secondary data related to research material in the form of primary legal materials, secondary legal materials, and tertiary legal materials.⁹ The approach taken is based on primary raw materials, examines theoretical matters concerning legal principles, legal conceptions, views and legal doctrines, regulations and legal systems by using secondary data, including: principles, rules, norms and legal rules contained in laws and regulations and other regulations.

III. RESEARCH AND DISCUSSION RESULTS

3.1. The Election System For Members Of The House Of Representative

⁶ Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*, Cet. Kelima, (Jakarta: PT Raja Grafindo Persada, 2013), pp. 413.

⁷ Jimly Asshiddiqie, *Pokok-Pokok Hukum Tata Negara Indonesia Pasca Reformasi*, (Jakarta: BIP, 2007), pp. 710.

⁸ Johnny Ibrahim, *Teori Dan Metodologi Penelitian Hukum Normatif*, (Malang: Bayumedia Publising, 2006).

⁹ Soerjono Soekanto, Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, (Jakarta: Rajawali Press, 2010), pp. 13.

The large number of interests faced by various societal backgrounds and the size of the territory of power prevented the people's sovereignty to be implemented purely. Thus, it is desired that people's sovereignty be exercised through a system of representation. The implementation of people's sovereignty with a representative system which is also often referred to as a representative democracy system or indirect democracy that implements people's sovereignty are those who have been determined directly by the people themselves through general elections to sit down. in representative institutions.¹⁰

State power that is born with elections is power that is formed according to the will of the people and is used according to the wishes of the people themselves.¹¹ Therefore, it is necessary to establish an election system that is in favor of the people because elections are a process of changing power holders from one person to another which is carried out periodically in an area (Law No.7 of 2017, Art. 1). In simple terms, the electoral system is basically related to the procedures for voting, the vote counting process, and the division of seats.¹²

An election with people's sovereignty is an election that is carried out not by coercion or intimidation to elect someone to become a representative of the people themselves. Ranney said that at least there are several criteria for free elections in its implementation; carried out regularly, choices that really have meaning, freedom to determine candidates, freedom to know and discuss candidates to be elected, the existence of adult voting rights in general, equal treatment in voting (voting), voter registration free, as well as counting and reporting the results of the vote acquisition that is correct and correct.¹³

The general election for members of the legislature, especially the election for members of the DPR, has various systems that are applied in various countries. The electoral system used by each country is also inseparable from philosophical, sociological, geographic and so on. Every developed country has almost the same electoral system where the basic objective is to realize the implementation of people's sovereignty. Conceptually, there are two mechanisms that can be used to create the expected election, namely; First, creating a set of methods for transferring voters' votes into a people's representative institution fairly (electoral system). Second, running elections in accordance with the rules of the game and the principles of democracy (electoral process).¹⁴

In the electoral system, it can be seen from the position of the individual people, from there that there are two systems that emerge, First: a mechanical system which views the people as consisting of individuals. Second: an organic system that views the people as a number of individual

¹⁰ Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*, pp. 414.

¹¹ C.T.S. Kansil, *Memilih dan Dipilih*, Cet. Ketiga, (Jakarta: PT Pradnya Paramita, 1986), pp. 25.

¹² Agus Effendi, "Studi Komparatif Pengaturan Sistem Pemilihan Umum Anggota Dewan Perwakilan Rakyat Di Indonesia," *Fiat Justisia Journal* (Vol. 10 Issue 2, April-June 2016), pp. 302.

¹³ Rusli Karim, *Pemilu Demokratis Kompetitif*, (Yogyakarta: Tiara Wacana, 1991), pp. 13.

¹⁴ Sodikin, *Hukum Pemilu: Pemilu Sebagai Praktek Ketatanegaraan*, (Bekasi: Gramata Publishing, 2014), pp. 93.

groups, thus voting rights rests with the group. Then from the mechanical electoral system in its implementation it is carried out in two ways, namely: First: the District System, which is implemented based on the size of a predetermined electoral district called a district, does not pay attention to the population, the district is the division of electoral districts within a country. In each constituency there is only one representative for the people's representative assembly representing one district. The candidate who gets the most votes in the district is declared to have won the election, while the votes for the losing candidates are considered lost and not counted.¹⁵ Second: Proportional System (balanced representation), where the number of seats in the DPR will be distributed to each political party, and adjusted to the number of votes received by each political party.

Proportional system has several characteristics including; there are more than one seat contested in an electoral district, the number of seats contested in an electoral district is calculated in a balanced manner according to the population in one electoral district, the number of seats obtained by political parties is directly proportional to the number of votes obtained.¹⁶ The proportional system has several variants including: open list system, closed list system, free list system, and semi-open list system.¹⁷

Closed list proportional system where the people only elect parties and the one who determines the election of a candidate for DPR members is the political party that wins the election, the determination of DPR members using this system usually uses a serial number that has been determined by the party. In an open list proportional system, the people in addition to choosing parties can also choose the desired candidate, the candidate who wins in a party is not based on serial numbers, but based on the number of votes obtained by the body. Whereas proportional free list, each political party determines its candidate list, with the party and each candidate displayed separately on the ballot papers. Voters can choose from the party list as is, or cross out, or repeat names.¹⁸ However, what is often applied by countries from this variant is between the open list proportional system and the closed list proportional system, while the advantages and disadvantages of the open list proportional system and the closed list proportional system are described in the table below.

¹⁵ Uu Nurul Huda, *Hukum Partai Politik dan pemilu di Indonesia*, (Bandung: Fokusmedia, 2018), pp. 141.

¹⁶ Kompas. (2019). "Perbedaan Sistem Pemilu Distrik dan Proporsional". Artikel, <https://www.kompas.com/skola/read/2019/12/20/090000069/perbedaan-sistem-pemilu-distrik-dan-proporsional?page=all>. Accessed February 18, 2021

¹⁷ Fajlurrahman Jurdi, *Pengantar Hukum Pemilihan Umum*, pp. 125.

¹⁸ *Ibid.*, pp. 129.

Table 1.
Advantages and Measurements of Proportional Election Variants.

System	Advantages	Deficiency
<i>Closed List System</i>	1. There is an increase in the role of parties in regenerating representative systems for their cadres. 2. Strengthening the position and role of political parties.	1. There is no transparency in the process of nominating candidates for DPR in general. 2. Strengthen the internal oligarchy of political parties. 3. There is an opportunity for money politics to occur in parties in the form of buying and selling serial numbers before the election.
<i>Open List System</i>	1. There is a close relationship between the voters and the elected DPR candidates. 2. Voters can directly vote for candidates who are known and have close ties to them. 3. There is a high dynamic in the party's internal with the presence of DPR candidates who have high popularity who can boost the electability of the party itself.	1. Minimizing the authority of political parties in determining the best (ideological) cadres in the DPR seats. 2. Raising competition between cadres to win the DPR elections in one party. 3. Opening up space for money politics in society.

Each system as described in the table above certainly has advantages and disadvantages of each. The system applied in the DPR elections in Indonesia after reform uses an open list system where the determination of the elected candidates is based on the order of the most votes of each candidate in a party.¹⁹ In a proportional election with an open list, the basic philosophy of each election of people to determine the winner is based on the most votes, so the determination of the elected candidate must also be based on whoever the candidate for DPR member who gets the most votes consecutively, and not on the basis of the smallest serial number that has been determined. . Given the opportunity for voters to elect candidates, the choice must be respected in the form of determining the elected candidate based on the majority of votes.²⁰ This is where the people's sovereignty is given to individuals in an open proportional system. In Indonesian elections the proportional system with an open list is contained in Article 422 of Law Number 7 of 2017 concerning General Elections.

¹⁹ *Ibid.*, pp. 119.

²⁰ Janedjri M. Gaffar, *Hukum Pemilu Dalam Yurisprudensi Mahkamah Konstitusi*, Cet. 2, (Jakarta: Konstitusi Press, 2015), pp. 105.

3.2. Determination Of Elected Candidates For House Of Representative In The Open List Proportional System.

The open list proportional system puts the people in a more autonomous and respected manner in the election, the people are not forced to only vote for picture signs (political parties) but can also choose the name of the candidate according to their wishes and of course have closeness to the voters so that the chosen candidate can know all the problems in society to be fought for in government.²¹ Unlike the closed list proportional system where the people are told to choose only political parties and those who determine the election of a candidate for DPR members are carried out by the leadership or management of political parties who usually correspond to the smallest serial number, there is no opportunity for the people to choose a candidate who feels close to them. , This certainly shows that the authority that originally came from the people has transferred to political parties. The closed list proportional system is more suitable to be called the people's representative political party (PPR) because the people only elect parties that are not members or their cadres who have emotional closeness to the community.

Basically, political parties have a large position and influence as one of the state organs that connects the government with its people. One of the goals of forming a party is to become a legitimate vehicle for selecting cadres of state leaders at certain levels and positions by being elected directly by the people.²² The formation of political parties basically aims to accommodate and fight for the interests of the people in government, but in reality there are some political parties that say they are fighting for and on behalf of the people's interests, but in fact in the field they are fighting for the interests of their own management or groups.²³

One of the precautions and controls must be carried out in the implementation of elections, because elections are the main route for the change of power carried out by political parties. In the nomination of DPR members, the party should have chosen its best cadres so that wherever the serial number is located and get the most votes from the people, the candidate is entitled to a DPR seat based on an open list proportional electoral system. With this system, political parties should no longer have the right to determine who has the right to become members of the DPR. In fact, the open list proportional system in Indonesia sometimes has not been implemented properly, meaning that there is still a mixture of electoral systems that are applied, especially in the election of members of the DPR. This occurs because there are still certain groups that control the party but do not have close ties with the people who want to gain power by outsmarting the people's votes through the application

²¹ Ali Masykur Musa, *Sistem Pemilu: Proporsional Terbuka Setengah Hati*, (Jakarta: Pustaka Indonesia Satu, 2003), pp. 8.

²² Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*, pp. 408

²³ *Ibid.*, pp. 408.

of an electoral system that is bound by statutory regulations. This is very unfortunate because it will harm the people in a relatively long period of time.

In an open list proportional system the people must be able to weigh and choose between good political parties, and choose the best candidate on the list of political parties.²⁴ This system can be likened to a clothing store that sells various brands of clothing and the one who chooses the clothes is the buyer according to what they want, in contrast to the closed list proportional system where the buyer only chooses a clothing store and the one who determines which clothes to buy is the seller himself. This certainly makes more sense if the objective of the election is to accommodate the desires or sovereignty of the people where the people are given a limit in determining their choice.

Determination of the elected candidates for members of the DPR in an election with an open list proportional system is determined by the number of votes obtained by political parties and determined based on the most votes obtained by each candidate for members of the DPR for the party in the same electoral district (Law No.7 of 2017, Art. 422). Even though the candidate is on the larger serial number in the party's nomination list, an open list proportional system can make the candidate the elected candidate for DPR member as long as he gets the most votes among the candidates nominated by the party and the same electoral district. In this system, political parties cannot change the victory that has been obtained by each candidate according to the smallest serial number,

The people, in casting their votes for certain candidates, have certainly considered their best so that their interests can be fought for in government. Apart from that, of course, the chosen candidates have emotional closeness with their voters so that any problems faced can be easily conveyed to their representatives to find a way out of the power that has been given. Unlike the case with a closed list proportional system where each candidate does not need to compete to get votes from the people, because their election is determined by political parties and they also have to follow all orders from political parties, which sometimes these orders are not for the benefit of the people as a whole.

3.3. Replacing The Elected House Of Representative Members Who No Longer Meet The Requirements In The Open List Proportional Election.

Candidates for members of the DPR are declared no longer fulfilling the requirements at the time of holding the election due to one of several factors as mentioned in Art. 426 paragraph (1) of Law Number 7 of 2017 concerning Elections, namely due to death, resignation, no longer fulfilling the requirements to become members of the DPR as stipulated in the election administration, or has been proven to have committed election crimes such as money politics or document falsification based on court decisions that have obtained permanent legal force. Based on these provisions, if the

²⁴ Ali Masykur Musa, *Sistem Pemilu: Proporsional Terbuka*, pp. 9.

candidate is elected in the election implementation, it must be replaced by another candidate from the same party and electoral district.

The filling of replacements for elected DPR members in the implementation of the election is of course inseparable from the application of the system and laws for the implementation of elections in a country. Referring to the electoral system, there are various systems that are applied in various countries, but the ones that are mostly used are the district system and the proportional representative system. A proportional representation system offers multiple seats up for grabs in an electoral district. In this system the number of votes obtained by each party determines the number of seats in the parliament. This means that the ratio of votes acquired between political parties is the same as the ratio of votes acquired by seats in parliament.²⁵ The proportional system is divided into several variants including; proportional system with an open list (open list system),

The system applied in the DPR elections in Indonesia is open list proportional, this has also been regulated in Law No. 7 of 2017 concerning General Elections. The hope of implementing an open list proportional system is that the people in the DPR elections are no longer like choosing a cat in a sack, with this system the people will know the profile as well as the track records of the chosen candidates, so that when elected later between the voters and the elected DPR candidates there will be political relations that can accountable to its constituents (accountable political relationship). A candidate-based open proportional system will lead to competition between candidates in one party, candidate competition between parties, and competition for candidates between electoral districts to win limited seats in the DPR.²⁶

1. Each constituency (district) has many representatives,
2. Each political party presents a list of candidates with a greater number than the number of seats available.
3. Voters choose one of the candidates,
4. Political parties get seats in proportion to the votes they get,
5. An elected candidate is a candidate who achieves more votes than the number of votes of other candidates from the same party and electoral district.

In elections with an open list proportional system, the freedom to determine elected candidates for DPR members who have been promoted by political parties is the full right of the people as a form of popular sovereignty, meaning that voters in addition to choosing political parties also choose candidates listed in the political party list and who determine their election. Candidates for DPR members apart from the number of party votes that meet the DPR seat quota are also based

²⁵ Mega Putri Rahayu, Lita Tyesta A.L.W., Ratna Herawati, "Sistem Proporsional Dalam Pemilihan Umum Legislatif Di Indonesia", *Diponegoro Law Journal*, (Vol. 6, No. 2, Th, 2017), pp. 4.

²⁶ Mokhammad Samsul Arif, "Reformulasi Model Penyuaaran Paska Pemilu Serentak 2019: Studi Evaluasi Sistem Proporsional Daftar Terbuka," *Jurnal Wacana Politik*, (Vol. 4, No. 2, Oktober 2019), pp. 165.

on the highest number of votes obtained by a candidate among other candidates from the same party and electoral district after being sorted from the most votes to the ones with the fewest votes. This is of course different when seen in elections with a closed list proportional system where the people are only given the opportunity to vote for parties.

In an open list proportional system, replacing the elected candidates for DPR with the most votes that no longer meet the requirements should belong to the next (second) most votes from the same party and electoral district, no party can change the elected candidate in this system because it determines is the number of votes acquired by the voters for each candidate for DPR, this of course must be regulated by binding laws and regulations in each country. There are attempts by candidates and political parties that want to replace the elected candidates with lower votes than other candidates who still meet the requirements is a fraud from the implementation of elections with an open list proportional system and defiance of the people's sovereignty. the people's vote is no longer the main factor in elections, the people's voice is only a symbol of the implementation of democratic elections, it is the party that wants to determine the winner in the election administration. If the party determines the candidates who are entitled to occupy the DPR positions, this is indirectly an attempt to restore the election with a closed list proportional system.

In the DPR elections in Indonesia that apply an open list proportional system, replacing elected DPR members who no longer meet the requirements is regulated in Article 426 Paragraph (3) of Law no. 7 of 2017 which states that an elected DPR member candidate who no longer meets the requirements is replaced by the candidate who receives the next (second) most votes from the same political party and electoral district. The prospective replacement for DPR members is based on Article 426 Paragraph (4) of Law no. 7 of 2017 is determined by the election management commission.

3.4. Supreme Court Decision

Supreme Court Decision Number 57 P / HUM / 2019 which has granted the applicant's petition for part of the examination of several articles of the General Election Commission Regulation (PKPU) Number 3 of 2019 concerning Voting and Counting of Votes in General Elections and PKPU Number 4 of 2019 concerning Recapitulation of Results Calculation of Vote Acquisition and Determination of General Election Results on several articles contained in Law No. 7 of 2017 concerning Elections in the Supreme Court indicates that there are still deficiencies or weaknesses that exist in regulating the implementation of elections.

In the implementation of the DPR elections, the valid votes obtained by candidates who no longer meet the requirements at the time of the election which become the legitimate votes of political parties are expected to become the authority of the political party leadership in determining these votes to candidates considered to be the party's best cadres even though the cadre is not the candidate

who received the vote, second most votes. This is because based on Article 172 of Law no. 7 of 2017 concerning Elections emphasizes that election participants are political parties, so that the power to nominate themselves from each candidate remains under the political party. Even parties are also in power to propose termination of members of the DPR which is carried out through a dismissal mechanism as party cadres (MA Decision No.57 P / HUM / 2019).

The desire of political parties as participants in the DPR elections to be able to determine replacements for elected candidates who no longer meet the requirements is an effort from the application of semi closed list system elections in which there is a lot of interference from political parties in determining the candidates for DPR to be elected in the parliament. The implementation of the election with a semi-closed list system is certainly far from the expectation of the implementation of people's sovereignty because basically not all political parties can be said to be pro-people, meaning that there are some political parties that use the appendage of the people's interests at the time of the election to influence and get voters' votes. the party, while the purpose of the party is not for the interests of the people, even DPR members who are appointed by the party do not have close relations with their own voters, this must of course be prevented from happening. Therefore, the importance of choosing an electoral system to be implemented that can directly connect the people with their representation in the parliament.

The adoption of a democratic electoral system does not mean dwarfing the role of political parties, but it is an effort to make the change of leaders through elections directly felt by the people as voters, not the people as the basis for the election, then what determines the elected candidate is another power. There is no greater power than the power possessed by the people in a democratic country. Therefore, even political parties cannot overstep the powers possessed by the people because the formation of a political party is also based on fighting for the interests of the people. It is impossible for a political party which is said to be fighting for the interests of the people in a country but does not support the implementation of a system that is considered better for its people.

In the implementation of elections with an open list proportional system, political parties should have carried out the process of recruiting prospective candidates to participate in the election and have selected the best cadres who deserve to be won in the election.²⁷ Thus, whoever the candidate is nominated by the party, they are overall worthy to be won in the election and what determines the victory of each candidate is the highest number of votes consecutively. The role of political parties should only be given to the process of nominating, fostering and monitoring - not in determining the electability of a candidate - if a candidate has been elected so as not to leave the struggle for the interests of the people which is also the main goal of political parties.

²⁷ Fajlurrahman Jurdi, *Pengantar Hukum Pemilihan Umum*, pp. 126.

Replacing elected DPR members who no longer meet the requirements of candidates considered to be the party's best cadre - even though the cadre is not the candidate who gets the second (next) majority of votes - can only be done with discretionary authority possessed by the leadership of the political party as long as there are no clear rules / complete which regulates it, is not regulated, is given a choice by law, of course by taking into account the general principles of good governance, is strictly stipulated, measurable, and can be justified morally and legally. However, seen from the regulation, replacing elected DPR members who no longer meet the requirements is clearly regulated in Article 426 Paragraph (3) of Law no. 7 of 2017 concerning the General Election which states "Candidates for electing members of DPR, Provincial DPRD, and Regency / Municipal DPRD as referred to in paragraph (1) shall be replaced by KPU, Provincial KPU, and Regency / Municipal KPU with candidates from the final list of candidates for the same Election Contesting Political Parties in the electoral district based on the votes acquired by the next highest number of candidates ". Meanwhile, seen from a moral point of view, political parties also cannot change the victory of a candidate that has been promoted with a candidate who has received a lower vote because it would conflict with the objectives of the election and the wishes of the people. Thus, political parties cannot fill in the replacement of elected DPR members who no longer meet the requirements at the time of the election with candidates receiving lower votes than other candidates considered to be the party's best cadres. and Regency / Municipal KPU with candidates from the final list of candidates for the same Election Contesting Political Parties in the electoral district based on the vote acquisition of the next highest number of candidates ". Meanwhile, seen from a moral point of view, political parties cannot change the victory of a candidate that has been promoted by a candidate who has received a lower vote because it would conflict with the objectives of the election and the wishes of the people. Thus, political parties cannot fill in the replacement of elected DPR members who no longer meet the requirements at the time of the election with candidates receiving lower votes than other candidates considered to be the party's best cadres. and Regency / Municipal KPU with candidates from the final list of candidates for the same Election Contesting Political Parties in the electoral district based on the vote acquisition of the next highest number of candidates ". Meanwhile, seen from a moral point of view, political parties cannot change the victory of a candidate that has been promoted by a candidate who has received a lower vote because it would conflict with the objectives of the election and the wishes of the people. Thus, political parties cannot fill in the replacement of elected DPR members who no longer meet the requirements at the time of the election with candidates receiving lower votes than other candidates considered to be the party's best cadres. Meanwhile, seen from a moral point of view, political parties also cannot change the victory of a candidate that has been promoted with a candidate who has received a lower vote because it would conflict with the objectives of the election and the wishes of the people. Thus, political parties cannot fill in the replacement of elected DPR members who no longer meet the requirements at the time of the election

with candidates receiving lower votes than other candidates considered to be the party's best cadres. Meanwhile, seen from a moral point of view, political parties cannot change the victory of a candidate that has been promoted by a candidate who has received a lower vote because it would conflict with the objectives of the election and the wishes of the people. Thus, political parties cannot fill in the replacement of elected DPR members who no longer meet the requirements at the time of the election with candidates receiving lower votes than other candidates considered to be the party's best cadres.

IV. CONCLUSION

The replacements for elected DPR members who no longer meet the requirements at the time of the election must refer to the application of the electoral system and the prevailing laws and regulations. Judging from the system, the DPR election uses an open list proportional electoral system where voters in addition to choosing parties also choose candidates submitted by parties in the election list and election winners are determined based on the most votes acquired by each candidate in sequence. Likewise, if the candidate who has the first most votes no longer meets the requirements at the time of voting, it must be replaced by the candidate who has the next (second) most votes, this is also as regulated in Article 426 Paragraph (3) of Law No. 7 of 2017. In this system, the votes of political parties cannot be given to candidates who have lower votes than other candidates to get seats in parliament, except in elections with a closed list proportional system where the people only elect political parties and the party that determines the elected members of the DPR is the party. Then the party can show its best cadres to sit in the parliament. In an open list proportional system, political parties should have selected all cadres to be nominated, so that whoever gets the most votes is also the party's best cadre and is entitled to a seat in parliament. except in elections with a closed list proportional system where the people only elect political parties and the party that determines the elected members of the DPR is the party. Then the party can show its best cadres to sit in the parliament. In an open list proportional system, political parties should have selected all cadres to be nominated, so that whoever gets the most votes is also the party's best cadre and is entitled to a seat in parliament. except in elections with a closed list proportional system where the people only elect political parties and the party that determines the elected members of the DPR is the party. Then the party can show its best cadres to sit in the parliament. In an open list proportional system, political parties should have selected all cadres to be nominated, so that whoever gets the most votes is also the party's best cadre and is entitled to a seat in parliament.

The discretionary authority possessed by the leadership of political parties in replacing elected DPR members who no longer meet the requirements cannot automatically be exercised even though political parties are called participants in the DPR elections. Discretion can only be exercised if there are no existing arrangements that have been regulated, or it is unclear / completely regulated, or given a choice by statutory regulations, of course by taking into account the general principles of good

governance, strictly defined, measurable, and can be accounted for in a manner moral. If viewed from the statutory regulations replacing elected DPR members who no longer meet the requirements at the time of the election has been regulated in Article 426 Paragraph (3) of Law No. 7 of 2017 concerning Elections, namely being replaced by the candidate who gets the next most votes, so political parties cannot transfer these votes to candidates who have lower votes than other candidates who according to the party that the candidate with the lower votes is the party's best cadre. Apart from that, it would also be contrary to morals in which the votes of the people that have been given are not respected and used as guidelines by political parties to determine the electability of DPR members.

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